

CONGRESSIONAL ACCOUNTABILITY

Interview #3

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JOHNSTON: I worked in the House, as we discussed before, on personal staffs for a total of seven years. The House by its nature is run *very* differently than the Senate. It's much more partisan. People were in career positions, but they were career because Democrats had controlled the House for so many years. Really you saw it being used for partisan purposes for years. Of course, we've seen that culminate now with the indictment and conviction of Chairman [Dan] Rostenkowski on the House side, using the post office to get cash. But, it was done in so many other ways, parking spaces and little things that people really remember.

So, when the Republicans finally won control in this last Congress, there was just a complete distrust of anybody who had been there. They were seen as part of the old regime. The only thing that was left standing was the way office assessments or office allotments were made in the House because that had always been done by lottery, a nonpartisan process.

The Senate side was very different. The Senate has always operated on a kind of bipartisan basis. One of the big secrets even to staff here is how the Senate is actually managed. The Senate is actually managed by a bipartisan joint leadership team that in theory and in practice really administers the Senate. For example, when Senator Dole selected me to be Secretary of the Senate, he cleared it with Senator [Tom] Daschle. And anything significant that I would do that would require the approval of the leadership always included not just Bob Dole but Tom Daschle. Or if it involved the Rules Committee, it was John Warner or Ted Stevens but also Wendell Ford. As a result, we didn't have anywhere near the transition issues that the House did.

Certainly there was an audit conducted before I took office. That was ordered by my predecessor, Sheila Burke, just to make sure that the books were clean and that things were fine. When GAO came and did their audit, it was a

simple, easy process. Things were terrific because you just can't do the things in the Senate that somebody could conceivably do in the House in terms of the partisanship and the patronage and all that. Fortunately one of my predecessors, Frank Valeo, was a magnificent Secretary. I think his single biggest contribution to the Senate was the fact that he established a professional system of hiring that has lived on to this day and has permitted people to be hired and to operate here in a nonpartisan/bipartisan fashion. So unlike when Robin Carle, and Newt Gingrich, and Scott Faulkner, and others took charge on the House side, when Sheila Burke, and Howard Greene, and Bob Dole came over here, there was very little personnel turnover. There was some in the more sensitive positions, which you would expect. But of the 236 positions that existed at the time in the Secretary's office, I don't think Sheila changed more than maybe four or five jobs if that. There were only one or two more that I changed when I came on board later that first year.

RITCHIE: Which is a big change from the history in the nineteenth and early 20th centuries when party changes meant that everybody down to the elevator operators changed. Now there's much more continuity on the Senate side--and those of us who work here certainly appreciate that!

JOHNSTON: That's a tribute to Frank Valeo and Mike Mansfield. I don't recall who the Republican leader would have been at that time--it was Everett Dirksen, I presume. That's a real tribute to them because that showed the ultimate loyalty had to be to the country and to the institution, the Senate, before it could be to any political party or any individual. It was also a tribute to the Senate's nature where each individual senator has enormous power to gum up the works, or as John Ashcroft said, "to throw a monkey wrench into the gears." That's really true and a good consequence of it is that it forces people to have to work together on a bipartisan basis. I think that's what made our transition in so many respects so much easier than what the House experienced.

RITCHIE: Well the Senate had been through several changes in party in the 1980s.

JOHNSTON: That's another factor.

RITCHIE: The House hadn't changed in forty years. There was not a single member on the Republican side who'd ever served in the majority.

JOHNSTON: That's right.

RITCHIE: So, they had to reinvent everything. It also strikes me that the rules of the House allow the majority to operate without consulting the minority. Whereas for the majority to do anything on the Senate side, it has to accommodate the minority or at least keep the minority informed and try to win over some support.

JOHNSTON: I believe it was Lyndon Johnson, who during his tenure as Majority Leader back in the '50s instituted the whole process of unanimous consent. That just underscores the fact that you really don't get a lot done in the Senate unless everybody agrees to proceed. That's even true in the Secretary's operation. It only takes one senator to object to anything that I want to do. It's a pervasive approach that doesn't just go to the floor it goes all the way down the administration of the United States Senate, which I think is a very positive thing.

RITCHIE: Well, going back to early 1995, right after the political winds had changed enormously and the 104th Congress was coming in with brand new Republican majorities in both the Senate and the House, there was a period for the first six months or so that Senator Dole appointed his chief of staff, Sheila Burke, to be Secretary of the Senate. But she clearly wanted to stay in his office.

JOHNSTON: That's correct.

RITCHIE: So it was seen as a transitional period. When did you get a sense that you were a candidate for that position?

JOHNSTON: After the elections of '94--and I was fairly convinced that the Republicans were going to win the majority--my eyes were focused purely on what I was going to do as staff director for the Policy Committee working in a majority environment with the other party operating the White House, and how that was going to change our relationships with the committees. The last thing

in my mind was looking at any other position that would be available. I knew very little about the Secretary of the Senate's operation, knew a little bit more about the Sergeant at Arms because it dealt more with the day-to-day operations, like getting a parking space in the Capitol for a visiting dignitary or policy lunch or etc., etc. All I knew about the Secretary's office was that I got my direct deposit receipts from Joe Stewart every two weeks or twice a month during the time I was at Policy Committee.

When I saw that Sheila had been elected, I was surprised because that was somebody I knew who was Secretary of the Senate. Sheila and I had a good relationship. Of course, I knew Howard Greene, who got to be Sergeant at Arms. So when people I knew got those positions, I paid a little more attention to what was going on. I knew that Senator Dole's real agenda was to bring in somebody with some stature into the Secretary's job. I didn't know what the Secretary really did but I had enormous respect for it and knew it was an important position. I knew he'd been talking to people on the outside about coming in.

What really got me interested is that one of the people that Senator Dole had talked to about the job was a very close friend of mine, Rick Shelby. Rick is a highly-respected Republican political consultant, who had served in the Reagan Administration but mostly was well known in Republican campaign circles for being a tremendous operative. It was obvious to me that Senator Dole was gearing up to run for the presidency. First he had to get the nomination so he was looking for people to bring in who had strong connections with the more conservative elements of the party. Rick is somebody I've known since he was the Oklahoma Republican state chairman back in the late 1970s when I was a news reporter. He's a close personal friend of mine and we had a lot of kinship. We come from the same town, Chickasha, Oklahoma. So he asked for my advice and help. He was really torn whether to do this job. He also had been a lobbyist, did some lobbying work and was fairly successful in the private sector and, like a lot of people who have been successful, this would have involved a pay cut coming to the Senate. He had never worked in the Senate either. So, he asked for my help: "Gee, what's involved? What does it pay? What are the responsibilities?"

It was a way for me to educate myself about the job and to help my friend. I was strongly encouraging Rick to do it because the more I read about the job, the more I saw what a terrific and very powerful position it was in the United States Senate, and an historic one to boot. I said, "Rick this is a great job." I said, "You may take a significant pay cut, but it still pays really well. Number two is that there have been so few people who have been Secretary. Number three, you've got enormous responsibility. This is a real career builder for you." And then fourthly, I said, "Even though you've got a one-year post-employment lobby ban, anybody would be crazy not to hire you even as a lobbyist just to have you there with all the experience and insights that you would have gained from working with these senators in a close personal way."

He finally said no. He had three young children and the financial obligations of such was that he just didn't think he could do it. It really boiled down to the financial side. Then he proceeded to tell me that, "By the way, Kelly, I said no but I also recommended you for the job." I never had any desire for it, but clearly he thought that after he learned from me what was involved that I would be well suited for that position. It got me thinking: maybe I do want to do something like this. Then my deputy at the Policy Committee, Doug Badger, who still is a very close confidant of mine, said, "Kelly, you should do that job. Bob Dole needs you." I'd always been kind of the "conservative bridge" between the more conservative elements of the Senate and Senator Dole's staff at that level and I thought: well, if Dole's looking for somebody to be kind of a bridge to the conservatives, Kelly, you're the best guy because you know the Senate, you know him, they have confidence in you, and you're a good manager. So, why don't you do this?

Sheila invited me in just to see the office of the Secretary in S. 208--I think it's going to be moved now with the new changes in real estate in the Capitol. I walked in and said, "My gosh, what a gorgeous office!" Sheila and I were just kind of talking about agenda items and I said, "By the way, Sheila, I know that Senator Dole's talking to a lot of people about the Secretary's job. If you all get real desperate, I'd be very interested in something like this." She gave me a very positive, "oh, really" kind of response, which I took as a very positive sign. This was probably in February of '95, after she'd been in the job for probably a month.

She also indicated to me that she was enjoying it too and there was a possibility she might stay.

Now, I'm going to go into a little segue here. About this same time, I was paid a visit by Bill Lacey, who was the deputy campaign chairman for Senator Dole's campaign for president. He approached me about the possibility of moving over to be the chief of staff to the Majority Leader. He said that, "It's our hope that Sheila will stay as Secretary of the Senate and we can have you in the job of chief of staff." He said, "Now, if you were asked to do that, would you accept?" I said, "Certainly, if the leader calls me and wants me to do that I'll do whatever he asks me." Now, to back up a second, Sheila had asked me to come over to be the deputy chief of staff for Dole just after the elections, but knowing the time commitment involved, not so much the dollars but just the sheer volume of hours, and having two small boys at home, I said, "Sheila I can't meet the time commitment." Being Policy staff director really wasn't so bad because it was a sixty to eighty hour week but Dole's office is a one hundred hour week. When you work for Bob Dole you work seven days a week and you're there burning the midnight oil. I also knew that being Secretary of the Senate was also a job that gave you a little more control over your hours even though the days got to be long, as well.

So, Bill Lacey was concerned that I might say no again if I was asked to go over there in the chief of staff role. Even though that also is a burning the midnight oil kind of job, well, chief of staff is a different ball of wax. I would do that if asked. So I sort of sat back and waited and nothing really happened. Then all of a sudden I get a call from Sheila Burke, probably around the first of March. After about three weeks I'd kind of forgotten about all that transpired and really never thought I would be selected because I knew that Dole had reached out to a variety of very significant people, including Will Ball, former Secretary of the Navy, and somebody that I knew and had high respect for. I thought: well, if Dole's talking to those people, he's not going to reach down to a staff person in leadership for this position so I had kind of given up on it. Besides I was very happy where I was.

All of a sudden Sheila Burke called me and said, "Dole wants you to be Secretary of the Senate." I said, "Really?" She said, "Well, do you want to do it?" I said, "Well, sure." Then she said, "Well Dole's going to call Nickles right now and tell him." I thought: whoops, I better call Nickles first. But Dole got to Nickles first. I barely put the phone down and Dole had already called him. Nickles said, "Well, are you going to do this?" I said, "Do I have a choice?" He said, "No you have no choice. You have to do this. Congratulations."

Then it became a question of when I would start. There was about a two-month period where Sheila was in the process of preparing a budget for the Secretary's office, so she said, "Let me finish this. You don't want to get in the middle of this right now it's too far down the path. Let me finish that up and then we'll talk about a start time." The announcement wasn't made till May, so there was about a four-week period that we were pretty quiet about this until May 5th when it got publicly announced. I started on June the 8th as Secretary of the Senate. All that time I was starting to prepare myself a little bit more for the position. That, in a nut shell, is how it all came to pass.

RITCHIE: I was interested in your story about Senator Dole's campaign staff hoping that perhaps Sheila Burke would stay as Secretary, because of all the publicity she had gotten at the end of the previous year.

JOHNSTON: Yes, well, [Bob] Woodward's book, *The Choice*, discusses this a little bit. It makes reference to the fact that I was the Dole campaign's first choice to be chief of staff and they were hoping to move Sheila Burke out. Then what they said was that basically Dole offered Sheila the choice of either one or the other. She chose to stay as chief of staff and that opened up the Secretary's job. I became a natural choice for that position instead. It really could have gone either way. It was Sheila's choice but clearly when that happened, as the book says, the campaign made a decision, "Well, we're going to have to work with Sheila." They perceived Sheila as being not in political sync with them and a little bit at odds on political strategy. Also they saw her as a little bit of an albatross because she's perceived by a lot of conservatives as untrustworthy, too liberal, etc., etc.

My appointment was Sheila's effort to tip the hat to the conservatives, because as Policy staff director I had a very good relationship with the conservative community. But clearly the Dole campaign was disappointed I didn't become chief of staff because when you're Secretary you're really in a nonpolitical position. Although you could offer whatever advice and guidance you want with Bob Dole, I really wasn't used in that capacity by the Leader.

RITCHIE: It was surprising that there was so much publicity, in Robert Novak's columns and on the front page of the *New York Times Magazine*, about a Senate staff member. Usually Senate staff members don't get that kind of visibility. I wondered what your opinion of this campaign against her was? Did they really have a legitimate grievance or was it a way of attacking Dole indirectly by attacking somebody who was close to him?

JOHNSTON: It was both. Clearly, Scott Reed, the campaign manager, who is an old friend and had been chief of staff at the RNC and somebody I worked with pretty closely in my capacity as Policy staff director, wanted to have more control and more coordination between the campaign and the leader's office. He saw me as the best person to do that as a good loyal lieutenant who would work with him closely, be willing to take some direction from him in terms of coordinating campaign versus the leadership strategies. Sheila very much had her own agenda there, in that sense, although both were equally loyal to Bob Dole. But also, the fact that a lot of the conservatives, many of whom were supporting Senator Phil Gramm for the presidency, were using Sheila to show that you couldn't "trust" Dole to be the true conservative. Both things were going on there.

RITCHIE: He almost got into a bind after he got the nomination. He was no longer in a position to compromise because that would have been perceived to have been selling out. Ironically, I think Senator Lott, who had stronger conservative credentials, was able to make more compromises in his initial months as leader because conservatives weren't so suspicious of him. I wonder if in some cases it's more perception than it is the actual politics that are going on?

JOHNSTON: That's exactly correct. In Sheila's case, I went to Sheila when she was under intense attack. I said, "Sheila, can I call these dogs off on you?" This is before the Secretary's position opened and I was still at the Policy Committee. She said, "Yeah, I would appreciate some help. This is not helping Bob Dole any." I said, "I agree with you. It's hurting Bob Dole and I want to stop it." I made a point of calling some of these conservatives and saying, "All you're doing is making it difficult for Dole to replace Sheila, if that's what your real objective is. If it's not your real objective then you're just shooting at Bob Dole because you want somebody else to be the nominee." I clearly was supporting Bob Dole because Nickles was supporting Bob Dole, and I was on the Dole team. It became obvious to me after some of those calls that Sheila was merely a pawn to attack Bob Dole in the larger context of White House campaigns. They were going to use Sheila to try to paint Bob Dole as not being trustworthy. So it was pure White House politics involved in that whole attack.

RITCHIE: Well, now you were preparing to take over this new job. How did you figure out what was involved in being Secretary of the Senate? It's not a job that people outside the Senate understand very well nor even a lot of people inside.

JOHNSTON: I didn't understand it. I perceived it was largely administrative. I knew it was the person who'd signed all the checks. I had no idea, and because Sheila was busy running a chief of staff office, I had almost no transition. She and I met once, and it was literally the week before I took office, to talk about the pending issues in the Secretary's office, and to talk through the people who were here and what they did. It was an hour and a half. Aside from that it was whatever I taught myself through reading and talking to others. I ran into Bill Hildenbrand at a reception and talked to him about it, which was very helpful to me. Reading his oral history was one of the first things I did as Secretary, and that was enormously helpful to understanding some of the history of the position and the role that he played and what his background was. It was a case where I had to get into the job before I began to learn it. I just jumped into it with both feet and that's how I taught myself.

RITCHIE: I know that Joe Stewart had worked with Sheila when she took over. Did you have any dealings with Joe?

JOHNSTON: Yes, Joe came to see me and was very helpful. One of the things that I had decided to do was, aside from going to where everybody worked and meeting everybody who worked for me as a way of learning what they did, was also to call and meet with all my predecessors. I'd already met with Bill Hildenbrand briefly and was reading his oral history at the time. Joe availed himself to me and we had some excellent sessions where he gave me his philosophy, the way he operated. He, more than anybody else, helped me appreciate the bipartisan/nonpartisan nature. He said, "Kelly, I was very involved politically for Senator [Robert C.] Byrd, but I never opposed any senator. In fact, my policy was always to support incumbents of either party." He said, "It served me well." I said, "That's going to serve me well, too."

Joe actually helped me with the politics of the position. One of the things I did as Secretary at Joe's suggestion, actually, or maybe it was something he just inadvertently raised, he told me what his role had been at previous Democratic conventions on behalf of Democratic senators. I realized that there was something that wasn't being done for the Republican senator. So for the first time in recent history I ran a Senate Republican cloakroom at the convention in San Diego for GOP senators based on what Joe had done for Democrats all those years. It was very successful and very appreciated by a lot of the senators. They never had that kind of service before. So Joe gave me an appreciation for what a Secretary could do in the political arena, which was very useful for me.

Joe also helped me if I ever had a question about personnel because he had hired a lot of the people that worked for the Secretary. He was able to walk me through some of those issues, and was very useful as a sounding board on some areas of advice on the Capitol Preservation Commission, which was not active during my time as Secretary. He gave me some advice on who to go see. He told me to go see Senator Byrd, which I did and which was very helpful. Then my successor did the same thing, both on Joe's advice and mine. So Joe was very, very helpful more than any of the other Secretaries in terms of my transition.

RITCHIE: Before we get too far, just exactly what is a Republican cloakroom or senatorial cloakroom at the convention?

JOHNSTON: The theory or the thought behind it was to treat senators at a convention the same way that they're treated here. Frankly, I had heard for years from House members and senators how much they *hated* going to conventions because frankly they're treated kind of like everybody else. They are used to a level of service from their staff up here that they don't get at a convention. I don't mean to imply they're "spoiled" but in a sense they are, and I think they would admit that. My role was to give them a place that was just their's, for them and their staffs, where they could work, have a bite to eat, have a beverage, call to get help, to borrow a phone, to get a car and driver, just anything that they needed they could get here they could get there at the convention.

I raised some dollars through the Senatorial Committee, who was my official sponsor. I arranged for cars and drivers for each of the senators, which is more than they get here. We found a dealership in California that offered us the use of cars to shuttle senators around. Unlike the Democrats, the senators are not superdelegates. The Democrats keep all the senators together in one hotel, which makes it much easier for logistics. Ours stay with their state delegations. They're spread out all over town. So we made a decision to provide cars and drivers. I brought some of my staff as volunteers to work the convention. We provided their own special phone numbers, gave each of them a cell phone, gave them just any logistical help they needed to make it an easy convention.

What made this unique was the fact that most conventions attract, I'm told, fifteen to twenty senators. We had forty-six GOP senators at this convention for an obvious reason: their colleague was going to be the nominee. I wanted to make it as easy and as pleasant for them as possible and to also make it as easy for them to help Bob Dole as they could. It was so successful that I've now set a benchmark that's going to have to be followed and built on by my successor. I feel very sorry for him. It was a tremendous amount of work and stress, but in looking back it was well worth it.

RITCHIE: Because the Sergeant at Arms has traditionally had a role in convention security and even the Senate press galleries have controlled press credentials for conventions, the Senate has historically had a special relationship with four-year conventions. Except for the Secretary of the Senate, who has had to find his role.

JOHNSTON: I created a new history. In all candor, there was a little bit of friction between Howard Greene and I, the Sergeant at Arms with respect to the role of the convention. There was constant friction when Howard and I disagreed on something or we had a territorial dispute, because I was very aggressive and wanted to do a lot of things. Howard called me occasionally to complain that I was stepping onto his territory and turf and didn't like that very much at all. The convention was one of those areas where he did not want me involved at all. When Dole stepped down and Lott became leader, Lott made it very clear that he wanted me in charge of the convention for the Republicans. That was reflective, I think, of a relationship problem that may have existed between them but also the confidence that Lott had that I was going to do what he wanted to see done for the convention. I'd already briefed him and other staff about what the plans were.

Frankly, the Dole campaign and convention people wanted me in charge as well. They knew that I would set it up in a way that would also be helpful to them. If they wanted a senator for a media appearance or for a floor speech, they could rely on me to get that person there. Howard's vision of a convention role was more traditional, where you set up a room but you didn't do cars and drivers. It was much more of a scaled-down effort. I wanted a much bigger effort, and so I had a lot more political support in that sense. Dole is *never* one to get involved in disputes between his staff. He just would not. If there was a dispute with Howard and I, basically nothing got done. But, under Lott, he made it very clear: "Y'all get involved. Yes, I'll make that decision. You're in charge." Whatever it took. When Lott made that decision, that made it come together. So I credit Trent Lott by giving me the responsibility for me to do it the way I think he wanted it done. It was successful.

RITCHIE: Mentioning the Sergeant at Arms, when the Secretary of the Senate is elected, the Senate also elects a Sergeant at Arms. Those are really two different administrative spheres. But there's a lot of areas where the question is: where does one start and when does the other take over? There are certain things like Senate pages that they share control over their responsibility. In learning about what the Secretary of the Senate did, how did you also determine what the relationship was to the Sergeant at Arms?

JOHNSTON: Well, I was blessed with senior staff, and department heads who each were very open with me. Each came to me and gave me the history, gave me the problems and opportunities to address things. The lines are pretty clear between the Secretary and the Sergeant at Arms, in most cases. You noted one exception, the pages, where he's in charge of the page program but I was responsible as Secretary for the education of the pages. That was never a big problem during my time. Although, where you see some things that you would like to see changed in how pages are treated that were outside your purview, it was very difficult to persuade the Sergeant at Arms sometimes to make some changes that would in turn also help with your school.

Another area was the orientation of new senators. I decided early on in my administration, after talking to a number of freshmen senators who received basically no orientation, and would have liked to have had a better orientation program when they were first elected, that I wanted to be the leader in that area. In talking to Joe Stewart and Jeri Thomson, who had been Joe's Assistant Secretary of the Senate, the Secretary *had* played a leadership role there in the orientation process--although a lot of the orientation issues, like parking, and office space, and temporary space during a transition, were all handled by the Sergeant at Arms.

That was another area of friction between Howard and me because I was asked a question by Senator [Rick] Santorum at an oversight hearing of the Rules Committee: "Well, what are your suggestions for orientation?" I offered to be responsible to direct and coordinate the orientation, working with the committee. And Howard Greene called me after the testimony saying, "You know that's also my area, too." So it was constantly having to be on the look out with Howard to

find ways to work with him. We did not have that many conflicts, but I don't think we worked as well together as we could have because Howard saw his operation as kind of its own little aircraft carrier.

During the very brief interlude where Greg Casey and I worked together, Greg had a very different approach. He really wanted to work very closely as part of the Lott leadership team. I wished that Howard and I had that kind of relationship because Greg took a more managerial approach and much more integrated approach with the other offices that I think is going to serve the Senate extremely well.

RITCHIE: Howard Greene had been the Republican Secretary for fifteen years before he made the transition to a new position. How did he fit in as Sergeant at Arms?

JOHNSTON: Oh, I think it was a hard fit for him. I'm not going to be critical of Howard, and I want to be clear that what I'm saying are observations that I think he probably would even agree with. Howard was not a manager and for that reason alone I think the transition for him probably was difficult. The Sergeant at Arms position over the years has evolved into almost an incredibly managerial position. When I left the Secretary, there were 214 jobs in the Secretary of the Senate's office. There are over nine hundred, closer to a thousand people working under the Sergeant at Arms. Where I had twenty-three departments, he had even more, plus other people he had some responsibility for, including the Capitol Police and others. So the job screamed for some serious management.

It wasn't just the traditional protocol and security functions--and I think that Howard did that part extremely well. Howard really was a great protector of the floor and did his protocol job extremely well. He helped the new House Sergeant at Arms with his traditional roles in the protocol area, and was very supportive of the Capitol Police. Howard did those traditional functions as well as anybody. But when it came to managing all the other things, the computer center, and telecommunications it was different. Howard hated computers. Well, you can't have that attitude and be Sergeant at Arms anymore because you're

responsible for the computer center for the entire U.S. Senate. Those issues, frankly, had become more important to senators in recent years than the traditional roles.

To put it in a very brief sense, Howard was "old school." Howard was the old Senate, the way it was. I represented the new way of doing things. I was Mr. High Tech, I was Mr. Web Page, Mr. E-mail, and that's where Howard and I had our biggest friction. That's an observation that many people made about the two of us. So it was interesting that Dole had both the old school and the new school guys working as his top two officers, but that's the way Dole was. Dole was from the old Senate trying to convert to the new way and here were the same issues inside his own ranks.

RITCHIE: Well, they say that Secretaries of the Senate had computers before but you were the first one who actually turned one on.

JOHNSTON: Somebody told me I was the first. When I turned on my computer the first day I was in the office, one of my staffers said, "You're the first Secretary to ever turn that computer on." When I turned it on and saw what was on it, I was not surprised [laughs] because it was an old DOS system and I was a little bit surprised about what I saw.

RITCHIE: Well, in that first day when you started moving in and taking over, what kind of a vision did you have for the office of the Secretary of the Senate? What objectives did you set for yourself?

JOHNSTON: I wanted to put my personal stamp on it. I wanted to be a good manager. I had had an experience both at the Policy Committee but also in the Executive Branch, and I wanted to bring a unique style of management to the operation. I wanted to be an activist Secretary. I also wanted to overcome what I thought were some perceptions people may have had of me from my Policy experience. For example, I had been in a very partisan position. I was very partisan the way I operated the Policy Committee, even political. I wanted to send an olive branch to Democrats to let them know that I was partisan when the job required it but that I could also be very bipartisan when the job required

that, too. I went out of my way to try to work with and try to gain the confidence of the Democrat leadership, and thought I had a little success in doing that.

Secondly, I'd always been critical of the Senate's failure to live up to the times and technology. I wanted to usher in new technology while preserving the history and the customs of the Senate. Not an easy task, although I think we were successful.

Thirdly, one of the things that really excited me about the job was that the Secretary had had a traditional role of educating the public about the history and the significance of the U.S. Senate. I thought, there's a role I can step into because most of my background was in the area of politics and communications--salesmanship if you will. I think Jeri Thomson told me, "You know, the Senate doesn't really have a public affairs office. There's nobody here that's promoting the United States Senate." With my communication background, it was a natural role for me. So, one of the first things I did was to invite C-SPAN cameras into my office in S.208 and did a virtual tour of the office talking about its history and the art work on the ceiling, the state seal, the U.S. Senate seal, the history of that room, the fact that it was a John F. Kennedy room, and to kind of walk through it. Then I took calls and questions from people around the country about what they saw for a good twenty minutes or so. That led to me doing a series of C-SPAN snippets on the President's Room, and the Old Senate Chamber. Then we recruited Senator Cochran to talk about his desk in the Senate, the famous one that got jabbed by the Union soldiers back in the Civil War, and then got Senator [Mark] Hatfield to talk about the Appropriations Committee rooms.

I relished that role. That was a lot of fun but really I would say I focused mostly on trying to improve the management of the Senate. I knew when I took the job that I probably was going to be a transitional Secretary, that Dole's time would be minimal, that when he left I would have to leave. That might be as long as four years probably would be less if he had been elected. None of us knew he was going to resign. That was a big surprise to all of us. So I wanted to try to use the time to usher in a whole new era and hope to give my successor something to build on, and I think that's what happened.

RITCHIE: You also started in the job just at the new time when the Congress has passed the Accountability Act.

JOHNSTON: Yes.

RITCHIE: One of the very first actions of the 104th Congress was to make Congress live up to all the laws that it had passed for everybody else, which sounds nice in theory but then there's the problem of putting it into practice. That fell on your desk as the first order of business. What did the Accountability Act require of the Secretary of the Senate?

JOHNSTON: Well, ironically, I had helped promote that bill and worked with Senator Nickles who was the original author. Senator [Charles] Grassley became the official author when the bill finally got signed into law in January of 1995. I had been a big promoter of that bill so it was interesting to a lot of people: now Kelly's going to have to administer it or at least help us live under it.

I decided, and with some advice and with some blessing from the Rules Committee, that the Secretary's office should be the focal point and help bring the Senate up to compliance. Senator [Ted] Stevens at the time was chairman of the Rules Committee and his staff said, "Kelly's the best person to make sure the Senate complies with at least the first eleven laws that came into force." The first deadline was one year from enactment, January 23, 1996, for us to live under eleven new labor laws. Most of the labor laws had very little application in the Senate--the Plant Closing Act, for example.

But without question, the biggest law was the Fair Labor Standards Act of 1938. Fortunately, my predecessors, Joe Stewart in particular, had created the Chief Counsel for Employment's Office under the Secretary. That office's role was to represent and provide legal advice to the Senate offices that were beginning to face labor issues prompted by the Supreme Court decision on Otto Passman's case many years ago when he was sued for sexual discrimination. On a 5-4 vote, the Court said, "Yes, you're guilty." That opened up the Capitol and Congress to labor issues for the first time. That office, I think, was one of the

consequences of that. I had a team of labor lawyers already on staff and we all agreed: hey, we have to figure out how to live under this law. This is really a big thing for us. It's going to change the culture of the United States Senate.

I took it upon myself to lead the education and compliance effort. It had already begun because, Jean Manning, the chief counsel for employment, saw what was going to have to be done in the Senate. She *knew* the Fair Labor Standards Act, so basically I took what she was doing and built it. I led an education effort, a training effort through those first six months, to bring everybody up to compliance. So when the D-Day came on January 23 everybody knew what was expected, knew what the law was and was prepared to comply. That was not easy. It's hard to bring everybody together, but we did. We educated office managers, and AAs and even senators. Jean Manning attended both the Democratic and GOP Policy lunches just to tell senators, "Here's what's coming, and here's what you're going to have to do." It was then you heard a lot of the grumbling and comments, "I can't believe what we passed!" [laughs] But a few senators were more than happy to do that.

Probably the most difficult issue there was the fact that Senator Dole--and it was at my request--directed me to play the role of commenting on behalf of the Senate to proposed regulations by this compliance board that was created as the administrator, the official enforcer of the Act. The law did not turn compliance or enforcement over to OSHA or the Labor Department. We created an agency to do it with Congress to keep the separation of powers at bay. There was an official comment period. Instead of putting senators in the role of commenting or not commenting at all, they asked me as the warehouse of expert talent to protect the Senate's interest in the regulatory process.

We took some tough stands. For example, we argued that personal offices each should be treated as a separate employing entity. Therefore, unions could not organize across the Hill. They had to organize each separate office. We had to lead the charge in trying to decide who, based on job descriptions, was exempt or nonexempt from the overtime provisions. That's not easy because every office operates differently. Different titles, responsibilities, and to make sure that those job descriptions and those standards were blessed by that office. In addition, we

bought in the Disbursing Office, the finance office of the Senate. We had to create time and attendance systems for offices to use to track not just the hours worked by nonexempt people but the leave earned by all employees, because the Family and Medical Leave Act also came into play as one of the laws we had to live under.

Those were some of the issues that we had to comply with and it was not easy. There was a lot of grumbling. There was a culture here that you could do whatever you wanted, you were exempt. It was hard to get some people to realize that, hey, you have to live under this or you could be sued in federal district court. A lot of them just wanted to say, "Well, no one is going to sue me." We had to tell them, hey, you *can* be sued. As a result I think we actually did a better job complying with the Fair Labor Standards Act than many in the private sector. I'm real proud of that.

RITCHIE: The Senate doesn't work a nine-to-five day five days a week. Sometimes it works intensely for a few months and then doesn't do anything for a few months. Some of the floor staff come in in the morning with no idea about when they're going to go home at night. Senators don't know when they're going to be leaving as well. Their staffs are tied to whether their senator is there. The cafeteria workers are needed to feed the senators if they are going to be in a late session. This institution has always been so eccentric in its own hours and its own work schedule. How do you get it to fit into a pattern that can make it accountable under those laws?

JOHNSTON: I forget who I was talking to as we discussed what was going to happen to the Senate as an institution with this law. I said, "One of two things was going to happen, either we were going to be paying enormous overtime expenses or we're going to change the culture and work a nine-to-five, nine-to-six day here in the Senate." Frankly, I think the latter is what's happening, especially after Trent Lott got control. There was already a movement afoot in the Senate with so many younger senators with families to go to a more family-friendly Senate. In fact, Senator Dole after he became the Majority Leader, instituted a family task force led by Senator Bob Smith inside the Republican Conference to make some recommendations to the leadership to adopt a more

family-friendly environment in the Senate. Many of those recommendations were acted on, although we still had a lot of late-night sessions.

The Fair Labor Standards Act, and the regulations that existed, provided all kinds of avenues to adjust things. For example, you do have flexibility within a forty-hour work week any way you want. So if a staffer works an eighteen-hour day because they are on the floor some night, they can take Friday off and avoid overtime. In addition, there are options for nonexempt employees. You can either work forty hours then overtime, time-and-a-half, or there were adjustable work schedules, BELO plans in some cases, where you could redefine the work week to be a fifty-hour work week. There are consequences to that and you've got to guarantee some overtime to those people. But basically we had some provisions in the law we were able to take advantage of that helped provide some continuity.

We planned for some overtime and one of the things I have proposed, which has not been acted on yet, was to create an overtime--or what I call a compliance--fund. We would set up a special fund in the U.S. Senate as a way of measuring the actual cost of us complying with this law, whether it's OSHA standards or overtime. We'd have a fund that a senator or a leadership or a committee office could turn to if it had some special overtime requirement or needs that exceeded their budgetary authority. That has not happened yet but it could especially if we do wind up into another Congress like the 104th where we had many long hours.

If the Compliance Act had taken effect immediately, we would have had hundreds of thousands of dollars of expenses in overtime because of those first few months of the 104th Congress were just enormously time-consuming. We broke records in 1995 for the number of hours in session. We had two thousand hours in session in 1995. The previous record was thirteen hundred. Fortunately the new law did not take affect until 1996! Being an election year, it was much less time consuming so the actual exposure to overtime, in our office, it was around seven thousand dollars for the whole year. So we dodged the bullet in 1996, and I think that Trent Lott and Speaker Gingrich are going to dodge it again in 1997 from what I see of their scheduled plans. That gets back to my initial

point that I think you are going to see the Senate go to more of a nine-to-six culture just like the real world does.

RITCHIE: I've heard some of the Senate floor staff say that one thing about operating under Senator Dole was that he essentially lived in Washington, DC, and he would often keep the Senate in Friday afternoon because *he'd* be in Friday afternoon. They are sort of looking forward to Senator Lott going back to Mississippi a little more frequently.

JOHNSTON: [laughs] That's right.

RITCHIE: Maybe in that sense he'll accommodate the Senate through his own schedule. He doesn't seem to think that the number of hours in session is a true measure of having accomplished anything. Whereas Senator Dole, like Senator Byrd before him, seemed to think that the Senate should stay in session even if not a lot of other senators were around doing something.

JOHNSTON: That's right. That's a very correct observation.

RITCHIE: Another thing with the Accountability Act is you had a survey team come in to evaluate all of the jobs in the Secretary's office. What did that entail?

JOHNSTON: Well, again, the Chief Counsel for Employment's Office was involved. Starting with our own offices, we evaluated everybody's job description to determine primarily who would be exempt or nonexempt under the overtime provisions. The Fair Labor Standards Act provides three avenues for someone to be nonexempt. Either they are a professional staffer or somebody whose job requires a certain expertise, a law degree or some science degree of some kind on the job. Secondly, as an administrative person who's in a position of some confidence, who's in the chain of command, who handles information that requires some confidential arrangement. Those people could also be declared nonexempt. Thirdly, of course, is managerial. If you manage or supervise two or more employees, you also could be exempt.

So, we had to evaluate every job in the Secretary's office using Jean Manning's team. And it wasn't just our office. It began with us, but also included every personal office and every committee office on a voluntary basis. I think over ninety offices made use of Jean's office in this way. In some cases, job descriptions were revised if it was real close to meeting that nonexempt definition. Unlike the private sector, one unique thing happened. In the private sector people want to be nonexempt. They want to have to work a forty hour week. They want to be able to earn overtime. It means more money or it means more time at home. Here it is different. Hill aides, especially junior staffers, are used to working long hours to prove themselves. So what we wound up with was a lot of disgruntled people. "What do you mean I'm nonexempt? I want to be exempt!" It was like a status for them. If they were exempt, they were important, they were part of a team. If they were nonexempt, they wouldn't have a chance to show what they could do so it really created a weird dichotomy. But it shows the nature of the Senate in that sense and it's caused some problems frankly.

RITCHIE: It's sort of like the designation of "essential" workers and "nonessential" workers.

JOHNSTON: Exactly, another issue we had to deal with. [laughs]

RITCHIE: Because nobody wants to think of themselves as nonessential.

JOHNSTON: That's right.

RITCHIE: Or nonexempt in this case.

JOHNSTON: That's right.

RITCHIE: You brought up the issue of unions, about seeing each senator's office as a separate entity so that somebody couldn't try to unionize, say, all the typists across the board. There is currently an unionization effort with the Capitol Police and with the cafeteria workers, which are more under the Sergeant

at Arms office. Do you think that unionization is inevitable or do you think it's going to be held off on Capitol Hill?

JOHNSTON: I think it's going to be held off. During the last days of the session, maybe even just after I left the Secretary, we adopted some rules that permitted the unionization of the Secretary's office, Sergeant at Arms office, but we did not adopt some very controversial regulations promulgated by the compliance board involving unionization of personal offices. Mostly because the Board of Compliance itself was badly split. It was the only split decision they had and in all candor one of the board members who wrote the draft regs did so with a blatant conflict of interest. They represent unions, they do work for unions, and here they were writing the regs for unionization of Capitol Hill. It was very inappropriate and I was delighted that the Senate let the House take the lead to say, "Nope, we're going to turn these back. Do it right. You didn't really do what we asked you to do, to study the impact of unionization on senators meeting their constitutional responsibilities."

Frankly, I don't detect and have never detected a large movement or a desire for unions on Capitol Hill. People who come to work on Capitol Hill work primarily for the committees and personal offices. They're here because they believe in something. They have an agenda. They want to accomplish things. They want to work hard, they want to work long hours, and are definitely not here for the money. In a sense, the basic philosophy of unions is to "protect workers from abuses of management." It doesn't really apply here because I don't think the workers *feel* abused. The pay isn't all that bad--it's not great but it's a wonderful place to work. Thousands of people apply for jobs that they never get up here. There's a huge supply of people who want to work up here in spite of the conditions because they want that experience. They want that honor of having been on a Senate staff so I don't think there's the culture here for a union to really thrive on Capitol Hill. There are exceptions, cafeteria workers, police, yes, I would see it in those cases. The Architect of the Capitol's office, maybe, but not really beyond that. I don't see that happening.

RITCHIE: In most of the senators' offices, personal loyalty is driving the office.

JOHNSTON: Oh, big time.

RITCHIE: In other cases it's institutional identity and loyalty. Those who have worked on Capitol Hill for years have operated without civil service all that time. There's a certain degree of uncertainty that people just accept for being part of the institution.

JOHNSTON: You mentioned civil service. There's one thing that is going to be a huge issue in the future. There are a lot of unresolved issues relating to this act that have yet to emerge. One of those is the issue of whether a union could bargain over wages in Congress. In the Executive Branch, a union may not bargain over wages because there is a wage scale already set: the GS schedule. I believe that unions should not have the power to negotiate or bargain over wages here in the United States Senate. They obviously would argue if they organize anywhere else that, yes, they can and that would be one of the first major issues. If by chance the unions won the argument, then the consequence of that would be that the Senate would be required to adopt a pay scale for all jobs across the United States Senate. They would *really* change the culture of this place because then you wouldn't have wages or job requirements being set by senators. They would lose control over the operation of their office. That's the next really major issue involving the Compliance Act.

RITCHIE: And there's great disparity between senators' offices. Some of them hire a lot of staff at lower salaries, while others hire fewer staff at higher salaries to create more stability in their offices.

JOHNSTON: And it's even more pronounced in the House than it is in the Senate. Absolutely.

RITCHIE: Some of the staff have referred to the annual report of the Secretary of the Senate as the "green hate book" because that's when they get to see what their counterparts in other offices are earning for doing similar work.

JOHNSTON: That's correct.

RITCHIE: There's no set salary for a press secretary, for instance, from one office to the other, unless the press secretary goes to the senator and says, "Look, here in senator so-and-so's office, they are getting such and such." And it's a personal crusade at that point.

JOHNSTON: That's right.

RITCHIE: Everybody in the Senate works at the pleasure of the majority. Because there's no civil service, will the accountability law create complications for not just hiring but also firing of people in the future? Will they be able to bring suit under the various laws?

JOHNSTON: Yes.

RITCHIE: Over their employment?

JOHNSTON: Yes, one of the things that the Chief Counsel for Employment did was draft a sample office manual, sample job descriptions, because now the employee has new rights in the Senate under the Compliance Act to sue or to bring suit against an employing office for alleged wrong doing. It really forces the Senate to be a better personnel manager. That's one thing the Senate and the House, both frankly, have not done well. They don't manage people well. The Compliance Act is forcing us to be better managers because now if you are going to discipline somebody or you need to fire somebody for negligence or just not doing their job well, you have to build a record. You have to notify the employee. You're going to have to do things that at least give that employee a chance to correct their deficiencies. You can't just fire at will anymore.

Yes, the political compatibility issue still remains. The Compliance Act and the Compliance Board both recognize that you've got to be politically compatible with your member to work and, for example, if you're a pro-life staffer working for an adamantly pro-choice senator and that senator gets fed up with your efforts to change his views and says, "You're fired," on the spot, they can do that, even under the new law. So that issue still remains. But, yes, the management's

got to be careful about firing people, even the issue of somebody being a severe alcoholic who doesn't come to work. We've already had one suit that's public knowledge where a Capitol policeman sued claiming that his alcoholism was a disability. You have to be mindful of those issues now. It forces us to be more careful. We must insist that offices have office manuals and good job descriptions and exercise good management practices.

RITCHIE: What about the whole issue of harassment, which came up starting with the Clarence Thomas nomination, then with the problems with Senator Packwood? How did the Secretary's office and others try to deal with anticipating the problems of harassment in devising these accounts?

JOHNSTON: Harassment was already illegal under parts of the Civil Rights Act that prohibit sexual harassment and was already a Senate rule. It's now been abolished, but we had a Fair Employment Practices office here in the Senate that helped employees with those issues. It was already in effect and so that part of the Compliance Act had a minimal impact. It has changed the enforcement mechanism. Where an employee now had to go through a prescribed Senate procedure to address harassment, now they can file suit in federal court. They could probably still file suit before but it was more difficult to get there than it is now.

RITCHIE: Well, looking down the pike, do you foresee any problems, things that are unresolved or potential land mines in the accountability issue?

JOHNSTON: Well, I only see improvements because the whole underlying philosophy behind that bill's passage was that the Senate and the Congress for the most part were insulated and isolated from real life. And that if we had to live under the laws that we were imposing on everybody else, we might approach the job differently. Senator John Ashcroft of Missouri has a bill that would give employers more flexibility in working with their employees on dealing with this new overtime issue. For example, an employee might say, "I don't need overtime, I'd rather have more time off." Because right now if an employee works a sixty-hour week and are nonexempt under the Fair Labor Standards Act, you have to pay them twenty hours of overtime. You can only

give them comp-time during that forty-hour week in which the overtime is earned. You can't store up overtime. I'll tell you now that most of my employees would rather have an extra day off that they can bank for six months down the road than an extra forty bucks in their paycheck.

Senator Ashcroft's bill will become law in the 105th Congress, I'm convinced.

RITCHIE: To some degree what this is doing is sensitizing senators and representatives to the problems that staff around the country face.

JOHNSTON: That's the point.

RITCHIE: So they can write that into legislation.

JOHNSTON: That's exactly the point. So I think what you'll see is some deregulation, some more flexibility put in the law that will help everybody. That was the real driving force behind the law. Actually the first thing I ever read about Congress living under the same laws as everybody else was something I saw in a press release from Senator Pat Leahy in 1977 or '78 when I was a reporter in Oklahoma. He was the first senator I recall ever having discussed that issue. He had just been elected himself, I think, in 1976 and was a freshman senator and was kind of astounded at the fact that they didn't live under the same laws. I remember writing an editorial about twenty years ago. I haven't heard much from Senator Leahy in recent years about that but Senator Nickles in 1989 or 1990 got President Bush's blessing on a bill that he had offered on that issue. Then Senator Grassley took up the charge in 1994-'95 when it finally became law.

RITCHIE: You mentioned also OSHA before. I was thinking that one of the problems is that the Senate is operating out of a two-hundred-year-old building that wasn't designed for modern purposes, has little narrow staircases and hidden elevators. . .

JOHNSTON: That was a big fear that it was going to be hugely expensive. But it turned out there's a little exemption in the law for historical structures, so the Capitol is predominantly exempt. When we went through the OSHA inspection, done again by the Compliance Board, we found we were really not that bad and we were surprised at how much in compliance we really were. Yes, we had the exemption for historical structures. You have stairways that would never have made it in a new building. But this is an historical structure or historical building, at least the Capitol is and Russell [Senate Office Building] is to some degree. As long as there are exit doors out of an office for an employee in case of a fire, there are no dangling wires, there's no physical dangers to staff, and in most cases that's the way offices operate. The only changes that really had to be made was you couldn't block doorways anymore, for example, in Russell, which was a common thing in some of their office suites. There were some exposed wires in parts of the basement of the Capitol that had to be hidden away at places. You have to dispose of things like paint differently than we had to before. But beyond that, there were minor, minor changes under OSHA. OSHA provisions have yet to take effect. They take effect in 1997 but we don't anticipate many changes.

RITCHIE: One of the things that will probably speed up any changes is they now have a senator in a wheelchair [Max Cleland].

JOHNSTON: That's right.

RITCHIE: Who will need to get around to places that maybe in the past would have been inaccessible, and they'll find ways to accommodate him.

JOHNSTON: We have what's called the "swing spaces," down in Dirksen [Senate Office building basement]. They are the suite of offices that are made available to senators in transition. We had set aside a door and a ramp for Senator-elect Cleland to come in for that very reason. Yes, I'm sure he's going to make us aware of more of those kinds of obstacles.

RITCHIE: He was once a staff member here back in the 1970s back before Americans with Disabilities Act. He was on his own in those days. Now, the

institution will be geared toward helping him perform his duties. Just getting him on the Senate floor will be something of a trick because of the tiered floor. I'm sure the Secretary of the Senate and the Sergeant at Arms are at work on that right now.

JOHNSTON: That's right.

RITCHIE: Well, the Accountability Act was a big part of your initial taking over as Secretary. What other problems did you find as you took on the job?

JOHNSTON: Well, you alluded to this earlier, we had the "government shutdown" that occurred over the budget impasse in the fall and early winter of 1995-'96. We failed to pass all the appropriation bills on time and elements of the government shut down. One of the appropriation bills that was vetoed by President Clinton was the Legislative Branch Appropriations Bill, which funded the U.S. Senate. The U.S. Senate--this was one of the things people never realized-- was the government agency *most* impacted initially by the government shutdown. In the Executive Branch there is a several week lag between a pay period and a pay check. Well, we're fairly efficient here in the U.S. Senate, there's only a five day lag between the pay period and the time you receive your paycheck so when we were out of funds around the Thanksgiving holidays, we missed a big chunk of a paycheck.

Now when the bill was signed around Thanksgiving of 1995, those funds were restored in the early part of the year. But Senator Dole who, of course, was also candidate Dole at the time, felt that we should live under the Act the way any agency would that we shouldn't exempt ourselves and didn't want to see the Senate as being above the law in this case. So, we had to become experts very quickly on the Antideficiency Act, a 1930s laws that said that people couldn't volunteer their services to the government or that an employer couldn't mandate that an employee volunteer. So once again we had to go through the process of educating the whole Senate, about having a shutdown. In fact, it is unlawful for an employee to volunteer even if they want to come in and volunteer to the government--except for those people who were essential to protect property, and

we added to insure that the constitutional responsibilities were met here in the United States Senate.

We had to decide who's essential and nonessential, which were awful words to use. Basically it was who was needed to protect and continue the operation and to help senators meet their constitutional responsibilities. Some senators declared their whole staffs essential, which frankly is not in compliance with the law. Up to seventy percent of our staff were sent home. There were some cases where we had to tell people you *couldn't* come into work. They wanted to come anyway, wanted to volunteer. We said, "No, it's against the law for you to volunteer." So that was another experience that we had never been through before in the U.S. Senate. It was an historical moment.

We went through a whole process of deciding who met those criteria. Of course, anybody who was in management, a senator was nonexempt. Ironically, senators being constitutional officers kept being paid. Their paychecks weren't affected so they were at work. And Bob Dole kept us in session each one of those days and even many weekends during that time period because, by gosh, we were here to do our job and we were not going to leave or shutdown until we had met our responsibilities to work out a deal and keep the government in operation. So, we were here on Saturday and Sundays. The floor staff, because they were essential to the operating of the Senate, were here. One or two of my staffers were here. Everybody else was sent home.

RITCHIE: I watched the Senate on C-SPAN that week from home. From talking to people afterwards, it did seem like the Secretary's office was more in compliance than the individual senators' offices were.

JOHNSTON: We were told that, yes.

RITCHIE: I knew someone who was a staff member to a Congressman from Kentucky. He had told his staff that day, "Don't come in under the law." He came to work himself and discovered that all his neighboring offices were fully staffed. He got on the phone and called his staff and said, "Get in here right away, everybody else is working today."

JOHNSTON: A lot of that happened and I heard a lot of comments. As we did under the compliance law, we brought people together and said, "Here's what we think you should do under this law." We involved Tom Griffith, the Senate's Legal Counsel, and Jean Manning. We all got together and agreed that the advice we were going to give to offices was that they were susceptible to lawsuits and problems if they did not comply with the Antideficiency Act. There was no specific prohibition for Congress so therefore you should live under the law. It was Senator Dole's wish that we should live under the law.

We saw varying degrees of compliance. I know several senators said, "All my staff is essential for me to do my job. My state office person helps people with their checks, people who have some physical needs rely on government for assistance need help. So, by gosh they're going to be there. My scheduler who makes me aware when we're going to be in session needs to be there. My press secretary who helps educate the public about what's going on needs to be here." But, beyond that, you know, that was a good question. I know in my own personal operation, I normally have three people or four people working, and we kept only one in rotation. And it drove them nuts. The staffers wanted to be here. I had to say, "No you can't be here." It was not easy to do it.

RITCHIE: Given how disruptive it was here and presumably all through the Executive Branch, and the bad press that it got, do you think that the probability is that they'll try to avoid that kind of a showdown situation in the future? Maybe adopt continuing resolutions and other devices rather than forcing the issue with government shutdowns and furloughs?

JOHNSTON: I agree. I don't see us having a broad shutdown in the foreseeable future as long as there is a Democrat in the White House and Republicans in Congress that control the institution. The Republicans paid a very severe political price for what happened, although it was President Clinton who vetoed the appropriation bills. The Congress, in effect, did its job. They produced legislation to keep it running. It was vetoed by the President and he was able to successfully shift the blame in the public's mind to the Congress for its failure to "fund the government." You'll probably see some sporadic agency shutdowns here and there if there is any battle over an appropriation bill. For

example, the D.C. appropriation bill is one that could be. There's less concern about shutting down D.C. than there is any other parts of the government.

Frankly, I think another big factor is that now starting in January we have the line-item veto. Instead of having to veto an entire appropriation bill, the president now can just veto or strike out those items he finds objectionable. That's going to minimize further the chances for a shutdown again.

RITCHIE: It still remains to be seen how that will play out--how vigorous he'll be in applying that line-item veto.

JOHNSTON: That's a good question.

RITCHIE: And how compliant the Congress will be with that veto.

JOHNSTON: I bet it works pretty well. I'm actually very excited about the line-item veto. I had looked forward to being here when it took effect. I'm sorry I won't be able to watch it take effect because I think that it's going to force some discipline in Congress on the appropriations side. It's going to eliminate a lot of questionable spending. On the other hand, it's also going to put some pressure on the president to not use vetoes so politically to close down entire agencies or veto entire bills because of one or two objectionable things. So, I think it's really going to be a real positive for government to have this. We'll see what happens now.

RITCHIE: As Secretary, you were also responsible for a lot of recordkeeping, particularly through the Office of Public Records, which receives all of the lobbying reports. Lobbying has been a big issue in recent years. Were there any changes or any problems that you encountered when you took office?

JOHNSTON: Aside from the Compliance Act, the second--maybe even the first--area where I spent the most time was to administer a brand-new law that was passed in the waning moments of the first session of the 104th Congress, the Lobby Disclosure Act, which basically was a reform bill, very bipartisan bill, authored by Senator Carl Levin here and Congressman Charles Canady of Florida

on the House side, to change the way in which lobbyist registered and disclosed their activities. When that bill was introduced in the 103rd Congress, it was quite controversial. The bill as originally envisioned would have created a new executive branch agency to administer that law, because it did not just involve congressional lobbying, it also involved executive branch lobbying as well. Many of us, when I was at the Policy Committee, raised objections to creating new bureaucracies to administer the law.

So ironically, I just happened to be on the floor one day when this law was up and Senator [Mitch] McConnell on the Republican side who was the chief negotiator for the Republicans and Senator Levin's people got together. It was Alison Carroll of Senator Lott's staff who came over and said, "What do you think of the idea of you being, with the Clerk [of the House], the administrator of the act? I thought, "Oh, sounds great." Again, just spur of the moment, I thought it made sense. It removes the objections I used to have before. I'd be happy to take on the enforcement and administration of this act--not really bothering to notify my staff or even think it through what it was going to mean to our operation. And, by gosh, that's what happened. It was signed into law in December of 1995 and took effect within thirty days.

We had to really hustle with a very small shop of six people to administer this brand-new law. We had to write forms. We had to create the systems. We had to create the disclosure process by which people were going to both register and disclose their activities under the law. And, even more difficult, we had to work with the House as an equal partner. It's one thing if you've got responsibility, you can make a decision. We had to do it collaboratively with the House, which we did. We had a very good relationship with the Clerk of the House because the law was pretty clear what it intended. We had a few bumps, minor ones, on the enforcement side, and how things were done administratively, but they were minor issues, actually.

I noticed there was *enormous* anxiety in the lobbying community about complying with this new Act, mostly because the old law was so vague as to be unenforceable. The Court said so, so if you didn't file, nothing could happen. Some interpreted the old law to read that unless you spent fifty-one percent of

your time with a member lobbying, you didn't have to file. Well, even spouses don't do that. No one ever spends that much time with a member of Congress! So the old law was a joke. This new law had some teeth. Basically, it was a civil penalty, no criminal penalty, but if you knowingly violated the Act, you could be taken to court and fined up to \$50,000. Just the fact of being sued by a U.S. attorney was enough to scare anybody in the lobbying community, because the publicity of being sued by a U.S. attorney was much more damaging to a career than actually having them pay a fine. So, there was enormous angst in the lobbying community about the law.

Since I had taken on this new task, I thought, well, I'm going to take it very seriously. Our first objective was to meet the deadlines in law to have the new forms out ready and done. We did. The first deadline was Valentine's day, which was less than two months from the time the bill was signed into law. We not only had to prepare the forms, make them available, but also to educate the lobbying community how to comply with this Act, and even adopt some guidelines before Valentine's day of 1996. We did all that. Now, there are guidelines on answering a lot of the thorny issues about what do if you have to disclose, who has to file, how to fill the forms out that weren't done until two days before the deadline. I think I counted twenty-two appearances I made at various forums around Washington, DC, one forum attended in New Orleans by my legal counsel to educate the filing community on this new Act. I have to say that it was very successful.

Again, I relished the role of being the communicator. In this case, a chance to be the public affairs office for the Senate. I willingly took on a public speaking role. It took up enormous time but it was a lot of fun and gave, again, the Secretary's office exposure, and gave me a lot of exposure too. That wasn't the reason I did it, but I enjoy public speaking, I enjoyed that communication role and even did an hour again on C-SPAN. I spent an hour on C-SPAN with the head of the American League of Lobbyists and somebody from Public Citizen to argue the law, but also talk about compliance. It was fun and noncontroversial. If anything, we had over-compliance, which I am very proud of. We took it seriously but we also gave people comfort that we're here to be helpful. I did not

want them to see me as the IRS, but as a friendly agency they could work with that would help them comply.

One of my favorite stories was that we had one company who sent us filing of one hundred and fifty eight lobbyists. I thought there's no way anybody has that many lobbyists. We had to go back and educate them that, did they really have people who were making contact and spending all this time in lobbying activity? Well, they're spending all that time, but not making any contact. Okay, then they're not lobbyists. So, if anything, we were able to help people comply or disclose less than they really had to just as part of the education process. It's been a very successful law. Very few problems.

The only areas of confusion have to do with the tax code. There's a section 15 in the law that's still not very clear and needs further clarification. The strange thing for me now is I get to comply with the law because I'm also a lobbyist in my new position. So, that was a great experience. The first time I'd actually ever had to administer an Act of Congress and one of the first times, I think, a Secretary has ever had to do that involving the outside public. I'd have to say that this experience was pretty good. We did it, amazingly, without adding any new staff and spending very little additional money. I did have to ask for some additional money in my appropriation bill for '97 to upgrade the technology in the Public Records Office. And certainly I envisioned creating a mechanism through a Web site where people could file electronically, but also gain access electronically to the information that we store. We're a long way from that yet, probably another year away from that, but that's where I think we're headed. I'm very proud of what happened in our office under that law.

RITCHIE: Also in connection with lobbyists there's the tightening of the ethics restrictions about gifts you can receive, people being taken to lunch. There were caps put on and all sorts of things. Did your office have any role in its compliance?

JOHNSTON: We had to live under it certainly and I learned in talking with the Ethics Committee and others that they did not envision, did not plan on doing any public education of the lobbying community or the gift-giving

community out there if you will. They felt their role was to advise members of Congress and their staff but not the public. So, I asked for and got their blessing to educate the public about the gift-giving side of it, to help them comply with the law. I took the opportunity of speaking on the Lobby Disclosure Act but also offering to speak on the ethics in government changes as well or the ethics rule changes. Eventually some Senate staffers, who were experts, did step forward. Melissa Patack, for example, with Senator Mitch McConnell, who was one of the authors of the bill. Yes, we played a minor role in educating the public just so they knew what gifts were legal, and which ones were not legal, and other changes as they relate to lobbyists. Lobbyists have special things in the law they can't do that everybody can, for example.

RITCHIE: Essentially, it's the Senate Ethics Committee that enforces compliance in the Senate and makes the decisions.

JOHNSTON: That's right.

RITCHIE: Well, having been on both sides as an administrator and a lobbyist, has the situation improved in terms of lobbying? Are there still ethical problems looming or have these new laws helped to regularize things?

JOHNSTON: Well, this is where I divert from public opinion. I think that the ethics laws were fine the way they were and that the problems that were fed to the public that led to the passage of these changes just didn't exist. Nobody's vote is for sale. Nobody is bought. There probably were some abuses. If there was one area where there was some abuse, and I'm not going to use any names obviously, but it was where a member could go to a lobbyist and say, "I want to play golf in Florida. Can you set up a planned visit so I can come down as an excuse to play golf or take a 'paid vacation?'" There were some of those abuses. Some people perceived abuse--that a senator could go to a charity event and ski in Utah or go fish in Alaska and use lobbyists to raise money, and there was this quid pro quo. That's a real insult to senators. I don't know of a single senator whose vote's for sale or even for rent, frankly--in spite of what John Breaux once said--because of some lunch or some charity event or even some ski trip because a lobbyist was involved. That to me is an insult.

The more significant changes are in the area of honoraria, but honoraria was abolished years ago. That did a great deal to reform the Senate. All the gift ban really accomplished was to put some restaurants out of business on Capitol Hill. Frankly, I know in my case, somebody asked me, "Well, what did it do to you?" Well, there's less of a need of a lobbyist to come take me to lunch. It didn't really change my life at all. Yes, I had a lobbyist-paid lunch but they were almost always less than ten dollars, which is threshold by which you had a trigger. Even those cases where it was over ten dollars, I never exceeded a hundred dollars per lobbyist, so it didn't change my life one bit, and I'll bet it didn't change that many other senators' lives either. All it did was create fear and loathing. It really didn't really reform the way we operated.

If anything, I think we've gone too far and we ought to just lighten up. It didn't change the public's perception of Congress one iota when we passed that law. What changes people's perception of Congress is when they do things they care about. So I hope we've passed this era where we punish ourselves for the sake of trying to earn confidence. It *doesn't* work and I think that view is starting to grab hold in the Senate.

RITCHIE: The problem is that whenever the press talks about lobbying it's always in the sense of lobbying corrupting or perverting the system. The word lobbyist carries a pejorative with it that anything relating to it has a bad perception. These days the Public Accountability Act or the Public Records Act certainly indicate that lobbyists operate on all different levels and that a lot of them represent very small organizations, universities, charitable organizations.

JOHNSTON: Public interest groups, absolutely.

RITCHIE: Relatively small potato operation but who try to persuade members of Congress to take their interests into consideration when legislation is passed. I agree with you. I'm not quite sure that any particular reform would do any good. Lobbying as a whole has gotten a very negative connotation.

JOHNSTON: Even I got it. *Roll Call*, the local newspaper, when I took my job to go to the National Food Processors, I was supposed to go to the Federal

Election Commission. My nomination was not confirmed in the last days of the session. *Roll Call* accused me of going to "the dark side." I thought, boy, I know what I'm in for now. I think there's clearly some misperceptions there that I don't know how they're going to be corrected. I've been invited to speak to various groups in my new capacity, talking about the "revolving door," and whether it is good or bad for government. I think it's served government very well. Look the administration and cabinet officers who have gone in and out of public service for years. People like George Schultz and Casper Weinberger. I can name you out a whole list of people, Democrat and Republican, who have done that. It's served the government and industry, I think, very, very well. You just have to be mindful that you don't abuse one or the other because of it.

I think my new industry is going to benefit from my Senate experience. Conversely, I don't think that the Senate's going to suffer one bit by my going to the private sector. I can't imagine how I'm going to abuse my job without me paying a serious price or my industry paying a serious price if I tried to. Because again, I don't know of a single senator who's for sale or for rent or can be influenced in that way. I just don't see it.

Obviously, I'm very sensitive about this because I'm now in that lobbying position, although I do other things besides lobbying. Clearly what's perceived, what bothers people is that people like me, who have been in this institution have "special access" they don't have to a senator. Even there, I don't think that's true. If I want something, I'm going to have to go through channels. Senators, I've discovered, are very, very careful. Even when I have a personal friendship with a senator, if I want to go lobby or give him an idea on something--well I can't do it for a year because of federal law--but even if I wanted to do it, I'd go through the same channels as anybody else to do that and they're very sensitive to when a friend becomes a lobbyist.

For example, Senator Don Nickles is one of my very best friends in this town and I'll never abuse that friendship. If I ever need to lobby him or ask for an official act from him, I'm going to do it in a very comfortable way to protect that friendship. I'm never going to abuse it and that's what people don't seem to understand. They don't put themselves in the shoes of lobbyists who may be

friends with a senator. If they did, I think they'd realize, well, yeah, you're right, why would they do that? The money exchanges and things that maybe people perceive just don't happen any more. They may have happened years ago but they don't happen like that. In fact, that's against the law to do it. They'd be crazy to do that.

RITCHIE: Because of the filings, pretty much what your relationship is or whatever contributions you make, becomes public record.

JOHNSTON: That's right.

RITCHIE: Were there any occasion for lobbyists to come to the Secretary of the Senate's office?

JOHNSTON: Mostly for advice and mostly because of who I knew. I would occasionally get a lobbyist to come in and say, "Well, gee, you know Senator Nickles or Senator [James] Inhofe or Senator so and so really well, how can we get them on board on this issue?" Often times I went to them if I needed to raise some dollars for a special project then I would go to them and ask for help. Lobbyists did want to get to know me because of who I knew and mostly because they saw me as a way to get some intelligence or information about what was happening in the Senate. Frankly, that was more from my Policy Committee days because I had gotten very much involved in the machinery. So, people came to me not because I was Secretary of the Senate but because I was in a position where I really had a sense of what could or could not happen. It wasn't just lobbyists, it was people who were in the areas of "strategic advice" or information who came to me looking for insights about what was going to happen on x, y, or z bill. In addition, because of my political experience, I was called a lot for political advice. What's going to happen in the Nebraska Senate race, for example, because I'd worked in Nebraska in 1990. So it was more of a personal thing than it was a position thing.

RITCHIE: One of the jobs of a lobbyist is to collect information to keep the client informed, so part of it is just finding out ahead of everybody else what's happening.

JOHNSTON: Oh, yes. I can say I cannot remember when I was actually lobbied by a lobbyist to do something. In fact, I think I utilized lobbyists more both as Secretary and as a Policy staff director to mobilize them to help me on an agenda item. It's very much a two-way street because there are organized interests, no question. But that was just as useful to me as it was to them. For example, one of the bills I worked on was regulatory reform as the Policy Committee staff director. We felt it was good government to deregulate and change the way we did regulation of the private sector. We called them in. What would best help you? What makes most sense? I can truthfully say of all the lobbyists I talked to, they could have really put forth some nice agendas that would have made them a lot of money, but none of them ever abused it. They said, "Well, I could ask for this but I'm not going to because it's not what you're trying to accomplish. If you do this, this will be really, really helpful. That will sell." A good lobbyist knows where to draw the line and that's something, again, that people don't appreciate. They don't realize that for a lobbyist to do what people think they do would be suicide.

RITCHIE: A number of former senators have lobbied. Did you have any contact with them as well?

JOHNSTON: No, not in the lobbying sense. Ironically, it was during my San Diego convention cloakroom where former Senator Chic Hecht of Nevada and Senator Howard Baker, our former leader said, "Gee, can I be a part of the cloakroom operation, too?" I said, "Of course." They actually made more use of the cloakroom than current senators did. Other than that, no, I never really dealt with a former senator in a lobbying capacity. Never have.

RITCHIE: I've done an interview with former Senator George Smathers of Florida who said that he became a lobbyist after he was a senator. He said, the big difference was that now the senators came to him asking for campaign contributions.

JOHNSTON: That's right. I find that senators, in some respects, are nicer to me now than before I was here. [laughs] I do have a political action committee under my jurisdiction too.

RITCHIE: So, this will give you an opportunity to see the world from a different perspective.

JOHNSTON: It will. That's what's so exciting about it. Now I'm in a different role than I've been in before. That's kind of fun.

RITCHIE: Well, I have a long list of other subjects to talk about but given the fact that you've been here for almost two hours, this is probably a good time to break.

[End of the third interview]