

Preface

“When Martin Gold, [Howard] Baker’s former procedural expert, was still in the Senate, walking through the Capitol with him was like walking with a member,” wrote one of Senator Baker’s staff, James A. Miller, in his book *Running in Place: Inside the Senate*: “Senators would stop him in the halls asking for consultations and recommendations, reporters would ask him for help in deciphering what was being played out on the Senate floor, and of course other staffers would be tracking him down to pick his brain so they could impress their bosses with a strategy or get a step up on the opposition. Baker was proud of his specialist, and would freely offer Gold’s services to other Republican senators when they found themselves tied up in a procedural knot.”

Martin Berson Gold was born in New York City on January 17, 1947. He grew up in South Florida, and attended the American University, in Washington, D.C., where he received a bachelor’s degree in 1968, a Master’s in public administration in 1973, and a law degree in 1975. He also served in the U.S. Army from 1969 to 1972. Upon leaving the army he joined the staff of Senator Mark Hatfield, an Oregon Republican. In 1976 he became Senator Hatfield’s staff appointment to the Senate Select Committee on Intelligence, and the following year he was made minority counsel to the Senate Rules Committee. As Senator Hatfield later commented: “First in my personal office, then at the Intelligence Committee, then at the Rules Committee, Marty consistently demonstrated the intelligence, wit, attention to detail, and respect for procedure that have won him the respect and friendship of so many Senators and staff. In fact, it was his outstanding work as minority counsel at the Rules Committee that first caught the eye of the majority leader, and much to my chagrin but to the greater benefit of the Senate, the leader stole Marty from me.”

In 1979, the Senate Republican leader, Howard Baker, recruited Gold as his procedural specialist, a role he continued to perform after Republicans won the Senate majority in 1980. Two years later, when Gold left the Senate, Senator Baker said in the Senate chamber: “We have many parliamentary scholars and experts on the floor—none, in my opinion, who have ever even approached the prowess and ability of the distinguished minority leader [Robert C. Byrd] and whose statements on this subject will form the basis for guidance of parliamentary procedure in this body for many, many years, in my judgment. But at the staff level, Mr. President, Marty has no equal.”

Senator Alan Simpson, a Wyoming Republican, commented that he had “always been fascinated in watching him monitor the flow of debate and legislation in this body. I have been the beneficiary of his fine counsel, his able assistance and his parliamentary expertise on more than one occasion and I am most appreciative.” And the Senate Democratic leader, Robert C. Byrd, added: “I must say that he is an individual who has always been quiet, unassuming, very courteous, very considerate, and cooperative with the minority. We all like him. I do not know why anyone would not like Marty Gold.”

Gold left the Senate in 1982 to join the firm of Gray & Company. In 1984, he formed a partnership with former Senate Sergeant at Arms Howard Liebengood in a lobbying firm called Gold and Liebengood. After that firm was acquired by the New York-based public relations firm of Burson Marsteller, Gold left to join Johnson, Smith, Dover, Kitzmiller and Stewart, and later Covington and Burling. Throughout these years, he continued to give regular seminars on Senate procedures and to publish new editions of his handbook on handling legislation on the Senate floor.

Frequently mentioned as a possible Senate parliamentarian, Gold repeatedly declined to accept the position on the grounds that the nonpartisan post would best be filled by promotion from within that office. In 2002, however, following a sudden and unexpected change in Senate Republican leadership, Gold accepted an invitation from Senator Bill Frist to return to the majority leader’s office as a counsel on procedural matters. His oral history therefore offers some unique insights from inside and outside the Senate from 1972 to 2004.

“All of us owe a great deal of thanks to Marty,” Senator Mark Hatfield said at the time Gold first left the Senate staff. “Time and again, over these past years, he has patiently explained the intricacies of Senate procedure to Senators and staff. Surely he must have become exasperated with his students, who would ask the same questions every time they drafted an amendment, but that exasperation never showed. Instead, he would once again cogently explain the situation, pointing out the advantages of one legislative tactic and the pitfalls of another, and in so doing he participated in innumerable legislative victories in this Senate.”

About the Interviewer:

Donald A. Ritchie is associate historian of the Senate Historical Office. A graduate of C.C.N.Y., he received his Ph.D. in history from the University of Maryland. He has published several articles on American political history and oral history, including "Oral History in the Federal Government," which appeared in the *Journal of American History*. His books include *James M. Landis: Dean of the Regulators* (Harvard Press, 1980); *Heritage of Freedom: History of the United States* (Macmillan, 1985); *The Senate* (Chelsea House, 1988); and *The U.S. Constitution* (Chelsea House, 1989); *Press Gallery: Congress and the Washington Correspondents* (Harvard University Press, 1991); *Reporting from Washington: The History of the Washington Press Corps* (Oxford University Press, 2005); and edited the *Minutes of the U.S. Senate Democratic Conference, 1903-1964* (Government Printing Office, 1999). He also edits the Executive Sessions of the Senate Foreign Relations Committee (Historical Series) (Government Printing Office, 1978-). A former president of the Oral History Association and Oral History in the Mid-Atlantic Region (OHMAR), he received OHMAR's Forrest Pogue Award for distinguished contributions to the field of oral history.

WITH HATFIELD AND BAKER

Interview #1

Monday, December 8, 2003

RITCHIE: I see that you're a fellow New Yorker, and I wanted to ask you about where you grew up and what your family was doing.

GOLD: I grew up in Manhattan until I was ten years old and moved to South Florida. My grandfather was an immigrant from Czarist Russia. He had a great interest in politics and was a lifelong Democrat. At a time when I was very young, my father died, and he became a father figure and instilled in me an interest in politics that has remained with me all of my life. He had a picture book of presidents up through Harry Truman at that time. He would go over the pictures with me, so even though I couldn't read the names when I was maybe three or four years old, I could identify all the faces. I grew up on a diet of Roosevelt and Wilson.

RITCHIE: Was your grandfather involved in politics at all?

GOLD: He was a committed voter. There was one Republican that he assisted and that was [Jacob] Javits, who was the congressman at the time from that district. Javits went to the Senate in 1956. Prior to that he had been attorney general and then he had been a congressman from the Upper West Side district. So my grandfather was helpful to Javits. He would never have considered not voting in an election, but otherwise I don't think was especially politically active. There were things about the United States that he truly loved. He came here for reasons of religious freedom, and he treasured political freedom.

RITCHIE: So then you moved with your grandparents to South Florida?

GOLD: I moved with my parents to South Florida. I stayed there through high school and came to Washington when I was seventeen years old, which was the year of the [Lyndon] Johnson-[Barry] Goldwater election. I remember working in the Republican Club at American University at that time. All the other clubs were active in the District of Columbia for Goldwater. I thought that was sort of futile, and we worked in Maryland for [Charles] Mac Mathias, who was a House member then. His district at that time was Montgomery County all the way through the panhandle of Maryland. He overcame the complete deluge

of votes against Goldwater in Maryland in 1964 and remained in the House. We helped him a little bit.

RITCHIE: What brought you from your grandfather's Democratic party to the Goldwater Republican party by '64?

GOLD: [Chuckles] Well, I was never a Goldwater supporter. I was a [Nelson] Rockefeller supporter in 1964. You know, people follow the parties of their parents. This is hardly profound, but when my mother remarried I was five years old. My stepfather was a Republican and to identify with him I followed in his footsteps. I often have thought that my grandfather would have approved of what I did in my career, but wished I had done it in the other party. But in any event, he would have approved of political activism.

RITCHIE: And how did you decide on American University?

GOLD: I heard about it, particularly in connection with the political science department there. They were strong in government and strong in international relations, which were two subjects that I had a great deal of interest in. I did not apply to a lot of places. I applied locally to the University of Miami. I applied to the University of Florida. And I applied to American University. The moment that I was accepted, the story was over because I knew that I would go there. I arrived in Washington on the seventeenth of September, 1964, having never been here before. I loved it at first sight and have loved it ever since.

RITCHIE: It had to be a very heady thing for somebody interested in government to come right to the center of it all.

GOLD: I was just beside myself, frankly, and getting involved in the 1964 election, and then helping out a little bit on the Hill as a volunteer, stuffing envelopes in congressional offices, I thought that was the best thing in the world. I did not come here with a plan to stay. If somebody had asked me what I would do after 1968, which was when I was going to graduate, I would have had no specific plans. But Uncle Sam had a plan, because the draft was alive and well and that dictated a lot of things. Because of the draft, I wound up staying a year in graduate school for a Master's in Public Administration before going into the service. Then once I had made that investment, I came back to American University, and finished the Master's degree. By that time, I was working on the Hill for Mark Hatfield, and

I went on to law school while working on his staff.

RITCHIE: Did you get drafted or did you join because the draft was looming?

GOLD: I was what they called a “draft induced volunteer.” The draft was looming and there was no way to avoid that. At twenty-two years of age I was too old for the National Guard or the Reserves because they were getting younger people in them than I was. I had not done the specific planning and I certainly didn’t have anybody pulling strings for me, so enlistment made sense in order to have a choice of what to do. My choice was language school. I went to the recruiter, who was at that time at the closed-down *Evening Star* building on Pennsylvania Avenue, because the paper had moved out, and the army had some space in there. They said, “Well, we teach thirty plus languages. You might be interested in this. Here’s a menu.” So I thought about it and I went back and I said, “I think I’ll take Russian.” They said, “We’re out of that.” “How about Mandarin Chinese?” “We’re out of that.” “Let’s save time, what do you have?” It was at the very peak of the troop commitment in Vietnam in 1969. They said, “Well, we have Vietnamese. We have Cambodian, Lao, and Korean.” I said, “Korean then.”

After I signed up for Korean, they said, “We have an opening in Spanish.” “Where will that send me?” “Panama or Puerto Rico.” I said, “You have a deal.” So Spanish it was. It was actually one of those hinge moments of life, because *if* I had gotten Russian I would have had a whole different life. If I had gotten Russian, I would have taken a Ph.D. in Soviet studies and had a different career entirely. The course for Romance languages was twenty-four weeks, six hours a day, five days a week. For non-Romance languages it was forty-seven weeks. You can learn a lot in forty-seven weeks if that’s all you’re doing. It was a fabulous program even for Spanish. I would have thirsted to get into the Russian program because I had a great personal interest in this, being of Russian background. So as it turned out, law and politics became my vocation and Russia became my avocation, as opposed to the opposite.

RITCHIE: So where did you wind up spending your two years or three years in the army?

GOLD: Three years. Well, it was a year in the States being in basic training and the language school, and at Fort Sam Houston for medic training. And then I went on to Panama

for a year and a half. The army was at that point Reducing In Force by early 1972 and they offered me six months out early, and I took it. So I resumed the Master's degree in the early spring of '72 as opposed to the fall. I finished it by the spring semester of '73 and started law school in the fall of '73, and by that time I was already working up here.

RITCHIE: Could you use the GI Bill when you came back?

GOLD: That's what I did, yes. I saved myself from student loans, and my parents from bills, because the GI Bill paid about 75 or 80 percent of the costs of graduate school and law school. If I had gone to a state school it would have paid it all, but I went to American University, so I just made up the difference from a salary from Mark Hatfield. For the most part, the GI Bill was what got me through.

RITCHIE: It paid for my Ph.D., too.

GOLD: It's a fantastic thing, really.

RITCHIE: So before you had gone in the army you had gotten your Master's in Public Administration.

GOLD: I got half a Master's before—it was eighteen hours before, and eighteen hours after.

RITCHIE: What led you into the Public Administration program?

GOLD: The draft. I did not think that there was time to finish law school. There were no deferments anyway at that point for that kind of training. And no deferments for anything else that I would have considered. I wasn't sure that once I got out of the army I would necessarily be able to go back to that school for the length of time necessary to go to law school. I knew several of the professors who were in that Public Administration program, knew them from undergraduate work, liked them, thought the work was pretty interesting. Again, wasn't sure what I was going to do from a career standpoint but imagined that at that point I'd stay in government, so I just took that program. It was not a bad thing to do at the time, although it has not proven of much value, really.

RITCHIE: One nice thing about being taken out of school and thrown into the military for a period of time is that you actually have a chance to think ahead as to what you want to do with your career. When you came out of the army, did you have a better sense of what your objectives were?

GOLD: Much. It was a great maturing mechanism. I had many friends in school who were a year behind me, so that year that I stayed prior to going into the service was almost like a fifth year of undergraduate school. I had a part-time job on the Hill, very minor, and I was doing graduate work, but basically what I was doing was waiting for the army. Coming out, it was a whole different world. First of all, the experience in the army itself was a great education. I had come from a middle-class background, and never really spent much time around blue-collar people. I didn't want to be an officer because OCS [Officers Candidate School] was a ticket to Vietnam. Of course, once you're in, you're in, and they can send you any place, but within reason I thought, "I'll go in this way and learn something and put my time and then they can do with me as they wish."

So I remained enlisted for the entire time I was in the service. I wound up doing a lot of work for people who were less educated than I was. That was a very enlightening and rewarding experience. You have to understand the psychology of some of these folks who could resent college kids. They were, after all, careerists in the military. These college kids didn't want to be there in the first place, were punching the clock and getting out, and everybody understood that. There were, I think, people who were careerists who wondered about whether or not these college students held them in much respect for what they were doing. It teaches you a little bit of humility, working for people who in the end could have been working for me if I had been an officer, and who I would probably not meet again in the passage through life. If I had had a choice I wouldn't have gone into the military at all, but when I think about that experience of just working with blue-collar people with high school degrees, the experience of the Spanish language, the experience of learning something about the Panama Canal before it became an issue that was central in the late '70s, and the benefits of the GI Bill, all in all I think it was a very good thing that happened to me.

Beyond all that, it was also a demarcation, because beforehand I was, in practical terms, a fifth-year undergraduate and when I got finished with it I was a serious graduate student. That was reflected in grades, and attitude. This was just a clear demarcation, closing down, if you will, youth and coming into adulthood.

RITCHIE: And coming back after three years, I'm sure there was a motivation to make up for lost time as well!

GOLD: Well, that's 100 percent so. I gave some thought to not completing the Master's, but then I thought: I've got enough invested in this, I'll go ahead and finish that. I remember my attitude the day before I was going to start law school, and that attitude was: I've got to get done with this before I'm thirty years old, because I'm behind now. I'm behind my peers. Partly because of the time spent in grad school, partly because of the time spent in the army, I was five years behind my peers. So I worked full-time, because I supported myself, and I went to school full-time at the same time. I graduated from law school in two and a half years. I took fifteen hours a semester for five semesters, six hours one summer, three hours another, that was eighty-four hours, and I was twenty-eight years old when I graduated. I just felt like I needed to get on with life, that the law school was a necessary step to take but I didn't want to linger with it and I certainly didn't want to spend four years with it as a night student. I had a very understanding boss, Hatfield, who allowed me to work around classes.

RITCHIE: When you were in law school did you have a particular focus on the law or area of interest?

GOLD: I was very interested in constitutional law more than anything else. But I knew pretty well that I was going to stick around the legislative process at that point, because I loved Congress and because of the age factor. Twenty-eight to thirty years old is obviously not old, but what I did not want to do then was to ignore whatever experience I had working on the Hill. By the time I passed the bar, I had three or four years in with Hatfield and I didn't want to go start off as a junior associate at some law office writing wills and doing estates and all that. I have no problem with other people who want to do that. That can be interesting work, and it's useful to people, but I didn't want to start there. So, given the time invested in graduate school, and law school, and working on the Hill, the obvious thing for me to do was just to stay here. That really decided what my legal career was going to be like, because it meant that I would work in and around legislation then for all the years afterwards, which was not only an easy choice for me but it was the right choice.

When I was in law school, because of the schedule that I kept I could not take advantage of some of things that full-time students might. For example, you have to go

through a moot court exercise as part of graduating. At the time I did it, they said, “Well, maybe you want to be on the moot court team.” I had no time. I’d go to class in the morning and come to Hatfield’s office. Or I’d go to Hatfield’s office and go to class at night. There was no time to spare. Those were eighty-hour weeks every week. I could barely make sure to get all the studying done, I couldn’t do any extracurricular things that might have introduced me into other areas of the law.

If I have a regret on this early part of the story, it’s that I don’t know what it would have been like to take that Ph.D. in Soviet studies, but I had to make a choice. It’s not that one choice was necessarily better than the other, it’s just a different choice. So, do I regret not going into more traditional areas of law practice? No, I don’t, because I love legislation. The only thing that would compare with it from my perspective would have been to do the Ph.D.

RITCHIE: Of course, ironically, the collapse of the Soviet Union devalued the Soviet studies program for a while.

GOLD: In a way, sure. But certainly this notion of taking a Ph.D. in Soviet studies, learning the Russian language, being intimately involved through the end of the Cold War, an even in the post-Cold War development, would have been something great. Probably, I would have wound up teaching. But in any event, it’s not that I regret or lament it. It’s that I’ve thought often about what would have happened had I taken that path. I try to fill it in. I’ve been to Russia many times, taught over there—American political science, enjoyed that, and would be thrilled to have a chance to teach some more over there.

RITCHIE: You mentioned that you had already done a couple of part-time jobs on Capitol Hill before you went to work for Senator Hatfield. Can you tell me the types of things you were doing, and how you got started up here?

GOLD: The word for the labor was menial. [Laughs] I worked for two members during my college years. One was William M. McCulloch, who was the ranking Republican on the House Judiciary Committee, from Lima, Ohio. Mr. McCulloch was a skinflint in terms of paying his staff. He would get the watchdog of the treasury award from the Chamber of Commerce for all the money he turned back in every year, but he also made tremendous use of the frank, staying in touch with the movers and shakers in his district. What I did for

Mr. McCulloch was the mail, in part, making sure that those movers and shakers got copies of marked *Congressional Records* with articles that he wanted them to read, and making sure that constituent mail hit the desk and went out the door in no time at all. He had a very safe district and he kept it safe. There was extremely little legislation that was done in his office. Most of it was done on the committee staff. John Dean was actually on the committee staff then, but I didn't know him. McCulloch once sent out 11,000 copies of "The American Creed" to kids in his district. Now his name was on the envelope, and his name was on the Creed, but to give backing in the envelope there was a piece of cardboard and you had to stamp his name on both sides of the cardboard, and so we made twenty-two thousand impressions.

The other member was a little bit later during the graduate year before the army, and that was Bob Griffin. Griffin was at that point in his first term in the Senate. I saw very little of him but my responsibility was opening and distributing the mail. I knew generally what people in the office did, and I knew who got what kind of letter, but that was about it. I wound up working with Griffin later on, when I was the minority staff director of the Senate Rules Committee and he was a member of the committee. I am completely confident that he had no recollection that I had ever worked in his office.

RITCHIE: When you were up here, even though it was on a part-time basis, did you spend any time going into the Senate chamber or the committees?

GOLD: I went one day to the Senate gallery and by chance heard Bobby Kennedy make his speech breaking with the Johnson administration on the Vietnam War. It was just a stroke of fortune, that was all. I did go to the gallery from time to time, because that was the only way to see the Senate then. Some of what was going on I could understand, some of what was going on just mystified me, as it would mystify most observers. You couldn't know why people were saying the things they were saying in order to move things through the process. I'd go to a committee from time to time as well, though my interest in politics at that time was more in elections than it was in governance. Governance came later.

RITCHIE: You mentioned that you worked on Mathias' campaign in '64. How is it that you didn't go to work for Mathias?

GOLD: It never crossed my mind. I was simply happy that he won. I was only a

freshman then and we had an extremely active Republican Club at American University. I became the president of that club in my sophomore year, for two terms, and we did all sorts of things that were unconventional. We ran a precinct in northern Virginia for Linwood Holton when he was running for governor in 1965. We took volunteers to New York to work for John Lindsay for mayor in 1965. We took a big group of volunteers to New York, fifty three of them, to work a weekend for Nelson Rockefeller in 1966 and we worked for Javits in '68. So these were all things that were very unconventional. And then we worked on behalf of Nixon in his '68 campaign. All of that was before the army, when Nixon was my commander in chief.

RITCHIE: Well, as you said, there wasn't much purpose for Republicans in Washington, D.C. to focus on local politics.

GOLD: All the other clubs did it. I'll tell you the difference. We had a very pragmatic group. Working for Goldwater in the District of Columbia was not pragmatic, it was a waste of time. What are you going to do, elevate him from 15 percent to 16 percent?

When Mathias was running for the House, he already had two terms in. He was running against an American University political science professor, Royce Hanson. It made sense for us to work to save a congressional seat. We had a club president who led in that direction, but it made perfect sense to me. I thought that was a good way to spend our time. As it turned out, it *was* a good way to spend our time.

RITCHIE: Well, you went to work for Mark Hatfield, who was very much like Charles Mathias in many ways. How was it that you wound up in Hatfield's office?

GOLD: A stroke of the greatest good fortune. I was no longer the president of the Young Republican Club by about a month, in March 1968, but we had established an award, and we named it after Robert Taft. We had initiated it in 1966 and our first recipient was Leverett Saltonstall. The next year we gave it to John Sherman Cooper. Then we gave it to Mark Hatfield, and the next year we gave it to Jacob Javits, and the year after that we gave it to Howard Baker. By that time I was gone and so was the award. But be that as it may, Hatfield was the third recipient of the award. He was enormously popular on college campuses then, because he was against the war, and he was against the draft, so that was music to students' ears. I invited him, even though I was out of office by the time he spoke.

We got the university president to give him the award, and I introduced him. He put on a rousing good show. That was good for him, and it was good for the students, and it was good for the club that sponsored him. From my perspective—I had a shyer, more reticent personality than a friend of mine did—that would have been the end of it. But my friend said, “I think we should ask Hatfield to go to lunch.” I wouldn’t have had the temerity to do that alone, but together we did. And Hatfield agreed.

So two college students, neither of whom was from Oregon, took him to lunch at O’Donnell’s seafood down on Thirteenth Street and E. After lunch he said, “You know, I wouldn’t have accepted this if I hadn’t intended to reciprocate. Why don’t you join me at the Senator’s Dining Room next time?” So we did. And then we took him to lunch again and he reciprocated again. It probably went back and forth about four or five times in the 1968 and 1969 period, to the point that during the Republican convention in 1968, I had him come to my parents’ apartment for breakfast. It was a day when the headline in the *Miami Herald* was that it was going to be a Nixon-Hatfield ticket. And he still came. He wasn’t too busy notwithstanding what must have been a lot of convention business. I learned later that that was very typical of Mark Hatfield. He would stop and take the time for things that mattered to him and people that mattered to him. And for whatever reason, I mattered to him. As I say, I wasn’t from his state, I wasn’t a contributor, my parents weren’t contributors. There was no reason for him to go to lunch with me. There was no reason for him to reciprocate. There was no reason for him to follow it up after the first go-around. None of it, except for whatever it is that he took an interest in a young man, that’s all.

When I was in the service, we corresponded. When I’d come back to Washington from time to time on leave, I’d go to see him, and he would always see me. I was never told that he didn’t have time. So when I got out of the service, I got a job for about six months working on a study that was funded by the then Department of Health, Education, and Welfare, on the legal and social obstacles to the rehabilitation of narcotics addicts. This project was underway and I helped them finish it, and then by that time I thought: well, maybe something will open with Hatfield. He was up for reelection that fall of ’72, and he found an opening in his office. So I wound up on Hatfield’s staff on the nineteenth of September, 1972. It was, to go back to your question, purely serendipitous, because none of it would have happened but for the temerity of a third person in putting us together and then the interest that Hatfield took in me as an individual, when there was no apparent reason for him to do that. That’s how it got started.

RITCHIE: What did you do in this part-time job?

GOLD: Oregon projects. At that time I was a Master's student and worked part-time. We had a little section that did Oregon projects, and I had never been in Oregon in my life. I barely knew Portland from Salem, or Salem from Eugene, but you know, you've got a map. Some city manager wants this, or some council of government wants that, or some constituent was writing about the postoffice that was closing or whatever else it was. It was a pretty interesting way to learn the state. I stayed with that work, eventually became in charge of it, all through law school. Except as I was going through law school and was further and further along, I would begin to take on issues that had legal dimensions to them, so that although nominally I was still in charge of that projects section, I gradually was able to hand some of that off to an assistant and take on things that I thought were even more interesting. But I had very little to do with legislation. Mostly it was grant programs and things of that sort—other than the appropriations process, which was someone else's responsibility—making sure that Oregon got its share of federal grants.

RITCHIE: Was the staff a lot smaller in those days than a senator's staff would be today?

GOLD: Well, Hatfield had probably a larger staff than most people with budgets of his size. He paid a lot of people a little money as opposed to a few people a lot of money. Even later, when I got to be the minority staff director of the Rules Committee, I wrote him a memo and told him about what I was getting paid relative to what people in a similar position were getting paid in other committees. I expected a very modest increase, and he made me get to parity with the other committees in a single day. It was the richest day of my life.

RITCHIE: It was an interesting phenomena in the 1970s: there were a number of cases where the ranking Republican minority member of a committee had more people working for him than the Democratic chairman. It seemed to me in those days that the Republicans, maybe because they had been in the minority for such a long time, tended to pay less and have more people, run people through their offices, a lot of recent college grads would come and go quickly. The Democrats, because they were used to being in charge, had a smaller staff but they were—

GOLD: More senior.

RITCHIE: Veterans who had been around forever. They were almost as old as the senators were in most cases.

GOLD: I think that's fair. Well, the majority staff director on the Rules Committee was Bill Cochrane—you remember Bill? When I came to the committee he was already in his middle sixties and had been at the committee for twenty years. My predecessor as the minority staff director in 1976 would have been twenty-nine years old. He had been with the committee maybe two years. So it's just what you're talking about.

RITCHIE: I remember when Charles Percy was ranking on Foreign Relations. He had a larger staff than the chairman. It didn't make any sense to me at first.

GOLD: Well, it may be just what you say. The psychology of being in a permanent minority, or an apparently permanent minority, as opposed to people who have made a career of being in charge, because you don't have much responsibility in the minority. When we were on the Rules Committee, we used to get the agenda at 5:30 p.m. on the day before the meeting.

It's funny because as close as I came to the legislative process and the legislative procedure since then, for about the first four years that I was here I had nothing to do with it. *Nothing* to do with it. Then Hatfield offered me an opening, because he was a member of the first permanent Intelligence Committee, the one that succeeded the Church committee, that [Daniel] Inouye was chairman of. The system that they had was to have every senator get a designee, because you couldn't operate the way you do with other committees in that there was a need to have security clearance. So they set up a permanent committee staff but they allowed every senator to have a staff designee with security clearance, and he asked me if I was interested in doing that. I said "sure," and that was the step out of his personal office.

RITCHIE: Just before that, the same years that you were here, '72 to '76, Watergate was the big issue.

GOLD: Oh, yes.

RITCHIE: I know you were a full-time law student and a full-time staffer, but did you also follow what was going on and get caught up in all of that?

GOLD: Oh, very much so. I wasn't the person in the office that was handling it. Hatfield himself was very circumspect. He had the perfect response, I thought: "As a potential juror in an impeachment trial, I should not express my opinion ahead of time but wait until I hear the evidence." First of all, I think that was correct. I was actually pretty appalled at some people who were making proclamations about the evidence before they ever heard the evidence, either for Nixon or against him. I thought Hatfield's position was judicious. It had the additional virtue of backing people off of pressuring him on how he was going to vote. Someday, he might have to actually vote, but not for a while, so why get himself out on a limb?

Hatfield became a very good personal friend of mine. He was a friend of mine, as much as you can be an intergenerational friend like that. He was my friend when he was my boss, and he was my friend after he was my boss. I never have asked him how he would have voted. And if I did, he could tell me what I might advise him to say, which is: "Since there wasn't a trial, I never heard the evidence." That's the correct position, because the senators swear the oath to do impartial justice. That's odd if you've already made a proclamation of your position before you ever heard the evidence. He was, I think, in the right place. Anybody who was interested in politics would be mesmerized by what was going on with Nixon then and I was no exception to that. But I was not working for a person who was an advocate one way or the other.

RITCHIE: There's a new book on Watergate by a Maryland professor, Keith Olson, and his thesis is that it really was the Republican party that was the spearhead in convincing Nixon to step down to avoid a trial in the Senate, that all the key players were Republican senators and representatives who stepped in at the time.

GOLD: [Hugh] Scott, Goldwater, and John Rhodes going to the White House and telling Nixon: "Your time is up. You don't have the votes in the Senate." Because Nixon I'm sure might have thought that with the assistance of people like [James] Eastland, and [John] Stennis, and others—how many Democrats could he count? A half a dozen, eight? I don't know, but something like that, I would think. You add those people to most of the Republicans and you've certainly got a third.

In the House Judiciary Committee, which would have been the first place where you would have seen this either as a partisan or as a bipartisan effort to oust Nixon, you had people like [William] Cohen, [Tom] Railsback, Larry Hogan, who were among seven or eight Republicans on that committee who came down against Nixon. Therefore, it was hard to say: “Well, what [Peter] Rodino has run here is just a partisan witch hunt.” What if they had stayed with him, and never let a bit of light between the party up here and Nixon, like the Democrats did on the House Judiciary Committee with [Bill] Clinton? What effect would that have had on the Senate? Would people have felt like they had to rally around also? It might have been that way. So the big difference—well, there are a number of differences both substantively and otherwise, but one of them is the absence of defections from the president’s own party, which in my opinion was key to getting Nixon out of office. I believe that completely.

Secondly, of course, there was the absence of somebody, a John Dean type figure or any other characters in the administration, who would say: “Look, this behavior of the president has alienated me and I’m going to turn against him.” So in the absence of Republican defections from within the administration and on the Hill, you don’t get there.

Moreover, on the Watergate Committee you have Howard Baker asking the central question. If anybody remembers one thing from those Watergate hearings, it’s “What did the president know and when did he know it?” Who posed that question? Was that Sam Dash? Was it Sam Ervin?

In any event, on this point, you had to have both defectors and honest brokers, and Baker, who I think began the process as the senior Republican on the committee trying to figure out how he could help Nixon, contributed instead to the appearance of a non-partisan process, mostly because he played it straight as opposed to trying to accuse the other side of a partisan witch hunt.

RITCHIE: One of the big differences between the Nixon and the Clinton situation was the Ervin Committee. For Nixon you had months of hearings that were televised and publicized, and you had senators from Ervin to Baker and others asking questions of a wide range of witnesses. The equivalent really for the Clinton impeachment was the Starr Report, which was thousands of pages dumped on the Internet all at once. It lacked that sustained national focus.

GOLD: It lacked it for sure. The case was not developed before the public. As you point out, it's a terribly important difference, because the peculiarity is that with the Internet you have the wide dispersal of information but the lack of development of the case. Whereas before, you had less dispersal of the information but greater development of the case. It's a different kind of case, for sure, anyway, but the point is the presence of Republican defections, or at least the absence of a unified Republican defense, doomed Nixon. The absence of that kind of unified, vigorous defense was terribly damaging to Nixon, because it meant that partisans who wanted to get him out of office were given some political cover by defecting Republicans. The whole effort to remove him could not be termed purely partisan.

RITCHIE: That whole era, with Watergate, and the Rockefeller Commission, and a whole series of revelations, created a sense of trying to open things up and make Congress more involved in what the executive branch was doing. That led to the formation of the Intelligence Committee. There had been no Intelligence Committee at all until the Church committee started as a special committee. What was the atmosphere on the Intelligence Committee when you got involved with it in '76?

GOLD: Well, it was the successor to the Church committee, so it was not itself an investigative committee. Inouye was trying to find some way of exercising responsibility as an oversight chairman, but without overt hostility to the agency. There were people who spilled over from the Church committee staff to the Inouye committee staff, but it was a very much toned down effort. What you have seen from the Intelligence Committee through time has its origins in the treatment that Inouye and Baker, who was the vice chairman when Inouye was chairman, gave to the subject, which was a fundamentally nonpartisan effort aimed at rebuilding relationships with the intelligence community. Nobody was looking to uncover additional scandals at that point. The question was how to establish a reasonable way to working with the intelligence community. The Inouye committee was the harbinger of many years of a relatively non-confrontational, cooperative relationship. You didn't have leaks out of that committee.

We started there in '76. In '77 Jimmy Carter was coming in as a new president. His choice for a DCI, Director of Central Intelligence, was Ted Sorenson. The Democrats had control, so confirmation should have been smooth. It wasn't smooth, and Sorenson was never confirmed. He was withdrawn. There were issues about how he treated classified

information. We worked together as a bipartisan staff up at the Kennedy Library—the Kennedy Library was not built then but they had archives in a warehouse in Massachusetts.

RITCHIE: Waltham, Massachusetts.

GOLD: Yes, I went up there with both Democrat and Republican staffs. We worked together on it so there was no issue like: the Republicans are going to develop a case against Sorenson to embarrass the president. Inouye wasn't for Sorenson. And when Sorenson's lack of support from the chairman and some senior Democrats as well as substantial lack of support on the Republican side became known, Carter withdrew him.

RITCHIE: And then Stansfield Turner came in.

GOLD: That's exactly right. Hatfield didn't serve on that committee that long, so I didn't. About six months.

RITCHIE: When you get on a committee like that, do you get an area of specialization or do you just sort of keep track of everything that's coming down the pike?

GOLD: Well, if you stay long enough you might get an area of specialization! Hatfield was tremendously interested in foreign policy from the Vietnam angle, but the intelligence community was not a matter of special interest to him. In those early months I attended many briefings to get myself up to speed. Then I would get him into briefings. I took him out to the NSA one day. I took him out to the CIA one day. We had breakfast with George Bush, who was the CIA director at that point.

Be that as it may, the work essentially involved two things in the early months. One, getting personally up to speed; and two, getting him up to speed. What happened, that changed my role with the committee and his for that matter, was that the Senate went through the committee reorganization of 1977, under a committee chaired by Adlai Stevenson. His committee recommended reducing the number of senators' committee assignments. Hatfield had too many assignments and he was going to have to give something up. I was invited to stay on committee staff. But Hatfield also offered me a position with the Rules Committee. I thought: better stay with the Rabbi. So I left the Intelligence Committee and went to the Rules Committee. But I was very much interested in the work of that Intelligence Committee.

I was impressed with the way that the staff worked together on a bipartisan basis. There was no partisan fissure on the committee.

RITCHIE: There had been years in which the Congress was really getting very little intelligence information. The CIA director would come and talk to Richard Russell and Leverett Saltonstall and that was about it. Senator [Mike] Mansfield had argued for years that they needed some kind of an intelligence committee. Once they created it, however, I get the sense that there were some members who would have preferred not to have anything to do with it. Once you're on the Intelligence Committee you really can't talk about much of what you're dealing with, and it's a different world than most of the other committees up here. Do you think that it's serving the function that it's supposed to? That is, is it necessary for the Senate to have that kind of regular presence in the intelligence network through scrutiny or oversight through that committee?

GOLD: I think Mansfield was correct about it. I don't think it is suitable to have an important oversight function delegated to one or two people. For instance, from a philosophical standpoint, I don't have any particular problem with using the CIA in covert operations. But the question becomes then: Is that solely an executive branch matter? Or is that something at least that Congress has a coordinate responsibility to look at it? Congress has to appropriate the money for this, so does the whole thing just become a big black box, and only the executive has any real responsibility for it? Or does Congress have a role to play in terms of at least making sure that American national interests are being appropriately addressed.

The committee that deals specifically with the intelligence community is addressing with a very important instrument of American policy. The committee is an appropriate instrument, because for the most part it has been leak-proof over a long period of time, and I think it has been very responsible in how it has treated classified information. We have more than twenty-five years of experience with it now, and I don't think that anybody can look at that record and say that Congress has not been responsible in how it has dealt with these subjects.

RITCHIE: Well, from Intelligence you moved to Rules, which is a very different world all together. Can you explain what the Rules Committee is and what its jurisdiction covers?

GOLD: The Rules Committee deals with the most partisan and least partisan subjects in the Senate. It had been an extremely active committee just before I got there, because it dealt with the confirmation of Gerald Ford to be vice president; it dealt with the confirmation of Nelson Rockefeller to be vice president; it dealt with the revision of the impeachment rules; and the 1974 amendments to the Federal Election Campaign laws. So that was quite an era for the committee.

RITCHIE: And they had just finished the [Louis] Wyman-[John] Durkin contested election case.

GOLD: Yes, thank you, also the Wyman-Durkin case. The vice presidential confirmation was given to them as a unique responsibility, and it came up twice in a little bit of time in the middle '70s. When you're dealing with election law, it's the most partisan kind of issue that you can have. Election contests are even a more partisan issue, I suppose, within that same genre. The committee also deals with a lot of things that are non-partisan such as Senate administration and oversight of the Smithsonian.

The committee dealt with partisan matters in a partisan way, and it dealt with nonpartisan matters in a nonpartisan way. It was an interesting place to work. It is now much too big. It has nineteen members, whereas there were nine members during my period of time. It was a workable committee then. They don't have enough to do to occupy nineteen members.

RITCHIE: It's also the committee that hands out room assignments and parking spaces, and all the things that make this place function on a daily basis.

GOLD: Here, it is done on a relatively mild, seniority basis without a lot of political maneuvering behind the administrative decisions of that nature. But there were plenty of partisan matters before the committee. We had controversy over Federal Election Commission nominations. We had controversy over two Jimmy Carter proposals, one to have public financing of congressional elections and the other to have election-day voter registration, both of which the Republicans vigorously and successfully opposed with filibusters. And the committee was operated in a quite partisan manner. Coming from Hatfield's personal office, which is to say working for one of the least partisan members, and then coming from the Intelligence Committee, which was essentially a nonpartisan

experience, the Rules Committee was a change. We had three members during my time on the Republican side: Baker, who was the Republican leader, Bob Griffin, and Hatfield. The guy who was really our bulldog was Griffin.

RITCHIE: The whip.

GOLD: He wasn't Baker's whip, he was the former whip. Baker had defeated him for leader, and Griffin was in his last two years in the Senate. He had announced that he wasn't going to run for reelection. Then he changed his mind and lost. Griffin was a tremendously detail-oriented person. You go present committee budgets to Griffin and he wanted to go line-by-line with you. He was tremendously detail-oriented, and much more of an instinctive partisan. He was a reasonably good match for the opposite side.

RITCHIE: Was it about this time that you began to get interested in the Senate rules, and legislative process and procedure, while you were on the Rules Committees? How did that develop?

GOLD: It had almost nothing to do with the Rules Committee, other than sort of a mistaken impression that people have that if you work on the Rules Committee you know something about the rules, which is just wrong. The Rules Committee had jurisdiction over the standing rules, but Robert C. Byrd, who was by that time the Democratic leader, was having none of that. They abolished the subcommittee on the standing rules, and the subcommittee on the standing rules was Robert C. Byrd, a committee of one.

The way I got to the rules was sort of by combination of prior experience. It's a presence on the Rules Committee, yes, but it's also because of work on the Intelligence Committee, and it deals with this: the ranking Republican on the Intelligence Committee, called the vice chairman, was Howard Baker. His staff designee was Howard Liebengood, later sergeant at arms. Howard and I became good friends on the Intelligence Committee staff. When I went to the Rules Committee, Liebengood shortly thereafter went to Howard Baker's leadership office, because Baker was elected minority leader. So I left just about the same time he did. Well, we can go through '77 and '78, I'm still on the Rules Committee staff, by '79 Baker is under some pressure from conservatives in the caucus, from [William] Armstrong of Colorado, [James] McClure of Idaho, and others, to have a Republican parliamentarian, somebody on leadership staff who can address what they concede is the

great disadvantage Republicans have on the floor. So consequently there needed to be a parliamentary presence in the leader's office, in their view.

Baker finally addressed this, so Liebengood recruited me. I said, "Well, I don't know much about this. I'm certainly not Dr. [Floyd] Riddick. I just don't know much about this." He said, "Do you want the job or don't you?" "Sure." So Baker called Hatfield and said he'd like to take me over to the leadership staff, and Hatfield agreed and would have to replace me. He called a fellow in Oregon and said, "Marty Gold's going to be leaving. Do you want to come work for me?" And the guy who had been in Hatfield's office before said fine. He resigned his job in Oregon to come back here. And then there was a delay of a couple of months. I was in the dark. What's the problem? In the meantime, this other guy is out of a job, waiting to replace me. Well, what had happened is that Bill Hildenbrand, who was secretary to the minority, was uncomfortable with the creation of the position. He felt like it was his role to keep the Republicans straight on matters of procedure, and if that position was being created, essentially it was a statement that he wasn't doing his job. Baker had told Hatfield that he wanted his man. Hatfield had gotten a replacement. I'm ready to go, and nothing's happening. That went on for a couple of months.

Finally, Baker called me to his office. It was the first time I had ever set foot in the place. And I got a lecture. I was surprised, frankly. Hildenbrand was sitting in there, and Baker said, "Now, I'm ready to make this move, but I want to tell you, when you work for me on the floor you are under Bill Hildenbrand's supervision. You will do what he tells you to do." And so on and so forth. Later on I understood what was going on. It allowed Baker to create the position but give the appropriate deference to Bill. That was important in the context of their prior relationship, because Bill had been chief of staff to Hugh Scott, when Hugh Scott repulsed a couple of bids by Baker to become Republican leader, so Hildenbrand had worked against Baker, and now he was working for Baker. Some of the old Baker people were suspicious of him. So as Baker and Hildenbrand were trying to navigate their own relationship, Baker wanted to be very careful not to alienate Bill or to give him reason to think that he was being forced out or that this new position was a slap at him. It took a while to do that. Meanwhile, over time Bill became a good friend of mine and we worked well together.

RITCHIE: Now, see, I always assumed that you started learning the rules when you were on the Rules Committee, but it was actually after you left the Rules Committee.

GOLD: The first day that I was on the job, Don, I sat there and I said, “What am I supposed to do?” They said, “Watch Byrd.” Twenty-three years later I’m still doing it. Watch Byrd. God help me, what if he had done something? I sat there on the sofa. I couldn’t leave that floor. I couldn’t leave for lunch. I couldn’t leave for any purpose, because I just knew that the moment I did it, Byrd would come in and pull a maneuver. So I watched the entire day, and it was a day when there were hours of quorum calls, when you had nothing but the presiding officer, one Democrat, one Republican on the floor, and Sparky Matsunuga’s constituents in the gallery. That was all there was to it. And me sitting there by myself on a sofa on the Republican side of the chamber, watching this. Bored but petrified at the same time that something was going to happen.

The only thing that happened that first day was that John Tower asked me a question. I didn’t have the faintest idea what the answer was. Hildenbrand saved me. He answered the question, and Tower looked at me and asked, “Is that right?” There were only three possible answers: yes, no, or I don’t know. I don’t know was not an acceptable answer at that moment, so I said yes because I was sure that Bill must know what he was talking about. The way I learned the rules was on-the-job observation and study, because I didn’t have to worry about anything else but that. I had no distractions, so I concentrated on the rules. A lot of it was trial and error, frankly.

RITCHIE: That whole time period from 1977 to 1980 is one of the most interesting periods but probably one of the least paid attention to in terms of what was happening to the parties. The Republican party had taken a series of hits in the ’70s when Nixon resigned and Ford lost. In ’77 you had a Democratic president and overwhelming Democratic majorities in both the House and the Senate. The Republican party had sort of run out of places to go, but it rebuilt during those four years and came back to win the presidency and the majority of the Senate four years later, which was a remarkable turnaround.

GOLD: After ’74 I believe we had thirty-four seats. But we had thirty-eight seats in that first Congress when I was working for Howard Baker. Then in ’78 we got up to forty-one. I thought it was fabulous we had broken forty. Republicans broke forty I think in the ’70 election and maybe in ’72, but then they went back down again. And in the House they never could get past about 180. The worst of it was the Great Society Congress when I think they had 140. So, as a practical matter, they were psychologically confined to the minority. Nobody on our side thought that in the ’80 elections we were going to get control. We

thought we might build to control and we'd get there in '82. The election of 1980 was a vast surprise.

RITCHIE: But in that period between '77 and '80 you didn't even have enough votes to stop a cloture motion from passing. What kind of strategy could the Republican party have on the floor in terms of figuring out how to make the rules work for your party?

GOLD: Nongermane amendments. I have told classes for a long time that the advent of the Republican Senate in 1980 was partly Ronald Reagan's doing, in the sense that he captured sort of a conservative wave that was at that point in the country, but not his altogether. It was the responsibility in part of Jesse Helms, and Jim McClure, and Bill Armstrong, and some others, [Orrin] Hatch as well, who offered a range of nongermane amendments on terribly controversial subjects like abortion, prayer in the schools, forced busing, the death penalty, things of that nature, and got votes on them during the year.

We would agree to unanimous consent orders—now today you wouldn't get a consent order like this because you'd have to show the amendment ahead of time but we would go along with unanimous consent orders that allowed for two amendments by Mr. Helms and another amendment by Mr. McClure without ever specifying the subject. In other words, if Byrd wanted a time agreement, we'd give him a time agreement, but we'd also make sure that our amendments were in order, because the amendments would otherwise be nongermane. So these people would offer the amendments and they would get tabled. From the point of view of making law, the amendments were a nullity. From the point of view of making a political record, they were everything. They established a voting record. Now, in '80 when Reagan was running, well you had Dan Quayle running also against [Birch] Bayh. You had [Charles] Grassley running against John Culver. You had [Robert] Kasten running against Gaylord Nelson. And [Steven] Symms running against Church, and so on. In every one of those races you could say: "Well, the senator had four opportunities to oppose forced busing but he didn't do it. He could have imposed the death penalty for this heinous crime, but he didn't do it. He voted against it. So therefore your senator is out of step."

Even though you had a conservative tide running in the country, those people had been durable. They had survived Republicans coming in and out of presidency, and these people had been in office for years and years. Frank Church had served for four terms and was going for his fifth term. You want to make a case that they are out of step with their

constituents, but how do you do that? The Democrat-controlled committees were not going to report legislation that would let you make that case. The Democratic majority leader was not going to call up legislation that was going to let you make that case. So the way to make the case was through nongermane amendments.

We also had at least some allies on cloture from time to time. For example, during the campaign financing votes, Russell Long or Jim Allen would be able to help us out, because you did not have the ideological uniformity in the parties like you do now. Eastland and Stennis could help. Then the South began to change. The Democrats who got elected from the South began to change. But the old-timers, the Russell Longs, and people like that, were likely to help us. So we had at least a cloture-competitive environment, depending on the issue. And we had the use of nongermane amendments as a tactic to raise issues.

RITCHIE: It must have been an interesting time to be on the floor. You had people like James Allen who was trying to redefine what filibusters and clotures were all about. Were you there during the big post-cloture filibuster fight?

GOLD: I got there in '79, just a little bit afterwards. But one of the very first things that we worked with—well, actually I started working on this just prior to coming over for Baker—was Byrd's proposal in '79 the rules change to close up the post-cloture filibuster with the one hundred hour limit. It looked similar to today's rule. Baker did not resist it. He appointed a Republican task force to address it. So who was on the task force? [Ted] Stevens, who was the chairman because he was the whip, so Baker made him the chairman. Then he got two Republicans from the left, Javits and Hatfield, so there I was, and two from the right, Helms and McClure. That was the task force. The object was not to just block any potential rules change but to come up with amendments and alternatives. Today, you might just see resistance.

But the psychology of the minority has changed a lot. One of the things that [Bill] Frist pointed out in this Congress for example was that in all those years when you had the same party controlling the White House and controlling the Senate, the minority never filibustered judges. The minority went along with consent agreements, as long as we had the right to offer our amendments. We got what we wanted, they got what they wanted. They got more control over floor time, we got the chance to offer our amendments. The minority often did not try to block legislation but would try to find ways of proposing alternatives. If they

absolutely had to block it they would, but otherwise they would find ways of proposing positions that would at least contrast a solution with the majority solution. In 1979, we had a number of amendments that we proposed to Byrd's rules changes, all of which went down.

RITCHIE: Not one was adopted?

GOLD: Not formally. Well, there were a couple of instances where Byrd made an accommodation, but he modified it himself, we never amended him. He had great pride of authorship in those changes.

RITCHIE: At that point, when you were trying to learn the rules, how did you go about it, other than sitting there on the floor and watching Senator Byrd? Did you talk to other people? Did you do much reading? What was your strategy?

GOLD: I studied *Riddick's Senate Procedures* in the summer months of 1979. I spent a lot of my August recess with that book, going over and over it. Dr. Riddick was around then. I talked to him. I would talk to the parliamentarian's office. Bob Dove and Alan Frumin would talk to me. It was mostly talking to Bob and to Alan, talking to Doc, and to Hildenbrand. It was observation on the floor, studying the procedure book, and talking to those people.

RITCHIE: Who would come to you then for advice? You mentioned Senator Tower in the chamber but would senators just in general come up to you or was it mostly the leadership?

GOLD: Well, Baker always. Eventually I sort of got to the point where I felt that I was really doing him a service as opposed to just being there. But also other people: Lowell Weicker, John Chafee would come on things, or I'd have discussions with McClure, who was a very detail-oriented person, and was very interested in floor procedure. Stevens was another one, as was Hatch. Some of them had staffs that had self-styled procedural experts, who were actually reasonably good at it too. So it wasn't like I was completely off by myself. But basically what Baker did was make me available as a resource to Republican senators. So, in the end, I had my clients, if you will, and sometimes their positions were not the same as Baker's. But Baker would never say, "don't help this senator."

RITCHIE: Would they be trying to plan strategy for a legislative action or just trying to figure out where they were in the process?

GOLD: All of the above. I remember one day when they were trying to put a pay increase through. It was right at the end of the session. They had started a maneuver for a pay increase in the dead of night. They had a Saturday session and I came in the office and I was told that Chafee wanted to see me in the cloakroom. I went in there and he said, “*Marty*, tell me how I can kill this pay raise.” I’m thinking to myself: “Get yourself another lawyer. That’s my pay raise!” [Laughs] I needed that pay raise. But what are you going to do? You tell him. We had a very good and trusting relationship with these members, and I’ll tell you, Don, when I got back up here, one of the really gratifying things to me was that people from those years who were still around, John Warner, [Thad] Cochran, Grassley, [Richard] Lugar, Hatch, Stevens, [Pete] Domenici, were all extremely welcoming because they remembered how we operated.

I tried to reflect Baker. Reflecting Baker to these members, Baker’s modus operandi, was a very good thing. If you’re working with someone who is a decent guy and has the right perspective on the institution, that is imputed to you. So Hatfield was imputed to me, and Baker was imputed to me. When I came back, all those years later, it was still there.

RITCHIE: Senator Baker had a real tightrope act during those four years when he was minority leader, because his party, as you mentioned, was very divided ideologically. There was a fairly large number of moderate Republican senators at that point, almost half and half in terms of how the party was.

GOLD: Correct.

RITCHIE: How did he operate as leader?

GOLD: With tremendous adroitness. I can start this story at the end and work backwards. When I left I wrote him a note and in the note I said to him: “To every axiom there is an exception. In this case the axiom is that no one is hero to his own valet,” because I learned from watching him. He had tremendous political instincts. The staff would give him a memo—you could do this, you can do that—raising with him all the options that he could exercise. He had a very good sense of when to press forward and when to lean back. When

to give someone his head and when to rein him in, because he understood human relations well, and because people understood that he was being square with them. He had a fine relationship with Robert C. Byrd. He told Byrd when he became majority leader that he was going to signal to him everything he was going to do. He would create no surprises. So Byrd would know ahead of time whenever Baker was going to move in one direction or another direction. Whatever Baker sacrificed in terms of the element of surprise was rewarded in terms of the element of trust.

Baker had allies. For example, I remember early in the Reagan administration we got to the point of having to breach the national debt at one trillion dollars. You had some very conservative Republicans who didn't want to vote for that. Now we had a majority, and we couldn't not vote for that. Baker understood that his credentials as Reaganaught were somewhat suspect. After all, he had run against Reagan. He said he was going to be Reagan's spear carrier in the Senate, but that wasn't absolutely settled in yet. So he got [Strom] Thurmond to come talk to them. Thurmond essentially said, "I've never voted for a debt ceiling increase, but I'm voting for this one and so are you." He understood how to reach out and bring in other people as he needed to, was very consultative with his committee chairmen, and not in the least bit a martinet. That also helped. In other words, he never challenged the ego of other members. In that respect, I think he was a great deal more like Mansfield than like [Lyndon] Johnson.

RITCHIE: The best leaders, it seems to me, are the ones who respect the institution as an institution, rather than operating strictly as a partisan. They all have to be partisan leaders because they're leading a party, but somehow they have to deal with this peculiar institution that's been around for a few hundred years and isn't going to change dramatically for them.

GOLD: He had the greatest respect for the Senate, and still does. He operated according to the precepts that he himself believed in. He never really believed much in round-the-clock sessions, so he didn't schedule them. He didn't believe necessarily in Saturday sessions or keeping the senators off balance in terms of their personal life. So he did it as little as possible. He tried to institute this idea that later grew up as a "family-friendly Senate," he tried to institute a little bit of that when he came in by saying, "Look, we'll plan the one late night of the week will be Thursday night. If we get our work done on Thursday night we won't be in on Friday." The simple fact is that senators did want to get

out of here on Friday, and Baker's notion was: "All right, look, we're not going to tell you you're going to be late Monday, Tuesday, and Wednesday. We're going to try to avoid that until we get to the point in the session where we can't avoid it. But at least in the early months we won't do it unnecessarily. You can plan your evenings, if you have fund-raisers to go to, if you have to be with your family, whatever it is, have at it. But then know that you're going to be here on Thursday late, but not on Friday if we get our work done." He set up a work load that was reasonable to achieve under those conditions. In time that broke down. The press of business necessitated it. But there was a genuine effort to try to make that happen.

RITCHIE: Also looking back to that period in the late 1970s, I don't think Jimmy Carter ever understood how good he had it. His party had overwhelming majorities in both houses, and he had an extremely accommodating minority leader. Howard Baker went out on a limb on a number of occasions for Carter.

GOLD: The Panama Canal.

RITCHIE: Being the most famous, yes, it would never have passed without Baker's support. That was a big risk for Baker as a leader, too.

GOLD: It was probably one of the things that kept him out of the presidency, frankly. There were going to be people that never forgave him for that. I think that was an act of supreme statesmanship on his part. It's not unlike the Watergate Committee we were talking about. What posture could he have taken on the Watergate Committee? He could have been a hard-edged partisan and tried to discredit the work of the Ervin Committee. Instead, he is regarded as being one of the most credible people on the Ervin Committee because he did not approach it that way. He appeared fair-minded in his approach. The same thing was true of the Panama Canal. I think that he came to the Panama Canal issues as a matter of honest intellectual commitment, even though it might harm him politically.

RITCHIE: I think Clinton could not have imagined having the same things that Carter had.

GOLD: No. Absolutely not. This is a different place now.

RITCHIE: Well, we're coming to 1980s, which is a natural break, and I think we can stop here. My schedule is pretty open this week.

GOLD: We're in good shape this week, for me as well. I've got a couple of seminars to do.

RITCHIE: Actually, one of the things I'd like to talk about is the seminars that you've done as well. I'd like to focus on how you've trained other people.

GOLD: The next one will be number eighty this year. That will be a pretty good year for me.

RITCHIE: When you look at the transcript, if you think there are some things we should develop more, we can pick it up at the beginning of the next session. We'll have a transcript for you by then. Transcription is not an exact science, so it's worthwhile taking a look at it. I have much more sympathy for the Reporters of Debate after being involved with transcription!

GOLD: That is the most remarkable thing. How they get all that, I just don't know. I can remember having to correct the record of a Baker-Byrd colloquy the day my son was born. My son was born at six o'clock in the morning and by about nine Baker's driver was out at the hospital with the galleys. My wife did not appreciate that. "Can't they leave you alone?" No, no, the *Record* has to be right. I've never actually, Don, looked in the *Record* of October 1st, 1980, to even remember what it was about! [Laughs]

End of the First Interview

FROM THE MINORITY TO THE MAJORITY

Interview #2

Tuesday, December 9, 2003

RITCHIE: In looking at the earlier transcript, a couple of questions came to mind. One was that when you were on the staff of the Rules Committee, one of the big issues was campaign financing, and that's remained a big issue for the last twenty-five years. In many ways it was triggered by Watergate and people's concern about the misuse of campaign funding. It seems to me that we're still in a stalemate as to what campaign financing ought to be. Going back to those first fights in the Rules Committee in the 1970s, have you got any sense from looking at the issue over the last twenty-five years about how it is that we haven't been able to reach a consensus on campaign financing?

GOLD: I think if you go back to those fights, and if you look at all the fights since then, the one thing that they have in common is the parties trying to figure out how adjustments in the law will rig the system for or against them. That is always the question. There is always a zero sum element in it. If you do x you will advantage the Republicans. If you do y you will advantage the Democrats. Or be perceived to do so. So consequently, whether you are dealing with real advantages or disadvantages or perceived advantages or disadvantages, there will be somebody that inherently resists these changes. Because the reforms cannot be politically neutral, somebody will have a stake in blocking them. For example, President Carter proposed same-day voter registration. Republicans believed that that last-minute voter registration was not going to turn out *their* voters, so they were against it. Carter also proposed public financing of congressional elections. Even if you could afford it, what would that mean in terms of the financial advantage of the Republican party in most campaigns? Probably to strip away some of that advantage. Consequently, they opposed that.

You can come with rationales for why you oppose it. You can oppose same-day registration on the grounds of potential fraud. You can oppose public financing of congressional elections on the question of why the taxpayers should be subsidizing campaigns. And after all, who can afford to do it anyway? But it's more than that. What it's really about is advantaging or disadvantaging your own party in an election. When you strip all the reform away, it's a basically zero sum game, which makes agreement particularly difficult in this area.

RITCHIE: One of the problems with all of the reforms for the last twenty-five years is that whenever they plug a hole in one place, the money just goes someplace else and comes up in a different guise.

GOLD: I think the issue that Senator [Mitch] McConnell highlighted, the notion in the McCain-Feingold soft money bans putting money in the hands of independent interest groups as distinguished from the political parties, is a very good example of that kind of consequence. Instead of the political parties being the engines to channel political discourse, more and more that becomes the province of independent interest groups. That trend would increase anyway with the dispersion of political communication through the Internet. It's further enhanced by changes in campaign finance laws that encourage people to make those independent expenditures, for which no candidate can necessarily be held accountable. Those groups claim no coordination and can say anything they want about a candidate. A level of restraint would otherwise attend to an opponent, but that is lost when money goes to the hands of independent interest groups. It's an unintended consequence of trying to wean parties away from soft money. I think that the interest groups are strengthened at the expense of political parties. Given the weakness of the political party structure anyway, you just made something that is already weak, but is important, even weaker. That's probably not a great thing.

RITCHIE: Now we've got McCain-Feingold, but I don't know if anybody feels that's solved the problem at this stage of the game.

GOLD: I'm not sure the problem is solvable. First of all, you have to define what the problem is. Is it too much money in the system? Is it too much money that is not controlled? Is it an absence of accountability? On and on it goes. Another problem is cheap shots from allies of the candidate that a candidate can disavow while trying to take all the benefit from those cheap shots. There is a lot of effort made to try to create greater accountability in the system. You see it, for example, with people trying again to get public disclosure of holds on legislation. They want greater accountability in the system, so that people really know who's doing what to whom. But you enact campaign finance reform that creates less accountability, and again disperses political resources to people who are accountable to nobody. I think that's an anomaly.

RITCHIE: Going back to the '70s again, one other issue is that you had mentioned that your first day on the job as the Republican parliamentarian was to watch Senator Byrd, and you've been doing that for twenty-three years. I meant to ask you, what did you look for when you watched Senator Byrd? And what exactly have you learned from watching him over the years?

GOLD: You couldn't watch anybody else and learn more. I wish we had his knowledge and skills on our side of the aisle. I often don't agree with him on issues, and of course, where he comes out on issues is seldom helpful to the Republicans. As time has gone along, in fact, I think he's become more partisan, even though he's out of the role of the partisan leader. However, what is evident is his love for the institution. That love for the institution is probably felt by a number of people but they don't put the time in to realize what the love ought to mean. In other words, they are not devoted to the institution in the way that he's devoted to the institution. They love it, but they're not dedicated to it, in the way he is.

He has had, to the best of my knowledge, a greater impact than any senator in American history on the rules and operations of the institution. That's not to say that other senators weren't important. [Richard] Russell would be an obvious illustration of this. But no senator, I think, made specialization of the rules and internal processes of the Senate his own area the way Robert Byrd has made it his area. He has had a seminal role looking at the Senate as an institution, preserving its traditions where possible, changing those traditions where he thought they were outdated, pushing the envelope in certain procedural matters, which I am pretty well acquainted with, and assisting in the modernization of the institution as we move into the twenty-first century.

So what do you learn from Robert Byrd? For one thing, I think the importance in the first place of a knowledge of rules and precedents. Without it, a senator is disarmed. With it, a senator is armed. So, do you want to speak with a microphone or do you want to speak without a microphone? Because the knowledge of the rules puts a microphone in front of your face and makes you be heard more loudly. Or you can speak without any benefit of assistance, in which case it's harder to be heard. Just watching him pull the levers of the legislative process is a wonderful way of learning about that process, because from a technical standpoint, whether you agree with the end product or not, you know that the means to the end is likely to have been extremely well executed, with lots of knowledge, with lots

of forethought, and with a process that you can replicate if you want to be *right* about how you operate.

I think that someone ought to write a very good biography of him one day. It won't maybe be called *Master of the Senate* but it probably could be called *Mastery of the Senate*, because that's really it. He once had a nascent campaign for president and was once thought about as a potential for the Supreme Court, but unlike a lot of people who have served here, who are either running for president from the time they get here, this is a Senate man, from the top of his pompadour to the bottom of his toes. Institutions need people like that, and frankly speaking, whenever he goes, this will be a much poorer place because of it.

I was actually on the floor the day that he started to do his history of the Senate. I heard the first speech. It was a quiet day and his grandchild was in the gallery with a school class. I had no idea what he was doing, but I just happened to be there and listened in. Then I realized it was the beginning of something. And it's so indicative to me, by the way, of the regard he has for the institution if not for the staff that serves on the floor that he read aloud every word. He didn't prepare the speech or have the speech prepared for him and then put it in the *Record*, but actually stood on the floor and spoke every word of it. If you read his volumes of Senate history, the fact that he spoke it or put it in the *Record* is inconsequential. It wouldn't make any difference if he had put it in the *Record*, the same material would be there for anybody who wishes to learn about the Senate, but somehow it mattered to him to be able to say that all of this was done aloud. He did a lot of it aloud before there was ever television.

So my view is, again, people badly misunderstand him if they think that he's all about pork. I think that anybody coming on board right now for the first day would profit from watching him because they'd learn more about the Senate from watching him than they would from watching anybody else.

RITCHIE: Do you find that there are many senators who get at least a rudimentary knowledge of the rules, or do most of them just go through it being advised on an ad hoc basis when they need to know something?

GOLD: It's far more the latter than the former. It's situational knowledge. "This is coming up; what do I have to know to get through this situation?" Without even having, I

think, a sense of context about it. If you are around here long enough, you will have been through enough situations that you basically build some knowledge base. To give you an example, look at Ted Stevens. Stevens for the most part has a pretty good knowledge base because he's been here for thirty-five years, and because he also had floor responsibilities as a whip during the Baker era. Some of it was situational, some of it was what he picked up as the whip, some of it he just picked up from experience. Most senators would just sort of say, "Hats off to Byrd for being the scholar of the rules. He knows more than I do." Undoubtedly that's so, and if you were here for over forty years you might know as much as he. But you wouldn't know as much as he did unless you really put time in, time to study the rules, time to study the Constitution, time to study the precedents, and time to really figure out what was all behind it. If you are not going to spend that time, and most people, if not everybody will not, then your knowledge is likely to be situational, and in most cases supplied by staff as opposed to understanding it yourself.

RITCHIE: One thing about Senator Byrd is that he has always spent a lot of time on the Senate floor. The very first time I came to the Senate was in 1968 as a graduate student, sitting in the galleries. It was a very quiet afternoon, but Senator Byrd was on the floor. As whip he was on the floor all the time. It seems to me that there aren't that many senators who enjoy spending the bulk of their time on the floor. They would much rather be in committee or in some other function. Is that one way in which acquire a knowledge of the rules, being there?

GOLD: Sure.

RITCHIE: And has that been lost with the way the Senate has gone?

GOLD: If you look at the current group of senators, you will see a little bit more of this on the Democratic side. I think of three senators specifically who spend a lot of time on the floor, and are dedicated to this purpose. One is [Dick] Durbin. One is [Byron] Dorgan. And the leading one is [Harry] Reid. Durbin and Dorgan will come to the floor for policy statements and they'll make a strong speech. I think both of them are articulate members, and they'll make a strong speech on behalf of whatever their party's position is. But the person who is involved in working the levers of the process is Reid, by far the most active whip on either side of the aisle since Byrd was himself whip. That allows [Tom] Daschle to come to the floor as he wishes but not to be there himself, and essentially to professionalize the

expertise in one senator. The Democrats would be very much disadvantaged if Reid were not there to do this, because they would have to do what the Republicans do, which is basically to spread the floor role around among other members. Reid does the job now that is akin to the role that Byrd played when he was the whip. Certainly when Byrd was the leader, Alan Cranston, who was his whip, never played anything like that kind of role.

RITCHIE: It is interesting that the relationship between the majority leader and the whip changes dramatically given the personalities and interests. Mansfield didn't like being the on the floor, so he let Byrd do it. Byrd loved being on the floor, so he rarely let Cranston take much of a lead.

GOLD: I didn't see Cranston do—well, whatever Cranston did as whip was relatively invisible. That doesn't mean it was unimportant, it just means that it was not obvious to the public. You would never see Cranston on the floor doing the sort of role that Reid now performs or that Byrd performed under Mansfield, because Byrd wouldn't have it.

RITCHIE: What was Howard Baker's relation with Alan Simpson, his whip?

GOLD: Ted Stevens.

RITCHIE: Oh, Ted Stevens, I'm sorry, that's right.

GOLD: He had an excellent relationship with him. Stevens was always supportive of Baker, so there was not any tension between them or rivalry between them at all. The relationship between Baker and Stevens is pretty much replicated in the relationship between Frist and McConnell, I think, where the whip's office is not a rival center of power but is supportive of the leader. Frankly, when Baker ran for the president in 1980 and was on the road for a while, Stevens performed the role as acting leader but worked closely with our staff. There was never a sense that he was trying to overstep or aggrandize authority. It was a very loyal and supportive role.

RITCHIE: To go back again to the late 1970s, what was the Republican attitude toward Robert Byrd as leader? Did they perceive him as an extremely partisan leader? Was there much resentment from the way he was running the Senate and working the schedule?

GOLD: Well, I don't think anybody ever doubted his skills as leader. You know, in some respects you can't be excellent in every potential role that a leader would have, so for instance, I'm not sure he was the best spokesperson the Democrats could put on television on the Sunday shows. I saw him do a few of those, but it wasn't basically his forum. His forum was the floor. I think that Republicans understood that he was effective on the floor, that he had the ability that if there were a procedural way to get something done, to get out from under a problem, then Byrd could find a way to do that. And he could find a way to do that without a tremendous amount of help from staff, because he had personal knowledge of how to operate that way.

Sometimes the Republicans felt that he was too aggressive in terms of creating precedents, for instance, to get himself out of the box—as he would say, “get the ox out of the ditch.” It was one of the reasons that my job was created, even though, as I mentioned yesterday, I did not have a great base of knowledge coming into the job. But the point is, *somebody* was going to have to pay attention to what was happening on the floor or otherwise the natural disadvantages imploded on the minority anyway just by numbers would be compounded when you had a majority leader that was, in the view of a number of Republican senators, extremely aggressive in terms of using procedure to get his policy objectives.

RITCHIE: There does seem to be a cyclical nature of the leadership, in that Byrd was following Mansfield, who had been a much more lackadaisical leader, in the sense that he let everybody else take the lead and not cracking the whip, and there was some nostalgia for the Lyndon Johnson style of leadership. I think that Senator Byrd wanted to be perceived as a stronger party leader in the Johnson mode.

GOLD: Well, Johnson had a big influence on Byrd, to begin with. Johnson was still around when Byrd was elected. If Byrd could have patterned himself on a leader, he might have patterned himself on Johnson, although times had changed and his ability to be Johnson was essentially forestalled by two things: one is the sixteen years of the Mansfield era, where senators got used to dealing with each other and with the institution in a different way. Number two, to act like Johnson to some degree you have to be like Johnson, and I'm not sure that Byrd really was that.

But I think that Republicans felt as though Byrd was a formidable personality. They chaffed at what they thought was the overly aggressive use of the rules. They chaffed at what they thought was the unpredictability of the schedule, and what appeared to be more of an arbitrariness, at least in their mind. We had spoken earlier about Howard Baker trying to create a more family-friendly Senate, at least predictable hours, and late-nights, and next day off, and finish the work, and all of that. Well, that is a reaction itself to what they thought was unduly lengthy hours and an unpredictable schedule.

RITCHIE: Well, we now come to the great demarcation line, the 1980 election, which to some degree was more predictable in the presidential election than it was in the congressional election. Ronald Reagan beat Jimmy Carter, but on election night most people still didn't expect that the next morning the headline would be that the Senate went Republican. You had something like twelve or thirteen Democratic senators who were defeated unexpectedly, everybody from Warren Magnuson, to Frank Church, and Birch Bayh, and George McGovern. People who had been there for a very long time. Suddenly, the next morning, Howard Baker was facing becoming majority leader. One of the first issues was to get rid of the parliamentarian. Murray Zweben got fired in December of 1980. I wondered if you knew much of what went on before that, and if you ever considered moving into the parliamentarian's office at that point?

GOLD: Well, let me say that the 1980 election for the Senate was a huge surprise. For us to pick up a dozen seats, which is what we did ultimately, was beyond anybody's expectations as to how many we were going to get. Four or five, that would have been a reasonable number, which would have still left us in the minority. Some things that look immutable prove not to be so. Such as: communism will always rule in Russia; the Berlin Wall will always be erect; and the Democrats will always control Congress. All of them in 1980 would have seemed realistic and enduring. So, we were vastly surprised, let me say that.

I am very knowledgeable about the Murray Zweben parliamentarian change. Murray had angered some Republican senators, Barry Goldwater being one of them, and Jim McClure being another. Goldwater had sued the Senate. I forget now what the issue was.

RITCHIE: It was something about the Taiwan treaty.

GOLD: It may have been. Goldwater was a plaintiff in litigation, and Murray gave a deposition in the case against him, a deposition that frankly Goldwater thought was an unnecessary intervention in the case. To Goldwater, it proved that Murray was partisan. That may or not have been fair. You can't say that if he had remained as parliamentarian under Baker much would have necessarily changed, but the point was they thought Byrd was a master of procedure, and they thought that Murray was too pliant relative to what Byrd wanted to do, that Murray would find ways to help Byrd do what Byrd wanted to do. So you have the creation of my position to serve as a watchdog function over the parliamentarian's office.

When the Republicans took over in 1980, it was obvious that the secretary of the Senate job was going to change, and obvious that the sergeant at arms job was going to change, because they are fundamentally political officers. But no other changes were made to permanent Senate staff. They just continued from Democratic to Republican control of the Senate. All remained the same, except for one job, and that was the parliamentarian's job. There would have been no saving that job. There were things that some of our people wanted out of Howard Baker, and Baker was not about to resist that, so although I do not believe that it was his idea to get rid of Murray, there was a sufficient sentiment that something should be done about it.

I came to know Murray quite well in later years. We were neighbors in Georgetown, and developed a very good personal relationship. I would never impugn his integrity and contend that he would have just been an operative for the Democratic party if he had been left at the desk. I don't think anybody can say that. But people who had felt that he was too partisan over time certainly used the opportunity to try to get rid of him, and Baker was not going to fight to keep him there.

The question then came to who would replace him. Baker offered the position to me. I didn't want it for several reasons. One, I didn't feel equipped to do the job. I felt as though I had good knowledge of floor procedure, but I'd never spent a day in the parliamentarian's office. I did not feel as though I could just step into that job with no transition and maybe with no help, because who's to say that the parliamentarian's staff wouldn't have resigned? So I was not fully comfortable with the notion that I could just walk into that job. I might have had a learning curve that was not as steep as some people, but a learning curve for sure. I would not have wanted to be the parliamentarian and be sitting up there on the first day

with the transition that would essentially have been negligible. If you're going to go to work for the parliamentarian's office you need some time in grade there, and some time to study, before you can take that one last step. That was a reason.

The second reason I didn't want it was because I felt as though it was a career position, and it was bad to be changing it with a change in party control. Beyond that, I wasn't sure I wanted to spend a career there. I was at that point in my middle thirties. I just had a son born a month before the election. I wasn't certain that I could stay at the Senate, maintain the Senate wages, maintain the Senate hours. I was under a fair amount of pressure from my family to earn a better living and to get better control of my time.

So, I rejected the offer for several reasons. I wasn't completely equipped and time and economics did not allow me to make the kind of commitment that I felt that job required. Even more important, I certainly would not in any case have wanted to be a partisan parliamentarian or be perceived to be one. I never felt as though that role should be corrupted by overt partisanship, so I didn't want to start down that path.

It was necessary to get Baker to agree to promote from within. I worked him to agree on Bob Dove. I told him that I thought Bob was fair. That he had been open with me. That he was as helpful as he could be and the single most knowledgeable person to take the position, because he came from years as the assistant parliamentarian, and before that the second assistant. He had the training, he had the temperament, he had the knowledge. He was going to make a career out of it. And I felt that if we promoted from within we had at least *some* prospect that a later change in party control would not necessarily yield a change in the parliamentarian. So Baker agreed.

It was left to me to tell Bob about it. I went to the parliamentarian's office, asked him if he'd step outside. We took a little walk to the crypt—Washington's crypt—and I said, "Let me tell you what's going to happen here." I said, "Murray is going to be relieved and you're going to be the parliamentarian." He looked totally stunned. I don't think you could fake it, frankly, so I think he was truly stunned. I didn't exactly see why he should be surprised, but nonetheless he was. And that's how the change was made.

RITCHIE: There's a peculiarity to that office in that the parliamentarian is supposed to be a neutral figure, who advises both parties, and advises the presiding officer, and keeps

all of the institutional memory of the precedents of the institution. But he's also sought after by people trying to figure strategy, trying to figure how they can get something done. He's often approached by both sides on the same issue.

GOLD: True.

RITCHIE: So there's that part of every parliamentarian that is absolutely neutral, and there's the part of every parliamentarian who's got to assist you in terms of your legislative maneuvering. It seems as if anyone is going to have to disappoint part of the constituency at almost any time.

GOLD: It is inevitable, and that has to be understood. He may decide an issue in a way different from the way a senator would like it decided. There were a number of times where I put myself in their shoes, and thought, "If I were in that position, how would I construe something?" As a general matter, I can always pretty well understand the logic, but I wouldn't always arrive at the same conclusion, and there isn't necessarily a right answer. You learn that when you first start law school, and you're given a case to do. You want to ask the professor, "What's the right answer?" And the point is there isn't always a right answer. There just happens to be the prevailing answer at the moment. You read the majority opinion and you say, "Well, that's what the court decided." Then you read the dissent and it sounds even more persuasive.

The fact is, I'm sure, that Bob didn't agree with everything that Murray decided, that Alan didn't agree with everything Bob decided. And I wouldn't agree with everything that any of them decided. But there has to be tolerance for the professionalism necessary to reach those decisions. There would be no tolerance if you felt as though these people were politicizing the process. That was the issue with Murray and the Goldwater lawsuit, at least from Goldwater's standpoint.

I ran into variations on this theme when the senators would ask me about tactics that were contrary to Howard Baker's interests. If they said, "Is x in order?" "Is y subject to a point of order?" "Does this amendment have to be germane?" I might say, "Well, it seems germane to me." Or "It doesn't seem germane to me," as the case might be, "but you really need to ask the parliamentarian, because whether *I* think it's germane or not doesn't matter."

I think the parliamentarians have a phenomenally difficult job. They have to be legislative judges and be as neutral as possible. But they have no tenure. They work at the pleasure of the secretary, work at the pleasure of the leader. You have to be a legislative judge, but you also have to provide guidance in a way that a judge never would have to. You have to be worried about your audience in a way a judge never would have to. And you could be summarily fired in a way a judge can never be summarily fired. That's a high burden to place on somebody, to have to operate under those conditions.

RITCHIE: That, plus you are being called upon to make these decisions in the middle of the heat of battle.

GOLD: Sure. Often you have time to prepare, but sometimes you don't.

RITCHIE: You brought up a point about that transition in 1980 that Murray Zweben was one of the few major staff people who changed. I remember when the old *Washington Star* printed the "Senate Plum List." It was a full page of small type of all the employees of the Senate who were potentially political patronage positions, would could be cleaned out. Everyone in the Historical Office was listed in there. Our names, titles, and salaries were all printed in columns. Every office under the secretary of the Senate and the sergeant at arms was listed. There was some consternation in the office, but Bill Hildenbrand called that morning and said that "Senator Baker wants you all to know that he considers you to be nonpartisan professional staff and no changes will be made." So Senator Baker came in with a very high standing among everybody on the Senate staff as a result of that!

GOLD: [Laughs] Understood. One also has to credit Hildenbrand, because he was another Senate institutional man. He wasn't a secretary of the Senate that was brought in from the outside.

If Bill had been able to have his way, he would have remained the Republican secretary on the floor and left Stan [Kimmit] in his job [as secretary of the Senate]. That's what he wanted to do. Is that just because he didn't want to dislodge his old friend? Maybe. Is it because he loved the floor work? Maybe. But he felt being promoted from being secretary for the minority to secretary of the Senate was a very mixed blessing. It says a lot about the affection and the relationships that were built across the aisle with very senior people. Everybody understood that they had a job to do, that the positioning of those jobs

depended on who might be in control, but the personal friendships were also formed and overrode a lot of what otherwise would appear on the face of it to be a natural antagonism.

RITCHIE: There was a lot of coming and going at that point. Hildenbrand was going to be secretary of the Senate; Howard Greene became secretary for the majority; Howard Liebengood became sergeant at arms. Where did you see yourself fitting into the picture in Howard Baker's office?

GOLD: I had agreed to be interviewed for a job in an Alaska law firm, which was opening in Washington. Not expecting Republicans to be in control, I said in October of that year that I would go to Anchorage after the November elections. Well, we got control, but the trip was already arranged. So I went to Anchorage and visited with them. Howard Liebengood, who wanted to take the sergeant at arms job, was going to have to find a way to either replace me or not take the sergeant at arms job if I had taken the position with the Alaska firm. I had a very nice day of interviews in Anchorage, but the change in control had really diminished my interest in the job.

I didn't want to leave. I wasn't ready to leave. I wanted to be part of the majority. So I turned them down. I knew that Liebengood was going upstairs to be the sergeant at arms. That meant that his old position as Baker's floor counsel was opening. When he and I worked together in the office, he was the floor counsel and I was called counsel for floor operations. Well, we dropped the "floor operations" and I just became counsel to the majority leader. They didn't replace my position. We did a reorganization of the leader's office to accommodate our new role, more staff, and all the rest of it. But I did exactly what I wanted to do, and that is I wanted to be Baker's procedural advisor. I wasn't the only person who gave him advice, but the expertise on the Senate rules and process left me with a sinecure in that office.

Now, I was aware of a couple of things. One, I wasn't a Tennessean. So I was never going to be an insider Tennessee player in the office. The second thing is I knew that Howard Baker, who is a wonderful man, had a tendency to pigeonhole people. He tended to restrict his conversations with you to the area where you were the expert. Even if you had some thoughts or ideas or knowledge in another area, you tended not to wander into that area. So the good news and the bad news was the same news. The procedural background left me secure. It also left me confined. That's where I was.

I did not have aspirations to do anything more for Howard Baker other than to serve him as a procedural advisor. I was not looking for a higher position within the office or the Senate. Those positions had been filled. I was not looking for more time in grade in the Senate, because I doubted that I could make it through the Ninety-seventh Congress without changing. So I at least wanted to get to a year, maybe a year and a half and then probably leave early enough in 1982 so that I could stay as far away as I could from the election cycle of that year. Therefore, no higher ambitions in that organization other than to do this relatively protected role without a lot of overlap.

RITCHIE: I'm sure it made a huge amount of difference, but what kind of difference did it make moving from the minority to the majority in terms of the way you needed to be able to know the procedures and the rules of the institution?

GOLD: Well, in the minority, Murray was the parliamentarian and we were in an adversarial role. My position was created because Murray was thought to be too partisan, because Senator Byrd was thought to be predominant in areas of procedure. So my role in the minority was that of a watchdog. Watch them and make sure they're not doing anything untoward. After we got control, there was a change in attitude. No longer was I the watchdog of that office, but rather a liaison to that office.

We worked closely with the parliamentarian's office, and my role was to engage them and to set up arrangements for the leader. But I was not there any longer as a watchdog.

RITCHIE: In other words, they weren't going to pull any surprises on you at that stage?

GOLD: No, of course not. I never had an adversarial relationship with that office from the day of that change in '80.

RITCHIE: What about Senator Byrd, who was now the minority leader, did you have to worry about him from a procedural point of view?

GOLD: In principle, sure, but he and Baker struck up a reasonable accommodation. Baker took the position that he would never surprise Byrd. He told Byrd he would never surprise him. He was going to telegraph every punch. Consequently, Byrd came to trust him,

and Byrd never used maneuvers of his own to embarrass Baker. The first couple of days that Baker was the majority leader, Byrd would kind of give small tutorials on the floor. It was a little bit of: "You may be the leader now and you might want to know this, as I do." I mentioned it to Baker, and Baker was always so level-headed about these things. He just said, "Well, he'll get over that in a couple of days." And Byrd did.

I worried about what I thought it could portend in terms of challenging Baker in the area where Byrd was plainly superior, which was a knowledge of the rules. Now he was in the minority. If you saw him use his rules to effect when he was majority leader, imagine what he might do as the minority leader. But he never did. Both sides exercised restraint. They had a very good working relationship.

RITCHIE: I remember when Senator Baker retired, there were some remarkable tributes to him from Senator Byrd. Clearly it was more than just two guys who stood up at desks across the aisle from each other. They had managed to work out a high level of trust.

GOLD: When Baker retired, I am told that what happened was that Byrd said to the Democratic caucus how it was that they were fortunate that the majority leader had been Howard Baker, and how fair he had been to the minority. I think it was factually correct, and Byrd was good to recognize it. And because he understood what a majority leader could really do, in terms of just of the raw exercise of majority power, he grasped the value of that restraint. When I went to Baker's swearing-in ceremony at the White House when he became ambassador to Japan, what struck me about it was the number of Democrats who attended.

RITCHIE: You had another factor in 1981 when you came into the majority and that is you had a Republican administration coming in at the same time. How much dealings did you have with people from the White House? It was their agenda that Howard Baker was trying to get through the Senate.

GOLD: A fair amount of dealing. Max Friedersdorf was the congressional affairs officer. I had known Max from the time that he was staff director of the Republican Policy Committee in the Senate. He had been in the Nixon and Ford White House, but during the Carter years he was mostly at the Senate with the Republican Policy Committee. Max was a personal friend, and I saw a fair amount of him and other White House liaison people. Max told me as he was coming into office that I would see more of him than I would of my wife,

and he was right.

RITCHIE: Presidents always expect that Congress should jump to their demands. You had a Republican president and a Republican majority in the Senate. Was there a great deal of pressure from the administration to get that program through as quickly and as close to what it was they had in mind?

GOLD: Yes, I think so. The only Republican senator who had been in the majority as a Republican was Barry Goldwater. The only other senator who had been in the majority at all was Strom Thurmond. Nobody else had any experience with it. They were so tickled to be in the majority, and gave so much credit to Reagan for helping to put them there, that left a predisposition to working with the administration. Another factor is that Baker told Reagan that there was one year to get something done. After that, there would come the 1982 elections, and later the presidential elections. So the time to get major things done was going to be real early on within the honeymoon period. It wasn't simply a question of the White House pushing us, we also pushed the White House. By the time we got to the August recess, we had passed the budget, we made the first major use of budget reconciliation, and the Reagan tax cuts all passed.

RITCHIE: You mentioned that the first time you read *Riddick's Procedures* it was a lot easier because it didn't have all the budget reconciliation stuff. The reconciliation bill in '81 was sort of the omnibus of everything. How involved were you in all that, and what is involved in a congressional reconciliation bill?

GOLD: It was not the first time the process was used, but it was the first time it was used in a major way. Reconciliation was part of the 1974 Budget Act. It wasn't used until 1980 and in a minor way then. So in 1981, the question was really twofold: First, how are we going to get Reagan's spending cuts through the Congress in a package without breaking it apart into component parts? And second, because we had control of the Senate but not the House, how are we going to get the House to come to conference with us on measures that the House would otherwise not want to consider?

Reconciliation was the answer to both of those questions. It meant passing a budget, getting instructions to the various jurisdictional committees to make savings in programs in their jurisdiction, getting those committees to report back the savings by a specified date,

getting them bundled by the Budget Committee, and putting the package on the floor. It became relatively easy to get Republicans to support the package as a whole and withstand amendments that would break it apart. It was all there. Baker could say, "I'm keeping this package together, and you need to vote to do the same." People were, generally speaking, willing to go with that. Also because it was "must pass" legislation that was being generated by the Budget Resolution, the House would have to go to conference on these provisions.

Another notable feature of that process was that some Republican committee chairmen were aggressive in terms of what they included in the reconciliation bill. At that time there was no Byrd Rule against extraneous provisions in reconciliation bills. So the question became: what happens if they reach beyond reconciliation instructions and put things in that are extraneous?

Bob Dove took the position that so long as a predominance of the bill was a response to reconciliation instructions, then the whole bill would have reconciliation protection; therefore the bill would be subject to time limitations and germaneness protections

That didn't suit Senator Byrd very much, who was worried about the process being abused because his view was that the right to debate and the right to amend are reasonable sacred rights that could be restricted in furtherance of budget discipline. But if reconciliation were being abused, and additional material were being included that was not responsive to the instructions, then it was an abuse of the right to debate and an abuse of the right to amend. Consequently, he and Baker worked out a unanimous consent order, as I remember it, to strike out a range of provisions that both sides could agree were extraneous to the reconciliation instructions. That consent agreement accomplished the purpose. Byrd had no other way of really doing it. If he moved to strike the provisions and the majority insisted on keeping the provisions, the motion to strike could just be tabled by a simple majority. So not having some sort of super majority enforcement mechanism, Byrd got the consent agreement with Baker to get rid of a variety of provisions that both of them could agree were extraneous to the instructions. Then Byrd made a speech and said, "We have done all that we can do, but not all we should do, and I'm going to work on this process," which resulted four years later in the first iteration of the Byrd Rule.

Use of the reconciliation process in 1981 was central to the idea of moving a budget package, of getting the House to conference. For the first time made major use of the

reconciliation process, and thus raised the specter of extraneous subject matter being included. So it was a historic moment for a number of reasons.

RITCHIE: It seemed remarkably creative at the time. Somewhat chaotic but also creative.

GOLD: I think that the impetus for it came out of the Budget Committee. You did not have too many people who were really knowledgeable about the implications of the act and what it could be used for or not. Those who were knowledgeable were on committee staff and had seen at least a minor variation of it the previous year. I'm a little bit hazy on this, but I believe that the thought to use reconciliation came from them. It did not come from us.

RITCHIE: In Hillary Clinton's memoirs, she said that in 1993 when they were coming up with their health plan, Dick Gephardt told them that the only way to get it through the Senate was through the reconciliation bill. But he hadn't factored in the Byrd Rule, and Senator Byrd strongly opposed that tactic. It struck me as interesting that the Clinton administration would listen to the House leadership on strategy about how to get something through the Senate, but also that Gephardt would immediately think of the reconciliation bill as the vehicle for trying to do something, probably thinking back to the beginning of the Reagan administration.

GOLD: Well, Gephardt had come off of the Ways and Means Committee in the House. That committee more than any other House committee has been involved in every reconciliation bill, so I think he had to have a fair amount of experience in knowing that the reconciliation process was a majoritarian process.

We just went through this this year on the Medicare bill. Senator Frist was given the option of trying to move prescription drug legislation through reconciliation. It would have broken some interesting ground if we had tried to do that. He opted against it for a variety of reasons, one of which dealt with the Byrd Rule, but that wasn't the big reason. The big reason was because he was concerned that legislation of that kind of far-reaching nature needed to be more bipartisan in character. He wanted to take the risk of having to get sixty votes, because if he couldn't get sixty votes, the legislation would be likely to be too controversial per se. He didn't want that. He took the path of greater resistance to try to build

a political consensus that would support the legislation.

RITCHIE: The Senate really is not a majoritarian institution.

GOLD: Absolutely not.

RITCHIE: It's always given greater voice to the minority. It seems to me that there are always senators, even in the majority party, who are afraid of doing something a little too drastic because it might limit if they're ever in the position of being in the minority, even a minority within their own party. Do you think that there is that sort of hesitance to be overly majoritarian in the Senate?

GOLD: Yes. When Baker came in as leader in '80, one of the first things his staff did was to give him a memo of various options that could be explored to enhance majority power. We had been through rules changes, most recently in '79, and also changes that he made by precedent. In the matter of precedents, Byrd did not propose to change the text of the rules but rather how the rules were interpreted, to advantage his majority.

Anyway, we wrote up a rules change proposal for Baker. We thought that the first place he was going to have us go was to talk to the minority about it. But the first place he told us to go was to our own people, to Jesse Helms, and to Jim McClure of Idaho, and to Bill Armstrong of Colorado. We never got to the Democrats, because all these senators pointed out that we were in the minority until very recently, and we might be in the minority again. They wanted to have procedural rights available. And so even in the majority they refused to truncate minority rights. Therefore, when Baker was leader, he never proposed a rules change, *ever*. He left the rules just the way they were.

RITCHIE: The most fierce filibuster that I can ever remember was in December of '82, just before Christmas, when Senator Helms and Senator [John] East were filibustering against their own leadership.

GOLD: I was not here then, but I remember that.

RITCHIE: When people talk about the minority filibustering, it doesn't necessarily have to be the minority party, it can be a minority within the majority party.

GOLD: I once did a little work with Senator Stevens, when Stevens was going to run for majority leader. We went to Alaska together because he wanted to talk about a rules change platform. I was already in the private sector by then, but he wanted to know whether I'd assist him in developing some ideas. We went up to Alaska and he was quite a gracious host. We met at a ski lodge in the summertime, when it was close to the white nights in Alaska, and we wound up during daylight at one o'clock in the morning talking about some potential rules changes he had in mind. I was drafting notes. I went through a page on a legal pad, a second, a third, a fourth, a fifth page. It was obvious what he was wanting to do, and that was he was wanting to get rid of the Howard Metzenbaum problem. Metzenbaum of Ohio had a unique way of legislating at the end of the session, leveraging concessions from people in order not to object to this or the next thing. Any senator could do that, but Metzenbaum perfected it to a fine art and got lots of things into legislation that he could never have gotten by the amendment process.

Well, Stevens figured that that vexed a number of people, and that if he ran on a platform that would in some way curtail people's ability to do that, it might give him some additional support. He would raise an idea, and I would say, "If you do x, Metzenbaum can do y." So he came up with another idea. "Well, if you do a, Metzenbaum can do b." We went back and forth on this thing and it got more and more complicated as he tried to tie down loose ends. As he was doing it, my attitude was: you're tying down Metzenbaum but you're going to be tying down everybody else too. Are they going to really be for that? Do they dislike Metzenbaum's use of process so much that they're willing to have their own use of process restricted? After we got through five pages I said to Stevens, "Senator, you have got a proposal now that is extremely complicated, so much so that you can't explain it and no one will understand it. Let's try again in the morning." He said, "That's fine." We never actually came back to it.

I think what he really wanted to do was to explore whether there was *any* reasonable way to shut down the more egregious features of this leveraging that Metzenbaum would do without intruding too much on everybody else's rights. Unfortunately, that's impossible. My own personal observation is, if you had a cadre of Metzenbaums, three or four people doing the same thing that he was doing, the Senate might react to that. I'm not sure they would take that position, because I think at some point it would really be extremely destructive of the institution's ability to work its will. But there is a lot of tolerance for Metzenbaum-like approaches, and a fair distance that people are willing to go before they say that the

institution is really being disadvantaged. So consequently, restricting rights winds up being a hard case to make, whether you are in the majority or in the minority at that moment. The fact that the Senate has turned over in 1980, 1986, 1994, 2001, 2002, makes the argument for not touching too much.

RITCHIE: I remember that the floor staff in the 1980s used to say that they had “holds” and they had “Metzs.”

GOLD: [Laughs] You know, I look at a lot of these rule making statutes like the Budget Act, or like the Nuclear Waste Policy Act, or some of the other ones that have procedure written into them, and I ask myself a question: when were those processes done? My guess is most of them were done in the era of uninterrupted Democratic control. If you’re not worried about being in the majority, why not? I think they’d be harder to get now. You would never get, for example, the restrictions of the Budget Act passed today. I don’t think any minority would put up with that. That’s just my view.

RITCHIE: In some cases it’s a matter of taking what’s already there and applying it in a more forceful way, or maybe a more creative way, isn’t it? As you mentioned, the Budget Act was passed in ’74, reconciliation was applied in a minor way in ’80, and in ’81 it was applied in a major way.

GOLD: In some cases, sure, that’s correct. But fresh restrictions are hard to impose. For instance, there’s a provision in the Medicare bill that just passed that said: if greater than 45 percent of the revenues contributed to Medicare come from general revenues, then there has to be a congressional review of this in order to find ways of having cost-containment imposed. You could, of course, use budget reconciliation for the same purpose, but this was a separate procedure.

The House wanted a very restrictive procedure in the Senate, and they got almost nothing. They got the mandatory introduction of legislation, and the capacity to discharge a committee, but no restriction on the floor, no restriction on the motion to proceed, no restriction on floor debate, no restriction on amendments, nothing. It’s an expedited procedure only in the sense that a corrective measure must be introduced and a committee has a fixed amount of time to address it, and there is a process to discharge the committee, but the discharge is not even automatic. They have to vote it out. And then on the floor, the

vehicle is wide open. That provision to me is emblematic of these times, where everybody is concerned about whose rights are going to be restricted. Those kinds of tensions prevented anything more comprehensive from being done on what is supposed to be a cost-containment process.

That's why I say that the kind of broad restrictions that you see in about twenty-five rule-making statutes would be far harder to pass now because they do restrict minority rights. The minority has become extremely unwilling to permit similar intrusions. I think if the roles were reversed, the Republicans would be similarly reluctant.

RITCHIE: There's also that tension between the Senate and the House. The House, regardless of which party is in the majority, the House is a majoritarian body and the rules of the House allow the majority to get its way. They sort of expect that the Senate ought to operate in the same manner. And yet the Senate isn't the House. It's rules don't correspond and it doesn't give the leadership and the committee chairs the same kind of power that the House with its Rules Committee does.

GOLD: I have had a lot of discussion with the Speaker's office and the majority leader's office and the Rules Committee in the House about these very issues, because I do think that one of the things that leads to misunderstanding between members and staff of the House versus members and staff of the Senate is that life in these chambers really is apples and oranges, and the apples do not understand how the oranges survive around here.

The House is a much easier place to get something done. I think a number of House members who first get elected here would think: "Well, that would be a great reform," until they realized that this is not the same kind of place. Instead they focus on: "What rights am I giving away?"

RITCHIE: You mentioned House members coming over into the Senate. A large crop of new senators came in after the 1980 election, many of them from the House. Did you begin doing orientation programs at that stage? When did you get involved in that?

GOLD: In 1981? Not for the new senators at that time. I worked with someone from Stevens' office by the name of Susan Alvarado. She was Stevens' floor person and she and I put on a program one day for the Republican Policy Committee. Just a little primer on the

floor. That was the beginning of it.

After I left in '82, I began to put those programs on in a more organized fashion and did probably a half dozen of them a year. I did them for Democrats as well as Republicans. This year, working for Senator Frist, those programs have been instrumental in the services that he thinks he ought to be providing as majority leader. So I have done now just about eighty of them in this calendar year, with his imprimatur. It wasn't that I couldn't find acceptance of those programs in the private sector, but the acceptance is greater coming from the leadership.

RITCHIE: There's nothing like having the majority leader's name signed to anything.

GOLD: Particularly when he sends a letter out to all his colleagues and says: "We need to have members who are well prepared, and we need to train the next generation of staff to be ready." People are willing to sign up for that.

RITCHIE: And considering the enormous staff turnover here. When people do learn what's going on they tend to leave, and there's a new, green crop of people constantly.

GOLD: I have done a number of programs in the same office, and not that far apart, for members who shall remain nameless, even in this oral history, so I can release it sooner!

RITCHIE: What would you do in these seminars? What's their main purpose?

GOLD: The seminars are two and a half to three hours long. There's a fundamental outline beginning with a discussion of what I call the pillars of Senate procedure. The three pillars on which Senate procedure rests are rules, precedents, and rule-making statutes. We talk a little bit about the nature of the rules, and how they are made, and how infrequently they are changed, and what the bias of the rules is, particularly a nonmajoritarian bias, and how precedents are created, and their import, and then the rule-making statutes as sort of an exception to the norm of Senate procedure, the statutes that make the Senate into a miniaturized version of the House in terms of the expedited nature of the process that they generate.

We talk about the hallmarks of the Senate, the right to debate, and the right to amend. We then discuss Senate debate, we break that down and we talk about the power of recognition, the importance of the sequence of recognition, and then about means of curtailing debate, unanimous consent orders, tabling motions, and then finally cloture. We go into a background on the cloture rule, which has a very, very interesting history. We talk about cloture as a fulcrum on which you balance the rights of the individual and the rights of the institution to work its will, by tracing a little bit of the cloture rule and not just giving them a static picture of the rule. I think the purposes of the rule become clearer as opposed to just saying: “Here’s how the rule works.” But after giving them that history, then we do talk about here’s how the rule works and go through all of the elements of cloture.

We talk about the introduction of legislation and rules governing the jurisdiction, the role of the committee of predominant jurisdiction getting proposals and so forth. We do not talk about committee procedure, but we then discuss how measures get to the calendar, whether reported from committee or companion bills from the House, or Rule 14, or unanimous consent. We talk about getting measures off the calendar, and the difference between doing it in legislative session or doing it in executive session.

Then there is a discussion about the amendment process. We talk about amendment nomenclature, what’s the difference between a substitute amendment and a perfecting amendment, between a second-degree and a first-degree amendment? What is the priority of offering amendments? We talk about the amendment tree diagrams. They always get hand-out materials that relate to all four amendment tree diagrams that are found in *Riddick’s* but we don’t have time to go through all four of those so we basically take the simplest and the most complex. The simplest one being the first diagram, which is related to an amendment to insert. The last one being the diagram that related to a complete substitute for a measure. We talk about how amendments were pending and who moves first, and what’s the advantage of this strategy, and what’s the advantage of that strategy. And then we do a little run-through on an amendment check-list at the end, which talks about different questions that can be raised about the process: can the amendment be reconsidered? Can the amendment be withdrawn? Can the amendment be amended by its own sponsor? Questions of that kind are answered as a way creating a little review of what we’ve been through and raising a few new issues that fit in.

We talk about voting. We talk about bringing the two houses together through either amendments between houses or conference reports. And we talk about special appropriations rules. In a separate program we would talk about the Budget Act, because what I have found is that by that time we've been through so much material that even if we have a full three hours it is hard to get started on the Budget Act. And depending on what period of the year the class takes place, people are really anxious to have that or they say: we'll do that at a different moment.

That is a lot of material to cover in two and a half to three hours, so necessarily, people are getting an overview. But it is a more comprehensive overview than I certainly had when I started here. The object is not to make them fluent or proficient but to give them the grounding and then they can ask questions, and read more, or we'll come back and have a second program or something of that kind. That's the general outline of how those programs work.

RITCHIE: You mention that when you look at the rules of the Senate and the way it operates, it's unique. It doesn't match state legislatures and it doesn't match most parliaments around the world. Do you offer any theory or explanation as to why the Senate is so different from other legislative bodies?

GOLD: Article I says you can make rules governing your own proceedings. You could have made rules in the Senate that operate like the rules in the House. But I think as a general matter, you had a body of political patricians here. They were representatives of their state legislatures, when the legislatures were dominant over the federal Congress. There was a tendency therefore to give a pretty wide berth to those representatives of those legislatures. Also, because some of them came from small states, were being protected under the constitutional scheme in this body, a tendency to again give a wide berth and not try to create majoritarian solutions in a body whose representational scheme was basically non-majoritarian in its very foundation.

This subject has actually come up overseas. I did a program, for example, in Moscow in November 2002, just about six weeks before I came back up here. It was a program for the Federation Council, the Russian Federal Assembly, the upper chamber, which at the moment is appointed but is thinking of being elected. The question was: what additional changes should also be made? Is it just changing the method of seating somebody? Or is there

actually changes that are made in the power of the institution or the process of the institution? So they wanted some background on other democratic legislatures, like the Italian Senate, the French Senate, the British House of Lords, and the Australian Senate and what not. How did these other bodies operate? What they really wanted to talk about was the U.S. Senate. In that case, the question that you're asking, of not only how is it but why is it, was I think of fairly central matter of interest to them.

I just spoke over the weekend in California, once in Los Angeles and once in Monterey, to medical groups, talking about the legislative year with a focus on the Medicare bill, but not exclusively. I spoke about Senate math, how majorities were required in the Constitution to pass legislation, but supermajorities were really required because of Senate math. These were educated people, who were nonetheless amazed by that.

RITCHIE: Especially from California they should have figured that out. I always use the example of California and Wyoming. California has about thirty-four million people and fifty-three Representatives. Wyoming has got more antelope than it's got people. It's got one Representative. But they both have two Senators.

GOLD: Sure. They ought to be able to figure that out. Well, maybe they even get that math, Don, they get the math of equal representation, but what they don't get is the notion that if a minority can hang together with forty-one people, they can stop you from doing just about anything they want. I tell them that the majority leader gets the right to choose what legislation comes to the floor, so he's the one that can determine when things get initiated. But the minority leader is the one that can determine when things end. Or if they end at all. People don't understand that. Not only is this a great institution, a venerable institution, but it plays such a central role in the separation of powers and the balance of powers, not only between the branches but within the branch, and most people have no idea.

RITCHIE: I've talked to a number of staff who have gone abroad for International Parliamentary Union meetings and they all say the same thing, which is that senators, when they go to these meetings, have trouble talking to members of parliaments, and members of parliaments have trouble talking to senators because they don't have institutional points of reference. Their ways of operations are so different. Members of parliament are mostly aware of the vast differences between the upper house in the United States and the upper house in almost every other country.

GOLD: It's the most powerful upper house in the world, because it has coextensive legislative jurisdiction and it also deals with matter that the House does not deal with: nominations and treaties. Every other legislative body in the world at the most *approaches* coextensive legislative jurisdiction, and it often is just the house of review.

RITCHIE: Just one other point on that matter. It seems to me there's another thing that tends to work against the majority party operating under majority rules, that every individual U.S. senator is a power to himself or herself, regardless of whether they are in the majority or the minority. To some degree, if you permitted everything to operate by majority rule, you would diminish the individual senator's clout. Any senator can essentially stop the business by objecting to a unanimous consent agreement. A Jesse Helms within the Republican party can be a power regardless of what his party wants to do.

GOLD: Oh, that's absolutely so. Today, which is December the ninth, 2003, the Senate came back into session for the ostensible purpose of considering the omnibus appropriations bill, which contains seven appropriations, to complete action of Fiscal 2004 appropriations. The House passed it yesterday. We brought back in the Senate to see if we could get a voice vote to pass it ourselves and we would be done with the Fiscal 2004 appropriations process. Well, Senator Byrd and Senator Daschle were on the floor and objected to that, which meant that it was going to carry over until a reconvening of the Senate in January.

Beyond that, our plan was to at least get the bill pending and put a cloture motion on it so we could have a cloture vote against this filibuster that they promised, and deal with that in January. In fact, that's what we did. But when I saw Senator Stevens, the Appropriations chairman, this morning in the cloakroom, he worried that Byrd would not allow us to even get that far, to even get the bill pending, because he didn't want us to have an agreement to move to cloture in January, he wanted to kill the bill. Inasmuch as this was a conference report, there would be no debate on the motion to proceed; however, as he pointed out to me, Byrd could simply put in a quorum call. We know that there are a handful of senators in town, fewer than fifty, because they were expressly not called back to join in the debate and pass this bill. Consequently, if Byrd had put in a quorum call we could never have produced a quorum. In the absence of a quorum you could only do two things: you could either produce a quorum or you could adjourn. You can't be debating the legislation. You can't be moving to anything. And since we could never have produced a quorum, it would have taken

us several days to do that, we would simply have adjourned.

Byrd did not object to our going through this process to set the cloture vote up for January, but had he objected to it he could have unilaterally have frustrated it by putting a quorum call in, and this game would have been over for the day, and over for the year. There again, for most people, they see majority leader, majority party, majority rules, and they have no grasp of that. How can this senator put in a quorum call and make you adjourn? How can he do that? Well, that takes some educating of the people.

RITCHIE: At least C-SPAN allows people to watch it, but whether they understand what they see is another question, and whether anybody stops to explain it is another question as well.

GOLD: I do some lectures sometimes for *Congressional Quarterly*. The part that everybody seems to like most is right at the end we do about twenty-five minutes or so with a videotape—it's an old videotape but it doesn't matter because the procedures are the same. We start and stop the tape. I explain what they've done. It's like a translation, because they have seen these things and they've just heard a couple of hours of lectures about how the place operates, but then what brings it together is going through that videotape. But the whole notion of saying: look, I want to have a little audio-visual equipment in the office because I want to go through some of this and show you what's happening for real, as a way of reinforcing, is not a bad way to educate.

RITCHIE: That sounds like it could be very effective.

GOLD: I think so.

RITCHIE: Well, you've been here for two hours, and this would be a good place to break. And we're only up to 1982!

End of the Second Interview

ON THE INSIDE AND ON THE OUTSIDE

Interview #3

Friday, December 12, 2003

RITCHIE: We were talking before about the early 1980s. There's a book by one of Senator Baker's staff people, Jim Miller, called *Running in Place*.

GOLD: I remember him well.

RITCHIE: His argument was that the Senate was not an institution that moved quickly because of its procedural history, and that someone like Howard Baker, for all of his ambitions, and for all the drive behind him, had to keep running just as fast as he could just to run in place, that it was hard to develop an aggressive agenda, given the circumstances of the institution. Was that a fair assessment, as far as you were concerned, from your procedural point of view?

GOLD: Well, Howard Baker compared running the Senate to pushing a wet noodle. Or herding cats, that was his other famous line. The frustrations in terms of moving legislation are plain. They are as obvious today as they were when Jim wrote that book. I knew Jim extremely well, and I remember when he wrote that book. I think his observations are correct. The only thing I will say is that through it all, Howard Baker was able to achieve several landmark bills in his first year. He got a budget done in relatively quick order to revise the budget for the previous fiscal year. He rigged up a platform for budget reconciliation. He got the first major reconciliation bill accomplished. That's a more majoritarian process but nevertheless he was able to get it done without a very substantial majority, and he was able to put through the Reagan tax cuts. All of that had happened by August. So he moved early, and he moved aggressively, and did pass what I think was significant, landmark legislation.

RITCHIE: Senator Baker had a reputation for being a middle-of-the-road Republican, a moderate Republican. More conservative as Hugh Scott but not as conservative as some of the other senators in his party. Did he feel pressure from within the Republican caucus to be tougher against the Democrats and more aggressive in promoting the Reagan program?

GOLD: I'm certain that there were people who thought that by temperament he was ill-suited to be leader, because he was not partisan enough. But proportionally in the caucus, that would represent a fringe. He was on the whole as great a consensus builder and bridge builder as you could have had in the leadership. There may have been conservatives who felt that he was too soft, particularly after the Panama Canal votes that he helped engineer in 1978, and so therefore they may have distrusted him. But I think that for the most part they understood he was someone they could talk to, and there was never a rebellion planned against him. He never had a challenge to his leadership from anybody. He could talk as well to the people like Javits, Chafee, Weicker, as readily as he could talk to Armstrong, McClure, and Helms. He sat astride both wings of the party with pretty great success.

Baker had, in my view, wonderful instincts. He understood how far he could and should push people. Therefore, he emerged as a) a successful leader and b) a beloved leader.

RITCHIE: The Republicans are different from the Democrats in the sense that the Democrats, until recently, organized everything around their floor leader. Traditionally, their floor leader was also chairman of the conference and chairman of the policy committee, and there was no other center of power. Republicans have always had a separate floor leader, conference chairman, and policy committee chairman. Were those other two bodies ever competitive with Baker in terms of designing the agenda?

GOLD: I wouldn't say so. I actually think they were relatively passive. I don't say honorific, but I think passive. You raised a moment ago the issue about Reagan and the Reagan agenda, and how aggressive Baker was in pushing the Reagan agenda. Baker, of course, had run against Reagan for the Republican nomination in 1980. He was not seen as a Reagan man at the time of the election. Reagan also had a close personal friend in the Senate, Paul Laxalt of Nevada, who could have been thought to be the administration messenger. If you talk about competing centers of power, a potential competing center of power would have been Laxalt, because he would have been seen as the administration's ally whereas Baker could have been outside that circle. But that was not the case. It wasn't the case because Baker made a commitment to Reagan and to others that he would be the president's point man in the Senate. So there was not any light between Baker's agenda and the president's agenda. Baker did not have an independent agenda. The budget cuts that we passed were the ones that the administration proposed, for the most part. The tax cuts that we passed were the ones that the administration proposed, for the most part.

So Baker was not an independent power center from Reagan, and Laxalt was not an independent power center from Baker. Because Baker was loyal to Reagan and faithful to that agenda, and because we worked very closely with the administration, Laxalt never emerged as a competing power center and the conservatives never sought to oust Baker with somebody else. I think they understood that they would be hard pressed to find somebody who was more faithful to the president's agenda than Howard Baker was, and who still had the capacity to speak to all wings of the party and to speak across the aisle.

RITCHIE: Skipping a little ahead, because I know that you left the Senate in '82, but Senator Baker announced his retirement in 1984. I think everyone considered him a successful majority leader, and he seemed to enjoy the institution enormously. Do you have any sense as to why he decided to leave in '84?

GOLD: I don't know that I could add much to what he publicly said. He had worked as a trial lawyer for eighteen years prior to coming to Congress, and then he came to the Senate and did that for eighteen years. I think he felt as though it was a relative complete moment in his life and it was time to move beyond it. He had done what he could do here. He had wanted to be a leader, had served four years as minority leader, had served four years as majority leader. What more was he going to accomplish over what he had already accomplished? I think he was interested in some different challenges. He never intended to make the Senate an entire career. He always spoke in terms of the citizen legislators, that is, people who came out of a different walk of life, serve in the Senate, were not career legislators, and ultimately went to do other things. In some fashion, those people would be more reflective of the American people than would be just a professional or a career politician who starts early in life and does nothing but legislate through his life.

He also, of course, had presidential ambitions, had run for president in 1980, knew that he was not going to run in '84, but he entertained the possibility of running later on in '88. To preserve the possibility of doing that, he thought that maybe having an ability to be a candidate without being shackled by the Senate schedule would be reasonable. So I think it's a combination, not of being burned out over the Senate, because I think he loved the Senate still, but feeling as though he had accomplished what he could accomplish, that it was time to move along, to be the citizen legislator he had talked about, and preserve the chance to do something different in his life, including the possibility of running for president. All of those reasons.

RITCHIE: In the nineteenth century, a senator like Henry Clay would tend to leave the Senate a year or two before running for president, partly to distance himself from some of the controversies of the time and to be the citizen candidate. It's difficult for senators to run for president given the demands on their time, and it's especially difficult if you're the leader and you're expected be there, keeping things moving.

GOLD: Well, Baker ran for president as a leader but not for a long time. He finished third in a couple of early primaries and that was essentially enough. He never had to make a choice of resigning as [Bob] Dole did later from the Senate altogether or just resigning from the leadership as a lesser move. The Senate is a notoriously bad place to run for president for the reasons that you cite, the schedule, but also the fact that you're on record on all kinds, and you are on record because your opponents want to put you on record on issues. Somebody offers a nongermane amendment on some controversial topic and you've got to take a position. If you are running as a governor, if you are running as a private citizen, you could avoid a lot of that, and blur those issues. I think Baker welcomed the opportunity to be free of those responsibilities and to look ahead and see whether or not the presidency was possible for him.

RITCHIE: He also had the potential threat of an Al Gore campaign in Tennessee. Gore was a congressman at the time with higher ambitions. Was that a fight that would have been too bruising for him at that stage that he wanted to avoid?

GOLD: My strong impression is that he would have beaten Al Gore, if Al Gore had made that run. And my strong impression is that if Baker had not announced his retirement, Al Gore would not have made that run. I always held Baker responsible for Al Gore!

RITCHIE: Tennessee is quite an amazing state for the people it sends to Washington—they've been all over the map!

GOLD: That's the truth.

RITCHIE: You decided to leave the Senate before that, however, in '82. You alluded to some the reasons earlier, but I wondered if you could tell me what was it in '82 that finally made you decide to step away?

GOLD: Well, I can start by telling you what it was not. It was not any disaffection from the Senate. It was not being burned out with the Senate. In later years, when I was in the private sector, people would ask me when I thought was a good time for them to leave. I said, "Leave it when you love it." Because if you intend to come back and try to work with it, for example as a lobbyist, or as a scholar, it's good to care a lot about the institution. It tends to leaven your judgment about how you might proceed with the institution. I certainly loved it when I left it, and never fell out of love with it.

I left it fundamentally for two reasons. One was purely economic. We had had a baby in the fall of 1980, my savings therefore were starting to dwindle. My wife was out of the workforce, so we didn't have two incomes, and she wanted to stay home with our son. Each month, our savings became smaller and smaller, and finally I got to the point that I couldn't manage any longer just on a Senate salary. I was making a good salary for the Senate at that point, but there was no relief from the salary cap. I had no prospect therefore of improving my position economically no matter what I did. Then, on top of that, a floor schedule is a difficult schedule for anybody with a family. I would say that one committee leaves, having done their work, and the next committee comes with their work. The first committee is then relieved of the responsibility to be on the floor, but the leadership staff never is. Every bill becomes your bill, once that bill is on the floor. So the hours are predicably longer and harder than in most other venues where there is a little bit more ebb and flow in the process, depending on a hearing schedule or a mark-up schedule or a floor schedule.

The hours became difficult in light of the changes in my family circumstances. So the pressure of that and the economic pressure combined signaled to me that it was time to leave if I had a reasonable opportunity out there. And I had several, so I chose one of them. Moreover, I felt that if I didn't leave then, which was in April of 1982, I would have to stay through the entire Congress, because at some point you shouldn't be leaving just before the election cycle. And then of course I didn't know that Howard Baker was going to retire in '84, so I thought he might run for reelection, and I thought also I should not leave in the Congress of his reelection. If I were going to depart, I should do it early enough in 1982 so as not to implicate that election cycle, and certainly not to get into the following election cycle, which I thought would be his cycle. That's why I left when I did.

RITCHIE: Had you groomed any kind of a successor at that point?

GOLD: I gave him six weeks' notice with a view to grooming somebody to do a particular specialized job, which was to be the floor procedure person. They gave me no one to groom, so I groomed not a soul. I always thought that you could draw one of two conclusions from that: either you were irrelevant or you were irreplaceable. Whatever it was, there was no grooming and when I left the functions that I had were divided among other people and the Senate continued to function just as well.

RITCHIE: You had already published a little book on procedures at that point, hadn't you? [*Senate Procedure and Practice: An Introductory Manual* (1981)]

GOLD: A little manual on Senate floor procedure. It's very emblematic, by the way, of Howard Baker that he allowed me to put that out under my own name. Many members would not have the ego for that and would require that the document be published under their name, with the staffer who did it getting little to no credit, probably anonymity. But if it would be useful to senators, and to staff, he was very happy for me to do it, and never attempted to get in the way of the material being published under my own name. I published it for the first time as a government employee and published it seven times afterwards in the private sector, always at my own expense. I never charged anyone for that document. I just gave it away the first time, and I gave it away every time after that.

RITCHIE: Were you called on to come back to do any other consulting on legislative procedures, or in terms of the seminars that you've been giving?

GOLD: Very often. Over the years, I would come up and give programs to eight or ten different offices or committees during the course of the year, every year since I left. Also I published that manual and made distribution on that, or would get telephone calls as time would go along. So I thought that was a reasonably good pace, frankly, until I came back in this calendar year. In this calendar year I've done almost eighty of those seminars. It's different when you're doing it from the inside, when you're doing it with the imprimatur of the leader, but even so I never found too much reluctance for people taking assistance even if it came from somebody who had an interest in legislation, because I was very careful to separate whatever lobbying responsibilities I had for clients from the responsibilities I had from an academic piece of work for the Senate offices. We never had a conflict or a problem with it, and I did it on a very bipartisan basis when I was in the private sector as well, not just for Republicans.

RITCHIE: Have you found any individual senator who is more interested than others in mastering this?

GOLD: Well, in the current crop of senators, the one that I would say is most interested is Lamar Alexander. He organized a number of freshmen to sit down with me, early in the year. We had five different breakfast meetings where we would go through aspects of Senate floor process. Then later in the year, the majority leader organized additional seminars for senators and Alexander attended every one of those. I think that he understands better than most how important procedure can be to the achievement of legislative objectives. He has wanted to be a good scholar of the Senate and be a credit to the institution from the beginning, and I think he's done a lot.

RITCHIE: When you left in '82 you went to Gray & Company first, right?

GOLD: Correct.

RITCHIE: What exactly was Gray & Company and what did you do for them?

GOLD: Gray & Company was an amalgamation of a lobbying shop and a public relations firm. Bob Gray had been secretary to the cabinet under Dwight Eisenhower and he was then head of the Washington office of Hill & Knowlton, and a very close friend and adviser to Ronald Reagan. In fact, he was the chairman of Reagan's inaugural committee in 1981. So when Reagan came to office, then Gray saw an opportunity to do very, very well, and he left Hill & Knowlton and opened up Gray & Company. As I mentioned, part of that was just to do legislative work, and part of it was to do public relations work. Clients strode through that door because he was about as close to Reagan as you could get in early 1981.

The job that I had at Gray was simply a lobbying job. When I left, actually, I didn't make that much more money than I made when I was here. The only difference was I was out from under that cap and had the potential to make additional income. I came from the Hill with no clients, which was quite natural, and didn't really know where I was going to find clients. Gray was an unusual place in the sense that most lobbying shops would require or at least necessitate a lobbyist also being involved in business development. In Gray's operation, the lobbying shop itself was perhaps seven or eight people. But they had an entire group of people who were there to do nothing but business development. So lobbyists in that

firm, unlike most firms, did not have the responsibility of developing business. They could simply service the business that was developed by others. That was something that I didn't pay a lot of attention to when I decided where I was going to go, but actually I thought it was very important once I got going. I did not have to do much business development at all.

I started out the first day with a client that had come in the door recently and someone had just assigned to me. It was pretty well that way for the two years and three months that I spent with Gray & Company.

RITCHIE: What kind of clients would you have?

GOLD: The first client that I had was a company that was concerned with maritime issues, a topic of which I initially knew nothing. But I actually learned a great lesson very early in that representation. This client was interested in getting a number of senators to send a letter to the secretary of defense. The client had offices in a lot of places, although in many instances those were one or two person offices, but nonetheless they had a presence in many states, one of which was Oregon. I went to Mark Hatfield's office as my first appointment, because I thought: "Well, this will be an easy one to start with. I'll get my feet wet doing this and move out from there." The person in Mark Hatfield's office who was handling the issue was unsympathetic to the position of this client. She just couldn't see Hatfield writing that letter. So I said, "Well, let me come back to you." I went to the others. Every other person signed it, maybe nine or ten members. After I had everybody else's signature, I came back to her and asked again. Once again, she said she didn't think it was meritorious, even though everybody else had signed the letter, but invited me in a nice way to appeal her to the senator if I wished.

I thought about it very briefly and decided not to appeal, because after all, it would have been one more signature on a letter. Eleven signatures wouldn't have been more persuasive than ten. But I would have put him in a difficult position, and I would have put her in a difficult position. I'm not saying that I would *never* appeal a staff judgment to a member, but I would do it when I absolutely had to, and in that case I didn't. I decided the better part of valor was not to take it any further, and actually it was probably one of the better decisions I ever made.

In the course of getting business contacts handed to me at Gray & Company, there were two that were of particular note. One of them was the government of Turkey, which was extremely interesting and very appealing to me just as a matter of intellectual interest. Turkey is a NATO ally, and the government of Turkey at the time was extremely pro-American, and so their interests, as far as I was concerned, were much aligned with this country's. We would push for military and economic assistance to Turkey, and it was our responsibility in assisting the embassy. We went up against the Greek lobby. Greece was also a NATO ally, but you would never know it. I can remember that the Papandreou government in Greece was very anti-American. It was as anti-American as it was possible to be while remaining a NATO ally. Yet they had the politics in favor of them because the Greek-American community was extremely active politically and much better organized than the Turkish community was. I spoke once to a Pan-Hellenic lobbyist who said to me, "Well, you have the policy and we have the politics." It made for a very interesting tug of war that tended to come out okay for both sides, but not without a little stress. So I loved doing work for Turkey.

The other client relationship that proved to be exceptionally significant, and really in that case career changing, was to work on professional football. At the time, Al Davis had moved the Raiders from Oakland to Los Angeles and litigation had broken out between Davis and the NFL, which had been resolved in the district court in California and then ultimately in the Ninth Circuit for Davis, and the awarding of damages from the NFL. The NFL decided to pursue antitrust legislation in Congress that would have said that if owners denied somebody the right to move, that did not represent an antitrust conspiracy. The legislation was also retroactive in nature.

The NFL had hired a very great many prominent lobbyists to work on that legislation. Oakland hired Bob Gray. The account was assigned to me. The NFL lobbying effort was run by Paul Tagliabue, who was at that point a lawyer at Covington & Burling. Tagliabue understood how unwieldy the lobbying effort had become because so many people were hired. Sometimes he would have smaller core steering committee group meetings, and then sometimes he'd have a plenary meeting. He always made a point to include the Oakland representative in every one of those meetings because our interests and the League's interests although separate were also congruent. So I got to know him very well. We did not have a successful run at that legislation because it was offered in a second session of the Congress, and because it was also retroactive in nature, but nonetheless the working relationships that

were established there were extremely solid. The initial exposure to professional football was through Oakland, but that quickly turned into a contract with the National Football League itself, not in the context of Bob Gray, but in the firm I established with Howard Liebengood, who had been the Senate sergeant at arms. The firm was called Gold and Liebengood. The NFL, on the recommendation of Paul Tagliabue and Pete Rozelle, was a first-day client.

So I enjoyed the work for the Turks. I learned a lesson from the work on the maritime issue, but the true life-changing experience was the NFL. The NFL remained a client for twenty years in the private sector. One that was very interesting, remunerative, and was an association of which I was extremely proud.

RITCHIE: When you get a client like the Turkish government or the maritime industry, is it your job as lobbyist to do what they want you to do, or is it your job to tell them what's feasible to do, how you might go about it? In other words, is there an educational process in being a lobbyist?

GOLD: My definition of a lobbyist is less an advocate and more a translator. Obviously, you have to translate client interests to Congress. But you also have to translate the Congress' interests to the client, because if the client asks for something that is not politically feasible, what good does it do you to go to the Hill and vent those interests to an audience that has no care for what is being said. If the client has a confused message, if the client has an overambitious message, if the client has an unrealistic message, then in the end they're wasting their time on the Hill. The message has got to be developed in the context of realities.

The more simplistic view of lobbying would say that a client will tell you what to say and you go to the Hill and say it because you know such-and-such senator or this-or-that staffer, and you can get in the door and say it to people who would not otherwise receive the message from the client. I am confident that there are lobbyists who operate like that. But it seems to me that they're wasting the client's money. It is an aspect of doing this work, but I think not the greatest aspect. The greatest aspect would be to structure a message in a way that makes it politically achievable, and not ask members to do things that are unreasonable for them to do but rather to come to them with things that are achievable. That means you have to tell the client as much about the Congress as you have to tell the Congress about the client.

I will say to you that in twenty years of doing that work, I never had a client who shot the messenger. I would tell people as we would enter upon representation that we would not always tell them what they wanted to hear, but we would always tell them what we thought they ought to hear, and that one of the things that they were buying was enough of a knowledge of the people and rhythms of Congress that they could somehow get through the maze of the institution. And if it would be important for them to have that kind of information, as we thought it was, then we hoped to be the people they would hire. If they simply wanted somebody to just open a door, we were probably not the right people for them. You never know who hires you or doesn't hire you necessarily because of that message or what business went by the boards because you didn't fit the profile of the kind of lobbyist the client was looking for, but I have always thought that that's consistent with the responsibility to a client, and as I say, I never had anybody shoot the messenger.

RITCHIE: Given that you were an expert in procedure, were you able to assist in terms of drawing up strategies for proponents on Capitol Hill to get something through that would be useful to a client?

GOLD: When you started asking that question, I started to blurt out an answer which would be the wrong answer in light of the question you asked. The question I thought you were going to ask is: Given that you are an expert in procedure, did you use procedural expertise very much? And the answer was no. Often it is not called for and that tends to be something that is much more important and valuable inside the Senate than it is coming from outside to the Senate. I don't say it was never useful, it sometimes was. In one client representation specifically, that was the core of the representation itself, procedural questions.

However, to go to the question you did ask, a knowledge of procedure would give you a sense of strategy and help to kind of guide people around the shoals and the pitfalls. We should approach it this way or that way, otherwise we're going to get in trouble. If done properly, the procedural questions never come up. I think that a knowledge of procedure is an important part of strategy development. If a lobbyist does not have that knowledge, they would emphasize what they did have, which might be a relationship or two here or there, but if you have procedural background I think you can construct strategy in ways that people who don't know it cannot. So, yes, I think it's been important, even though sometimes it hasn't been obvious or visible.

RITCHIE: I've talked to former senators who have gone into lobbying and they say something to the effect that the single best asset they have is that when they go to see somebody they usually get seen by that person.

GOLD: True.

RITCHIE: Although not having been a senator, you were very well known to the senators at the time. How much of an advantage is that, if people will at least give you some time up here?

GOLD: There's a cacophony of voices trying to be heard here, and they all cannot be heard. Who will be heard? I think that sort of access is important. It can be overstated in the sense that the ability to get in the door does not necessarily mean you are going to get somebody to agree with your position, as in the example of Hatfield's office on the maritime question. I got in the door. I got an appointment. I got a second appointment. But they didn't agree with our position. I think that the importance of getting in the door can be overstated if people don't understand that access gives you a hearing but doesn't necessarily give you an ally. But many people cannot get in the door. Many people cannot get their phone call returned at some critical moment when there's a stack of messages on the desk and the staffer is just beleaguered. Who is he going to call back? I'm not just talking about member access, I'm talking about staff access. Who are they going to call back? If it's you, because they know you, or they like you, or you helped them in some fashion, or they respect you, well then that's something that is very important for clients, as long as perspective is attached to this, which is an opportunity to be heard but not necessarily a guarantee of an ally.

RITCHIE: You spent a decade up here before you became a lobbyist. Does Congress look any different once you've stepped out of it, looking back? From the perspective of somebody trying to get it to do something from the outside, as opposed to somebody on the inside?

GOLD: It's far more frustrating on the outside getting it to operate. I remember coming up to Congress maybe a week after I had left the government. I was in the Senate Reception Room. I was looking for somebody. Had anybody seen this staffer? Yes, they said, he's on the floor. Then all of a sudden I realized: I can't go on the floor anymore. I had gone from having complete access as a leadership staffer to walk through any door at anytime

without sign up procedures or special passes or anything of that sort, with as free an access as a member himself, to having no access, in the flash of a moment. All of a sudden realizing that I wasn't speaking for Howard Baker anymore. I didn't have anybody who had a voting interest in Congress that would cause people to have to listen to me. What do they care about that maritime client? What do they care about the Turkish government in many cases, which doesn't have a constituent relationship with anybody?

It takes a little while to get used to that. On the inside, you are able to massage the process, on the outside you find a much harder road. I can tell you that in the last Congress I felt that the Republicans were not being aggressive enough on the floor. It seemed as though every time I turned on the television I would see [Paul] Sarbanes, or [Paul] Wellstone, or Dorgan, or Durbin, or Harry Reid, and Republicans seemed missing. I thought they were making poor use of the floor as a bully pulpit, and I wanted to do something about it. So I talked to a friend of mine in the leadership and that resulted in another meeting of the leadership with some additional staff people. I was able to make a case there and then after [Jim] Jeffords switched I was called in by Senator [Trent] Lott to talk to the Republican leadership about minority rights. I was able to make another case there. I thought those arguments were important and persuasive, and nothing much happened.

This year, particularly after the August recess, I felt as though the Democrats were again becoming much more aggressive in their use of the floor and that Republicans were poor in responding to them. So I had a meeting with some leadership staff and this time I was able to say: "The majority leader believes you should do x," as opposed to saying "I believe you should do x." And you know what? Pretty soon we had a program on the floor making very good use, I thought, of Morning Business time with senators coming to the floor and speaking, both in rebuttal to the Democratic message and also promoting in a proactive way our own message. I got Senator Frist's sign-off on that, of course. I didn't do that on my own, but he never had to do very much after that to get it implemented because I was able to implement it. It's a very good apples to apples comparison. The same sort of problem, the same recommended solutions, but in one case it doesn't work and in the other case it does, because in the one case you're outside the institution and the other case you're inside the institution. Even if you are knowledgeable about what levers to pull, coming from the outside it is often hard to get things done.

It occurs to me that both the Hill and the outside world have misperceptions about the other. Each of them thinks that they are more important to the work of the other than they really are. The outside world thinks that if they do x they really will affect what happens up here. The Hill thinks that what they do here matters immensely to the outside world. To some degree, both are right. But they are sort of like the circles on a MasterCard card. There is an overlap, but there are also areas that do not overlap. The outside matters less to the Hill than the outside thinks, and the Hill matters less to the outside than the Hill thinks. That's been one interesting lesson for having come back up here. When I was here before I never really had serious private sector experience. I had no foundation to know that. When I was outside, as the Hill experience receded in time, maybe this was also less obvious. But it's starkly obvious to me now. It's hard to influence the Hill from the outside for that reason. People here have an agenda and they may welcome support from the outside from time to time but for the most part they are the ones in charge.

RITCHIE: When you were here, in your first years on the staff, you worked for Republicans. When you left to become a lobbyist, did you continue to focus on Republican members or did you have to branch out and deal more with Democrats?

GOLD: I branched out. I did some of my best work, I felt, with Democratic members over those years. There are lobbyists who only will talk to their own people. If it's a Republican lobbyist he'll talk to Republican members, and if a Democrat needs to be talked to, well, he's got a partner and the partner can talk to the Democrats. My experience with this may not be typical, but I felt as though nobody who works in a member office can be nonpartisan. You're going to be one thing or you're going to be the other thing. You come from some partisan background if you've worked in that kind of a position. When you go outside, you're no longer in a partisan circumstance. You have to represent your client, just as you had to represent a member of the Senate. I worked a lot with Democrats. I mentioned that the procedures seminars were done on a bipartisan basis. The last procedure seminar that I did before I came back to work for Senator Frist was done for Senator [Maria] Cantwell. But that experience may not be typical.

RITCHIE: Any different working with Democrats than Republicans?

GOLD: No, not really. What I have found to be so, and this is not rocket science as far as I'm concerned, but if you really want to get something done in the Senate you're going

to have to find some bipartisan way to do it anyway, because if there's serious opposition from one party or the other, it's not going to happen. We would always look to find a Republican and a Democrat to be cosponsors of legislation. We found not only a need to work with members on both sides of the aisle but also a lot of satisfaction in doing it. It is a different circumstance when you are outside the partisan warfare. You get scholars, and you get statesmen, and you get knaves on both sides of the aisle, and you sort of know who they are. And you get members who have very able staff who can really assist you, and others who do not and whose promises aren't worth much. But there is not a partisan distinction there. You get really quality people on both sides, and people of not much quality on both sides.

RITCHIE: So much that goes on in the Senate often has to do with creative coalitions. To me the epitome was once there was a Wellstone-Helms Amendment.

GOLD: [Laughs] That's as creative as you get.

RITCHIE: Well, it is now about 11:30, did you want to stop at this point?

GOLD: Let's stop at this point.

RITCHIE: We're still only up to 1983, so we have a lot more territory to cover.

End of the Third Interview

GOLD AND LIEBENGOOD

Interview #4

Friday, December 19, 2003

RITCHIE: We had talked last time about when you left the Senate and went to Gray & Company. The following year you formed a company called Thompson, Gold and Liebengood. Why did you leave Gray & Company, and what was Thompson, Gold and Liebengood?

GOLD: It was Thompson, Gold and Liebengood for six weeks. Then it became Gold and Liebengood, because we had a change in the ownership there. Only a few Americans know that it was Thompson, Gold and Liebengood! Including Thompson, Gold and, Liebengood themselves.

I enjoyed working at Gray & Company and they were always very good to me. I never left for reasons of disaffection or dissatisfaction. But Howard Liebengood and I had known each other for a very long time. He had left the Congress. He had been the Senate sergeant at arms. He left to go to work at the Tobacco Institute and had worked on the cigarette labeling legislation. But that project was over and I think he was looking to do something different. So we had lunch one day and decided over a nice bottle of Bordeaux that maybe we would try to do something together. He was a trusted friend and I felt very comfortable in developing a business arrangement with him. We began putting together the idea of a firm and we started it on the first of August 1984. Bob Gray was disappointed when I told him, but I don't think he could argue with the concept of entrepreneurship because he was an entrepreneur himself.

So we began on the first of August 1984, had the ownership change to make it just Gold and Liebengood by the middle of September. The bulk of the people who joined us in the original core came pretty well toward the end of that year. By the first of January '85 we were up to the original core strength and built from there.

RITCHIE: This was a time when Senator Baker had announced his retirement. Were you drawing from any of the people who had worked for him?

GOLD: None of them, except for one of the secretaries. We did not go to Baker's staff to look for allies and employees. We found them in different places because we wanted to have a bipartisan firm. In some cases, two of them were former Democratic members of the House. Another one was a very active Democratic lobbyist. A fourth one was another Democrat, who had been working on the [Walter] Mondale presidential campaign. A fifth one was yet another Democrat, a tax specialist who worked for David Boren. And then we got the assistant secretary of Health and Human Services out of the Reagan administration. That was the original core team. So actually, the two main partners, Gold and Liebengood, had Republican background but there were more Democrats than Republicans in the original group. It held together, actually, very well.

One other person who joined us was Bill Hildenbrand. But he didn't come out of the Baker operation. He had been at that point the secretary of the Senate and was retiring. Bill was never full time, even in his most active years, but he still was a valuable person on the team.

RITCHIE: I was interviewing him at that time, and in fact I went down to your offices. They were in the new Willard extension, and Bill showed me the view from the office, which was looking toward the Washington Monument. He assured me that it was the best view in Washington except from the White House.

GOLD: [Laughs] The best view in Washington you could rent! We actually didn't start there. We started over at Connecticut and L, but we stayed only eighteen months. Our area was expansion space for the law firm of Gibson, Dunn, and Crutcher. They wanted the space, so the building was happy to let us out of the lease. And Howard Baker at the point was with Vinson and Elkins, a Texas law firm, and he was going to lease space at the Willard, and he persuaded us to lease space in there as well. His concept was that Pennsylvania Avenue was going to become the American Champs Elysees, and he wanted to be part of that. He didn't have to twist our arms. He was on the eighth floor of the Willard and we were on the ninth.

RITCHIE: What was his relationship to your firm? Did he have any kind of formal ties to it?

GOLD: He was a competitor. Vinson and Elkins had a growing legislative practice at that point that was built around Howard Baker. But he was also a help to us from time to time, including sharing of some business where he thought that somehow we could assist or round out the capacity they had at Vinson and Elkins. So we actually did work cooperatively on several client matters. But he was not a consultant to us nor were we consultants to him, nor did we have any formal business relationship of any kind.

RITCHIE: This was also at the same time that he was being replaced as Republican leader. There was an election, probably the most open election for a leader in the last two decades, a pretty hotly contested race with five candidates, all of whom went into the conference thinking that they had commitments from enough senators to win. You said that you had given some advice to Senator Stevens. Were you working at all on that campaign?

GOLD: I actually was consulted by them all. I thought it was difficult for an outsider to take sides in an internal election like that. I further believed that one might be successful in the fact that his candidate won but even so the candidates who lost were also powerful members who that person would have helped to defeat. So I didn't think I should be gratuitously involved in that election and I wasn't. I did talk to staff and some cases the member in every one of those situations. The circumstance with Stevens was unique because he asked me to travel to Alaska and help him write a rules-change platform. I did that, and I helped him as he requested, but did not involve myself further.

RITCHIE: Do you have any theories about how that race turned out? It was extremely close, was it a one-vote difference in the end?

GOLD: Twenty-five to twenty-two between Dole and Stevens. The difficulty in handicapping a race like that was the way the system operates. If you don't have a majority but only a plurality, then the lowest candidate drops and you have another round. So depending on who dropped in what sequence could very well affect the outcome at the end. The story that I was told about that contest was this: five candidates were running, Dole, Stevens, Lugar, Domenici, and McClure. McClure had a core conservative vote so was thought to really be immune from losing on the first ballot. But on the first ballot, McClure was the first fellow out. He had seven votes and Domenici had eight. How did that happen?

I was told by a very senior McClure person that on the morning of the vote, Senator Jeremiah Denton went to McClure and said that over the weekend he had been researching senators' records on abortion, and he found that in McClure's record McClure had once given a pair on an abortion vote, and that this was really callous because it was not an appropriate regard for life, so he could not vote for somebody who would do something like that, who would trade out a vote to a pair on an abortion issue. Domenici, on the other hand, had a perfect record and so Denton was breaking his commitment to McClure and voting for Domenici. Now, what if he hadn't done that? What if McClure had eight and Domenici had seven? Where would Domenici's votes have gone? You never know. So it came down to a Dole-Stevens race, but it wasn't necessarily going to go there. You just never know in a race like that who's going to vote for whom, in what sequence, and how it will affect later ballots. It was phenomenally interesting, I'll say that.

RITCHIE: Did you work at all with Senator Dole after he got to be leader?

GOLD: To a degree. I had worked a lot with Dole's people when Dole was chairman of the Finance Committee, and I knew a number of them pretty well. But they were reasonably self-sufficient. Although I did consult with all five candidates, the leader with whom I would have had the closest relationship would have been Stevens, if he had won.

RITCHIE: Who as whip would have seemed to have had a very good shot at winning that election.

GOLD: He had a very good shot at winning that election. Dole had great power coming from the Finance Committee. Moreover, as I recall through the mystic chords of memory, Dole's election elevated [Robert] Packwood to the chairman of the Finance Committee. Packwood, going to Finance, elevated [John] Danforth to the chairmanship of the Commerce Committee. So Dole's election would be responsible for more musical chairs than Stevens' election would be. That had the effect of giving more people a stake in Dole winning than would have had a stake in Stevens' winning, and probably just enough people to determine the margin of that very close election.

RITCHIE: Was Senator Dole a very different type of leader than Senator Baker?

GOLD: Well, on the face of it my impression is he was somewhat more insular than Baker. But I have difficulty in evaluating this. I was intimately engaged in the Baker operation, saw it from the inside. I looked at the Dole operation from the outside and the perception or the perspective is just different. I thought Dole was a very effective leader, but I did think he was more insular than Baker had been. Their styles were different.

RITCHIE: Did he ask you anything about procedural issues at that time?

GOLD: He really did not do that much. I had a few conversations with staff. In 1986, when Dole was just two years into his leadership, the Republicans lost the majority. Senator Byrd came back in as majority leader and he fired the Senate parliamentarian, Bob Dove, and Dole picked Dove up to serve in the same capacity basically as I served for Baker. Then Dole had absolutely no need to consult with me, because he had his own resource there. Consequently, from that point forward I would talk to Bob from time to time but I didn't talk with Dole about procedural matters because Bob was available.

RITCHIE: I remember that was a big surprise when Senator Byrd let Bob Dove go as parliamentarian. Did you have any sense of why that happened?

GOLD: I have wondered about that all these years. I never saw the justification for it. For all the world, it looked like retribution for what the Republicans had done to Murray Zweben. I have been told by people that the firing was due to this event or due to that event, and I suppose if one wanted a rationale for firing somebody you could always find an event that would give you that rationale, but Bob Dove was an extremely experienced parliamentarian who had worked very closely with Senator Byrd in the prior era of Democratic control as assistant parliamentarian. It was not my assessment that he had operated, after being appointed by Senator Baker, in a partisan way. I never thought there was any justification for firing him. I didn't think that then, and nobody has ever given me an explanation that would cause me to think it now.

I didn't think he should have been fired in 1987 by Byrd, and I didn't think he should have been fired in 2001 by Lott. To my way of thinking, there are two reasons that you might fire a parliamentarian. One is because the person somehow doesn't have integrity and is making rulings on other than a purely professional basis. The other thing, which can be related, is if he's a partisan, that somehow you don't have a level playing field in that office,

and he's not fair to both parties. It's the nature of the game that somebody's going to be disadvantaged by your ruling. It is very much a zero sum situation. But if the parliamentarian operates with integrity, makes the ruling on a professional basis, has at least a rationale that people can understand even if they don't agree with it, does not show undue favoritism to one side or the other, gives people a level playing field in his office, then I think that you ride the waves and the buoy stays above the water. So therefore the instability in the parliamentarian's office in more recent years, either the actual instability or the threat of instability, to my way of thinking is wrong.

RITCHIE: Whatever the cause in '87, the end result didn't help the Democrats in the slightest because Bob Dove wound up sitting next to Senator Dole, and that seemed to be a huge asset for the minority at that stage, to have somebody with that kind of expertise, as you had been for Senator Baker, keeping an eye on what was going on and offering strategies.

GOLD: I would agree with that evaluation. This year there was a moment in the spring when some senators recommended that *this* parliamentarian, Alan Frumin, be fired as well. Senator Frist was opposed to it. There was simply not the foundation to do it. When Murray Zweben was fired in 1981, which could be argued by some as initiating the era of instability in that office, there was the argument about excessive partisanship and that somehow or other he was too compliant with Senator Byrd, and that he had intervened in a law suit on a gratuitous basis against Senator Goldwater, who had filed suit against the Senate. There were considerations of partisanship that could be grounds for a dismissal, even if the person nonetheless understood the rules and was competent. Competent but partisan should get you fired from that job. Incompetent but nonpartisan, that should get you fired from that job too. But when you're competent and nonpartisan, then there's no foundation for it. I do not understand why Bob was fired in 1987 or why necessarily he was dismissed in 2001

RITCHIE: And in the meantime you have to invest a lot of time in training people to move up into those positions.

GOLD: Well, it's a career job. Will people make it a career if they think it's unstable? In one sense, maybe it's an inducement because they think they can get the job faster, but on the other hand, it is like being a legislative judge without the benefit of tenure.

You can be fired at will, and fired without cause. That is a very difficult position to ask somebody to invest a lot of time in, because although the position carries a great deal of authority and power—in the sense that the presiding officer almost never disagrees with the advice of the parliamentarian or acts contrary to it—you are working in a zero sum environment. Somebody is always going to be angry with you, always going to be questioning you, and in some cases they shoot the messenger.

RITCHIE: In the meantime, you were very busy with Gold and Liebengood. There are a lot of clippings in the files about the types of things that you were involved in. I wondered if you could talk about some of bigger cases you handled. Fiat was one of your clients, wasn't it?

GOLD: Fiat was a client and that was a defense contracting situation. It was not my client but a client of the firm's, and I did some work on it. The principal client that I represented consistently through all those years was the National Football League. I also did a fair amount of work on health issues, Native Americans, and others. But the NFL was the principal client.

RITCHIE: There was a big case in '85 that you were involved with, when Senator Dole was the majority leader, getting an NFL bill through Congress.

GOLD: Well, it was an antitrust case. Al Davis, who owned the Raiders, as he still does, moved the Raiders from Oakland to Los Angeles. The NFL tried to block the move. This was 1982. It was presumed at that time, because of some court rulings that were not in the Ninth Circuit, which was where this case arose, that sports leagues had the right to make those judgments, but the allegation was that the effort to keep Al Davis out of Los Angeles and in Oakland was an antitrust conspiracy and consequently led to a triple damage award in favor of Davis.

The NFL sought legislation to try to do two things: one, affirm that franchise location decisions—in other words to permit a team to leave or not to permit a team to leave—were not antitrust conspiracies, and make it retroactive, to put Davis back in Oakland. The retroactivity, I think, was a real problem. The legislation was introduced in the second session of the Congress. There were hearings in the Judiciary Committee of both chambers, but legislation did not move. Looking back, I don't think, with the retroactive provision in

there, there was any way that it could move.

RITCHIE: I thought you scored a victory in the House.

GOLD: No. Victories came later, but not on that one. We had, I think, good sponsors for this and good hearings, but nothing moved. That issue never did get resolved and to this day franchise moves that occur now in professional sports other than baseball are subject to the potential of antitrust litigation. The Raiders case has had ramifications for years, not just with the Raiders' move to Los Angeles but also the Colts' move to Indianapolis, the Cardinals move to Arizona, and the move of the Rams to Saint Louis, the move of the Browns to Baltimore, and that of the Oilers to Tennessee, they were all done under the specter of that Raiders case.

The movement of the Rams is a very good illustration. The NFL did not want to leave the Southern California market to put a team in Saint Louis. At first they voted against the move. Then the attorney general of Missouri threatened them with a two billion dollar lawsuit, which was going to be thirty years of unpaid rent at the new facility and other costs times three. The case, of course, were it brought, would be heard before a local jury in Missouri. The NFL attorneys did not think there was really a case to be had, but you never know with a jury trial in the aggrieved jurisdiction. Consequently, if the NFL said, "You might want to have professional football back in Missouri but we're going to deny it to you because we're going to require the Rams to stay in Anaheim," that jury in Missouri might have just said, "Well, that will cost you two billion dollars." Consequently, the owners reversed themselves.

Similarly, when the Browns moved to Baltimore, the owner of the Browns did submit it for a league vote. The vote was scheduled for January 1996, but it was postponed until February. It wasn't decided, just postponed. Nevertheless, the fact that it was not agreed to in January stimulated the filing of a lawsuit by the Maryland Stadium Authority. Again, where would that case have been held but in Baltimore? So it's a very, very problematic thing and the franchise moves have happened in spurts over time, particularly in the middle Nineties where a couple of moves occurred and Congress had not passed creative antitrust legislation.

RITCHIE: But you mentioned that baseball does have this exemption. Was football trying to model theirs after what baseball had?

GOLD: No, the baseball exemption is not statutory. The baseball exemption was the result of a court decision in the '20s. We did not seek to have the broad antitrust relief that baseball has. Instead, what we did was seek a narrow relief that was grounded on the question of franchise movement. That was the limit of it, and the Congress was still reluctant to do it.

RITCHIE: How do you approach Congress on an issue like this? Football is a little different than something like the defense industry and all the other things going on. Probably every member is interested in the subject, but the question is how does it play to their local interests?

GOLD: It tends to break down between haves and have nots. In the case of the haves, you're really saying: "We want to be able to keep the team in the home location as long as it's well supported and not to allow a bidding war that will give somebody the incentive to make a unilateral decision to move." So the haves will tend to be with you. The have nots, of course, will be against you because they want the team to move.

The interesting story is that in the Congress that followed the one I just described, there was an antitrust bill introduced by Senators Danforth and [Thomas] Eagleton to keep the Cardinals in Saint Louis. The bill didn't command that result, but it gave the NFL the power to deny the move, provided we evaluated the proposed move according to certain objective criteria. The legislation came out of the Commerce Committee, where Danforth was chairman, went to Judiciary for a review. It was discharged from the committee by unanimous consent, and it sat on the calendar for a year and a half. There was a hold put on the bill by Al Gore.

RITCHIE: Who was one of the have nots?

GOLD: The NFL was engaged in litigation at the time with the United States Football League. The USFL had a team in Memphis. One of the purposes for the USFL lawsuit was to force a merger with the NFL, and the movement into the NFL of about a half a dozen USFL teams. Gore put a hold on the bill to try to up the ante. I remember having a

conversation with Pete Rozelle, where I explained to him the senator's approach. Rozelle said, "I can't do that to the league," and the legislation was abandoned. Gore's concept was: "We'll settle this all at once. Litigation will conclude, and the legislation will pass, and we'll have this merger."

In any event, the strategy didn't work. The USFL litigation went forward. The USFL won on the point that the NFL was a monopoly and was awarded one dollar in damages, trebled to three, because the monopoly was naturally acquired, and not illegally. The USFL thereafter collapsed. We never got the legislation, and Memphis never got a team.

RITCHIE: Have you tried bringing forth any further legislation relating to football?

GOLD: Actually, yes, we passed legislation in 1992, the Professional and Amateur Sports Protection Act, which is federal legislation on sports betting. States can have lotteries but they can't have sports lotteries. States can have betting schemes like race tracks and casinos, bingo, and whatever they want, but they can't have sports betting, with the exception of a few grandfathered situations like the sports book in Nevada. In the early 1990s, Oregon established a sports lottery, and it seemed like it had the prospect of bringing in some money. States were fairly cash-strapped, because we were going into a period of recession, and when you go into a period of recession money from any source is welcome. Consequently, in about a half a dozen states legislation was introduced to try to emulate Oregon's example.

The NFL opposed that legislation in each jurisdiction and was successful, but knew that at some point the dike would break and all of a sudden one state would follow another. The NFL, like all of the professional leagues, and the colleges for that matter, is terribly opposed to sports betting and polices it carefully. It's the basis for expelling a player from professional football. It's the reason that Pete Rose is not in the Baseball Hall of Fame. The game is family entertainment, and the NFL wants it to be seen as untainted. So point-spread betting and things of that sort raises questions about the integrity of the game. A lot of issues that the NFL faces are economic issues like the antitrust question I talked about a moment ago. Gambling is an integrity-of-the-game issue, which has economic consequences, but those are more indirect.

So we pushed that legislation on the federal level hard when it became apparent that there might be a need for federal preemption. Congress had spoken in the past to the issue

of sports gambling, because while they tended to give deference to the states on gambling issues they had always made an exception for sports betting. That was a foundation to move on this. It almost passed in the Congress that ended in 1990. Senator [George] Mitchell blocked it at the very, very end, from being included in a conference negotiation on a crime bill. It was introduced in the following Congress, had a number of cosponsors, I think more than two hundred in the House when it finally went. In the Senate there were sixty-two cosponsors. The leading sponsors were [Dennis] DeConcini of Arizona and [Orrin] Hatch of Utah, Bill Bradley of New Jersey, and Arlen Specter of Pennsylvania.

It came through the Judiciary Committee 15 to 1. It eventually passed the Senate 88 to 5, which would make you think that it was non-controversial. But it was anything but non-controversial. Senator Mitchell held the bill off the floor for eight months, for a variety of reasons he could probably explain better than I could. Finally we put together a letter with more than thirty signatures, a bipartisan letter asking him to move the bill. Senator Mitchell finally moved it and then voted for it. So as I say it passed 88 to 5. The bill went back to the House and it was further amended in the House by Bob Torricelli, who was then a congressman, trying to gain a one-year window within which the New Jersey legislature could pass legislation to allow Atlantic City to emulate the Las Vegas sports book. Jack Brooks helped out Torricelli and Bill Hughes, who was a congressman from Atlantic City. So the bill came back over with a House amendment, but it was ready to go on Yom Kippur, the day before a sine die adjournment.

Mitchell was running through a number of bills that were going to pass one after another. Somehow this bill was never on the list. So I inquired about it, and I was told there was a hold on the bill. Then somebody told me something they probably shouldn't have, which was who held the bill. The senator with the hold was Malcolm Wallop of Wyoming. He was one of the five senators who had voted against it earlier. It being Yom Kippur, with no votes until six, Wallop went out to play golf. The NFL didn't have a team in Cheyenne. Baseball didn't have a team in Cody. So what to do? We turned to our friends with the colleges and got the University of Wyoming and several of the trustees to start making calls to Wallop's office. The governor of Wyoming was very opposed to sports betting and also called Wallop's office. By the time Wallop came back from the golf course, he had a stack of messages. In the spirit of the moment, he released the hold. Bradley had the papers and went to the floor and got the Senate to concur in the House amendment.

The next day, Wallop had changed his mind and came back in with a desire to reaffirm the hold, and was told that the bill was already passed. President Bush 41 signed the bill. But it's a great object lesson on the ways of the Senate. How does a bill with sixty-two co-sponsors that passes 88 to 5 nearly die the day before sine die adjournment? How does it happen that that bill nearly died the day before sine die adjournment on the whim or wishes of one member? One member.

I have subsequently talked about that legislation to senior NFL executives who were out at Stanford this past summer, where they had a conference at the Stanford Business School with rising NFL executives. Part of the discussion was NFL-government relations, so they asked me if I'd come out there. I took my current hat off and put my old hat on and I talked to them a little bit about how the Congress does its business. I said, "Well, working with Congress is far more complicated than people think." And I gave them this illustration: "I will tell you how close this bill with great support came to not passing and why." If the bill had not become law in 1992, it would probably never have become law because in ensuing years there was an explosion of gambling all over the United States and states would have found a good self-interested reason to oppose that sports gambling bill. The fact that there is a maybe slightly better than ten-year-old federal statute that has kept sports betting out and away from the expansion of gambling that has otherwise occurred in this country, and that has recognized the distinction between betting on athletes and betting on horses All of that might never have happened based on one senator.

RITCHIE: I didn't catch—did you say why Wallop had put the hold on it?

GOLD: You didn't miss it because I didn't say it. He raised states rights concerns, federalism concerns. Wyoming didn't have gambling at all. The governor didn't want to have it. I don't think the legislature wanted to have it. But you know someday they might want to have it, so why should we stop them? Something like that.

I can remember three of those five people who voted against that bill. Packwood voted against it because of the Oregon sports lottery, which was not impacted by the legislation. It was grandfathered, but he felt that if Oregon could do it others should be able to do it. He split with Hatfield, who supported the bill. [Frank] Lautenberg voted against it because, after all, New Jersey casinos were going to be missing this business development opportunity. He split with Bradley, because Bradley understood as a professional athlete the

importance of trying to pass a bill like that. Bradley told a story about how one time he was playing in Madison Square Garden for the Knicks and somehow or other the Knicks had made a shot to make the game tighter but also to come within the point spread, that there was a lot of booing going on because of the point spread, and how distressed he was by that. He asked if it were his game or the gamblers' game? So Bradley had grave, grave concerns with the potential for an explosion of sports betting. It didn't matter to him whether or not he having to oppose the Jersey casinos.

RITCHIE: This seems to me a good place to talk about the hold as a parliamentary device. My understanding is that even though the hold is not in the rules, the leadership tolerates holds because they want to know if someone is going to object to a unanimous consent agreement, if someone has a problem, and that it's a way that a senator can send out a notice and try to get people to pay attention to his or her concerns. But what's the point of anonymity of holds? Senator [Ron] Wyden and some of the others have been arguing that you should have to confess your holds. Why are senators reluctant to do that, and what are the strategies involved?

GOLD: Look, what is a hold? A hold is a notice to the leadership that somebody wants to assert procedural rights in the face of certain legislation. It can be pretty soft, as in "I want you to consult with me before you move the bill. I have amendments that I want to offer, and I need not to have a consent order that would preclude me from doing it." Something very, very soft. Or it can be tough, as in "I'm completely opposed to this measure. I object to the motion to proceed. I object to the bill itself. I don't want any unanimous consent order. And I want you to protect me." Understanding that there is not a precise definition for it, other than to say that it is a mechanism by which senators notify the leadership that they intend to assert procedural rights in some way with respect to legislation. Maybe not even to block it, but also maybe to block it.

If you didn't have holds, or a system for communication with the leadership, it would force members to come to the floor and do it themselves, which would create a lot of inconvenience. The leader could catch people by surprise and say, "I didn't know you were interested." That's not a good way for leaders to retain support. I think the better part of valor is to protect your own members. But protecting them means that you have know what they're up to, what they want. Consequently, you have holds.

The issue with holds is not whether there should be holds or not, but rather whether they should be disclosed. Senator Wyden, Senator Lott, Senator Grassley, and now even Senator Byrd have decided to become advocates of the public disclosure of holds. They have a public disclosure proposal that they introduced in the Rules Committee. Senator Frist, I think, has two concerns with it. One is that he's not absolutely sure that this is really a problem that needs a solution. Secondly, if you have a problem, his view is that there is a line that one should not cross unless there is no alternative. The line is that between public disclosure and private disclosure. Disclosure creates accountability, but it also probably creates intractability. Because now people are on the record on the issue. They can be lobbied to put holds on the bill, and the public will know if they actually did it. If the hold is removed, the public will ask: what did you get for removing it? You take negotiations into the public arena in ways that might make people harder to get along with, as opposed to being able to have a private conversation that will ease concerns and move legislation.

Because he is not convinced that this is a big problem, and because he is not convinced that if it is a problem, public disclosure might in fact be counterproductive, he and Senator Daschle sent a letter out in early November to all senators in essence saying: if you put a hold on a bill, you need to tell the sponsor if he's a member of your party, and the chairman or the ranking member, depending on which party you are in. If you don't tell them within seventy-two hours and ask the leadership, they'll be told. That means a Republican sponsor or a Republican chairman can find out information about Republican holds from Frist, and a Democratic sponsor or a Democratic ranking member, can find out about Democratic holds from Daschle. There won't be any disclosure cross-party. Frist and Daschle have said: we will evaluate this at the end of the Congress and see what kind of impact it's had and then decide if we need to do anything more on the subject. So they haven't ruled out doing something more, but they are basically taking an interim step, principally for the reason that they want to assist the resolution of problems, and they're worrying about public disclosure being counterproductive.

I don't think that the people who have been advocates of public disclosure will see this as anything other than a half-measure. In 1999, Senator Lott and Senator Daschle sent around a letter urging members to disclose holds to bills' sponsors and chairmen or ranking members, but there was no enforcement in that letter. This ratchets it up a little bit with an enforcement mechanism of leadership disclosure within the party. Maybe that's going to be enough, maybe's it's not. Maybe it's not going to satisfy people who really think that public

disclosure means the public's business being done in public, but I've seen a whole lot of the public's business done in private rooms. We don't have cameras in every meeting. We don't have the press in every meeting. If we did, I think there would be less business done.

RITCHIE: On the other hand, the Senate has continued holds because there's an advantage to it. There's an advantage to the leadership not to be blind sided by somebody objecting to a unanimous consent agreement.

GOLD: That's correct. It works for the leadership and it works for the individual.

RITCHIE: Some senators who have been the most abusive of holds have not been at all embarrassed about admitting that they put the hold on. I think of Senator Helms, he devised—

GOLD: I knew you were going to say that!

RITCHIE: The rolling hold.

GOLD: The rolling hold, sure. Well, I mean, some people wear it as a badge of honor. Senator Wyden—I just happen to have his statement here because I met with his staff person before I came over here—if I could read the first sentence of this, there is something that is incontestable. He says that “If you walk down any street in America, I'll bet you won't find one out of a million Americans who knows what a secret hold is.” I am totally sure that that is true. He finds it very confounding that somebody puts a hold on a piece of legislation that he has and he can't find out the answer about who is doing the hold. After all, isn't it somehow anti-democratic (with a small “d”) that somebody's able to do this?

But I think that for this *not* to be the case, the Senate would have to really change fairly dramatically as an institution. There would be people who would probably relish putting public holds on a bill, so they could get even more credit for doing it with a broader array of people outside, creating some of the problems that Senator Frist is anxious to avoid.

RITCHIE: They certainly give an enormous amount of power to an individual senator, even a minority within the majority party.

GOLD: Well, everybody has stories. My story is about Malcolm Wallop stopping three years of work, or nearly doing so, at the very last minute for a bill that passed 88 to 5. The only way that you could educate people about this is through stories like that. If you tell people: well, in the House it's kind of a majoritarian institution, but in the Senate a great power flows to the minority, to minority coalitions, to individual members; they can understand the words but they can't understand the meaning. They don't know what that really means. What do you mean, great power? Power to do what? How much power? So if you say a single senator can block legislation that is desired by ninety-nine others because the requirements to overcome his objection are so cumbersome that there may not be time to address them, that is a little bit more illustrative. It will strike the average person as being tremendously anti-democratic and tremendously unfair, but that's the nature of the Senate.

The power of the individual senator is lost on most people. I gave a tour this morning to a professional golfer and his family. We walked into the Senate chamber and later into the House chamber. Some of the differences were evident right away. Of course everybody knows there are shorter terms and more members in the House, and fewer members in the Senate, with longer terms. But that doesn't begin to describe the difference. There are cultural differences that are far deeper than anything that would be suggested, because you could have six year terms in the Senate and have a hundred senators and have identical rules to the House. The apparent differences mask the real differences. People miss the true story of the huge cultural divide and why you not only have the checks and balances between the branches but within the branch itself. It's not taught, as best as I can tell. I certainly never really got that in the formal education classes that I ever had, and certainly not even in law school legislation classes which focused on legislative drafting and not on legislative procedure. It is the goal, I would think, of things that I'm doing, and things that this historical office is doing, to help the public understand what the Senate institution is about.

RITCHIE: I think about somebody elected to the House of Representatives. When you walk in the door, even if you are in the majority party, you're not going to be heard until you've acquired some seniority, or you've got to be part of a number, a very large incoming class, or whatever. But otherwise you've got to bide your time to get to a leadership position or a senior position where you have influence. A U.S. senator walks in the door on day one and they've got that plus, because they can say, "I object."

GOLD: One of the reasons that I do a lot of procedure seminars with the freshmen is because I think that many of them don't understand what they've got. It doesn't mean that they will exercise their rights, but they do need to know their rights even if they don't exercise them.

RITCHIE: And how to exercise them effectively.

GOLD: Sure.

RITCHIE: It's possible to abuse those rights and make yourself obnoxious to your colleagues.

GOLD: Well, I've always believed that the Senate could tolerate one Metzenbaum but not many.

RITCHIE: There always seems to be somebody like that, there's always got to be one person who wants to be the outsider and be a thorn in the system, and make it work for them.

GOLD: Look at the example of Senator William Proxmire. He came to Washington and tried to play the inside game for a little while, and wasn't comfortable being there, and decided he just wanted to be an outsider. There are a number of iconoclasts and they are now from both parties, who relish the role of being the person that exposes all the hypocrisy.

RITCHIE: Wayne Morse for years.

GOLD: Wayne Morse. Paul Wellstone.

RITCHIE: James Abourezk. They often don't last for very long, but there always seems to be somebody who's going to play that role.

GOLD: One of the greatest political commercials I ever saw was a Metzenbaum commercial. It showed people who you could take to be lobbyists walking with finely creased slacks and highly polished shoes, but you only saw them from the knee down. They are plotting on legislation. "We're going to do this, and we're going to do this, and we're

going to do that.” They start marching up the steps of the Capitol. “We’re going to do this and we’re going to do that.” They get about halfway up and somebody says, “But what about Metzenbaum?” And they turn and walk back down the steps. [Laughs]

RITCHIE: To pick up on the stereotype of the lobbyists, do you have counterparts that you’re competing against? Are you looking at groups of lobbyists who are on the other side on some of these issues? For instance, on sports betting, did you have lobbyists that you were having to contend with?

GOLD: Sure. We contended with the lottery commissioners from the states. We contended with certain representatives of state governments. They would say, “Well, look, you have a concern about sports betting and you know what? We agree with your concern, however we don’t think it’s a federal question, we think it’s a state question.” We had the people who made lottery equipment raising the same kinds of issues, I mean they didn’t frame it in the sense of their own economic interest, they framed the issue in the sense of federalism. But nevertheless they were on the other side.

There are very often competing interests. The last issue that I worked on the NFL dealt with stadium overflights. That is, after 9/11 the banner-towing planes that used to appear all the time over stadiums, there is a reason that they are not there anymore. The reason that they are not is because there was a ban put in by Congress, which is scheduled to expire in a couple of months. It was a one-year ban put in by Congress as a security concern. That was hard-fought legislation because the banner-towers themselves were not all that well organized but they were all members of the Aircraft Operators and Pilots Association, which is a huge membership organization, who decided to take up the issue for them. There were also the people who were representing helicopters, and who represented blimps, wanting to do aerial shots over the stadiums. That legislation finally passed by coopting a number of those interests and by reducing the burden on pilots for whom traversing stadium air space was fundamentally incidental to their route. In other words, they take off from or landed nearby a stadium and they have to traverse the protected air space, but the stadium is not their destination, unlike the banner-tower where the stadium was the destination.

After a time, even if AOPA (which is the acronym for the organization) wanted to carry the banner-towers’ position, it was inherently unreasonable, because 99½ percent of

all pilots would be *totally* left outside the impact of the stadium flight restrictions. So when the stadium flight restrictions were narrowed as much as they could be narrowed to still capture the problem, most of the potentially competitive interests had gone away. At that point it was baseball and football, and the big colleges, like the University of Michigan, who were arrayed on one side of the question, with the banner-towers on the other side of the question. You would think: well, that will make it easy because that doesn't sound like a fair or even fight. But the banner-towers had an ally in the administration. The administration claimed that Congress did not need to ban the overflights. They argued for regulation, saying they could assure safety by making some inspections and getting people to apply for waivers of general flight restrictions.

The administration was saying: this problem can be managed. The banner-towers were saying: this is an economic devastation and it's nothing but economic warfare between these interests that want to control advertising in the stadium and the people that want to fly contrary advertising above the stadium. Then you had a major membership organization, AOPA, saying that freedom of the skies is being somehow intruded upon. So what looks at first to be either an uneven fight or an obvious security concern after 9/11 was anything but simple.

RITCHIE: There's no shortage of people who do lobbying in Washington. There are more of them all the time. How do you compete? Is it by scoring a big victory and getting a reputation for that? How do you keep attracting clients given all the competition?

GOLD: Well, it's dramatically more competitive than it used to be when Howard Liebengood and I formed Gold and Liebengood. But I think the answer to the question is largely word of mouth.

Here's the nature of the problem: who's a good lobbyist? If you are a lobbyist you fundamentally have to have a good reputation in three places. Certainly with the clients. Certainly on the Hill. And the third place is the legal and lobbying community in this city. What kind of reputation do you have? Are you effective? Do you try to poach other people's business or are you respectful of other people's business? How easy is it for people to work with you? Because most times you do work in coalitions with other lobbyists. Clients tend not to put their eggs all in one basket.

Some business comes through formal responses to a request for proposal, but not that much. A lot of lobbyists are reluctant to respond to request for proposals because they are not sure that the competition is actually real. Particularly with public agencies as a matter of regulation or legislation the public agency must rebid a contract every so many years. So they put out a formal RFP. One of the people that responds to it is the incumbent. The agency is not in the least bit unhappy with the incumbent, so they go through the motions of a real competition but they really know where they want to wind up, and they wind up there. You don't want to miss out on offering a response to a real competition, but the difficulty is having the intelligence that would let you know whether or not the competition would be real.

Mostly business comes from word-of-mouth referrals. It could even be a member of Congress saying, "You're going to need some help. Maybe you'll want to talk to these people." As to how you get a reputation that would make somebody refer the business, there are lots of paths to glory: winning big victories, working well with others, having a reputation for being thoughtful, innovative, and imaginative.

RITCHIE: In your firm when you got started you brought in some recent members of Congress. Is that a plus, to look at the people who are leaving the institution and try to bring in somebody—Senator Don Nickles for instance is leaving as the Budget Committee chairman to go off to do lobbying—is that the kind of person who gets recruited by lobbying firms to bring in a new constituency?

GOLD: I don't doubt that if Don Nickles doesn't start his own firm somebody's going to pay him a lot of money to join their's. But I think it is very hard to generalize as to whether or not former members of the House or the Senate are worth hiring. Some people won't work with staff, they'll only talk to members, and that's of limited value. You've got to have somebody who can work with staff.

RITCHIE: Well, Senator Nickles is one whose former staff went out and were very successful at it. I've heard that he was astonished to discover that they were earning many times his salary as lobbyists while he was laboring in the vineyards of the Senate.

GOLD: I think Nickles is young enough to have another career and will prosper in a lobbying career if that's what he decides he wants to do. He's a smart guy, he's well

regarded, and would be someone I would call. A fellow who's done extremely well as a lobbyist is Bob Packwood. Why? Packwood was always an incredibly industrious worker. He was that way as a senator. He worked hard. He prepared. He knew his subject matter. He wouldn't speak until he had studied. It was in his nature as a senator and it's in his nature now.

RITCHIE: Another part of the equation is the press. Much of what's called lobbying is also called public relations. How much do you have to work with the media? Or is that not a major part of what your representation would be?

GOLD: It's often a big part of it. You have firms that are multidisciplinary shops, like Burson Marsteller for example, where they have a lobbying component but they also have a public relations component. Bob Gray, when I started out, was just like that. He had a lobbying component but a public relations component as well, so he would try to build a press strategy into the lobbying strategy, rather than the reverse. Trying to influence public opinion when approaching a political institution generally speaking makes a lot of sense.

In the sports betting legislation we passed in 1992, we hired a firm that was recommended to us by Bill Bradley for the purpose of conducting a grassroots campaign in about ten states. You don't need press relations and grassroots every time, but it can be an important component.

RITCHIE: When you are involved in a case that begins to get some publicity, is part of your job to counteract what you consider to be misleading publicity?

GOLD: How are you going to frame the issue? The old expression is: he who defines first defines last. You are either going to frame this issue or somebody else is. To frame the issue means defining first.

Look at the debate that's going on now in the wake of the passage of the Medicare bill. Opponents of that bill are going through a serious public relations campaign to discredit it. I think that when the new Congress opens the people who supported the bill are going to go through a serious public relations campaign to defend it, because in essence you can turn what is a signal legislative achievement into a defeat if people are convinced that it's a bad bill. The media war goes on all the time. It's very important. It is intimately tied in with the

politics and the substance of what you're trying to do legislatively.

RITCHIE: Well, the AARP is doing a hard-sell with its members to tell them they were on the right side on that bill.

GOLD: You bet. Otherwise, if you cede the forum, and you may not ever get it back. Because again, he who defines first defines last. You can never let the other side define first, whether your audience is just a member of Congress or the public at large.

RITCHIE: Do you find that the reporters who cover Congress regularly get the story right for the most part?

GOLD: For the most part. I used to say that when I worked up here before, I could read a story in the paper and know where the mistakes were. When I was outside I could read the story and know there were mistakes, but I wouldn't know where they were. Having come back up here, and back to knowing where the mistakes are in the story—and there always are some—but those folks have a hard job and I think that for the most part they do get it right. For the most part, the mistakes that are there are not material to a public understanding of the story.

RITCHIE: A lot of the complaint about coverage of Congress is that the press doesn't pay attention until the last couple of minutes of the fight. It's been going on in the committees and backrooms for a long time but only when it gets down to the floor fight then suddenly it gets to be a story.

GOLD: That's probably true. You get more in-depth stories in *Congressional Quarterly* or *National Journal* that tend to follow things along, but for the most part the public doesn't care about those kinds of machinations so it doesn't see anything until the end.

RITCHIE: Going back chronologically, we're still in the 1980s. In 1987 Senator Baker went down to the White House to be chief of staff. I wondered if you or Gold and Liebengood got involved in any way in his tenure as chief of staff in the Reagan White House?

GOLD: Well, Gold and Liebengood was a great beneficiary of his being chief of staff. Baker had sort of a kitchen cabinet of former senior staffers that he would have down to the White House, or the White House complex, for lunch once every couple of months. As long as he was there, we would go down and meet with him. It was helpful to him, I hope, it certainly was helpful to us.

RITCHIE: In the long term of his career, that was one of the more remarkable moments, of coming in and really salvaging the Reagan administration when it was on the ropes after Iran-Contra.

GOLD: He will be the great unsung hero of that administration. If you read about Reagan, who now is taking on larger-than-life proportions, at least for some people, you don't read much about Howard Baker. Iran-Contra is looked upon just as an aberrant moment, a mistake yes, but in the broader context look what followed it: he met with Gorbachev, he entered upon the INF treaty and so forth. The story ends well and he left office with high prestige, so they tend to miss what happened in the middle. He ended his first term on a high note. He ended his second term on a high note. But the whole second term was not a high note. Baker deserves a whole lot of credit for setting matters on the right course. But if you ask people about Howard Baker, those who remember him will remember that he was a senator, probably remember that he was the floor leader. A few people might know that he was ambassador to Japan. But I would bet you that a great many of them will forget that he was ever White House chief of staff.

RITCHIE: They assume that was James Baker, not Howard Baker.

GOLD: Exactly. So he won't get the credit for what he deserves, but he deserves a whole lot of credit.

RITCHIE: He really helped to restore a lot by bringing his own prestige with Congress back into that administration.

GOLD: He had a lot of credibility with Congress. He put it on the line, and Reagan gave him the flexibility to do so. He wound up happening to be one of Reagan's very best appointments, but again one of the least noticed.

RITCHIE: Do you think that that precluded Howard Baker from making a serious run for the presidency? He was thinking about it in 1988.

GOLD: He was thinking about it. I have always thought that the White House gave him a way out of it. His wife was not well by that time. I'm not sure he ever would have run. This was a perfect out for him. It was also a patriotic thing to do, to leave his law practice and go into the White House and try to undo the mess.

RITCHIE: Well, he got to be an acting president, in a sense, as chief of staff to a president who was not a hands-on president in many ways.

GOLD: To a large degree I suppose that's so. I just believe that he had put aside personal ambition that he might have put aside anyway to unravel a circumstance that was going to be extremely difficult. The opposition party was probably looking toward discrediting President Reagan as a way of creating a better playing field for their own nominee in 1988. I'm certain, for example, that Gore was hurt by Clinton's problems. If you had Gore running in 2000 in a situation where you had a prosperous economy and a successful incumbent administration of which you were a part that was fundamentally scandal-free, I doubt he would lose. Reagan's problems could have seriously damaged Bush in 1988, if Reagan had ended on a sour note. I'm not sure that Bush would necessarily have won. Baker made an important contribution on salvaging the Reagan legacy and helped to lay a foundation for the presidency of George Bush. It was a serendipitous moment for the administration when he got there.

RITCHIE: Well, we're at 1989, which was another turning point for you, and I wondered if this might be a good breaking point. We can then get together for another interview and pick it up from there.

GOLD: Sure. Glad to do it.

End of the Fourth Interview

BACK TO THE SENATE
Interview #5
Monday, December 29, 2003

RITCHIE: In 1989 Gold and Liebengood was merged into Burson Marsteller. What brought that all about?

GOLD: Economics and several other considerations. Howard Liebengood and I had a very good and successful company. It was successful in the sense of revenues and in the sense of morale, and happiness in the workplace. We were not looking to sell the company particularly. But at that time, major public relations companies had begun the process of buying lobbying firms so that they could add to the repertoire available to clients lobbying services. Burson Marsteller, one of the two or three largest of those companies, approached us. Although we had not in mind to sell this company, at the same time were not hostile to the idea of a sale, if the circumstances could be arranged.

One of the things that attracted us to Burson Marsteller was the worldwide nature of their business. They had offices in a number of American cities as well as overseas. We were a small lobbying firm located in Washington, with very little ability on our own to reach out to any of those markets. So if business did not come to Washington looking for us, we would be hard pressed to look for it. Consequently, they made a case that we accepted, that integrated into their system a cornucopia of business opportunities might open. For the purpose of expanding the business into new areas, and also to derive some economic value for our shares, we decided to go ahead with the sale. We did not agonize over it very much. They first proposed something that we rejected outright because it simply was not enough money. They came back with a proposal that ultimately was fine, and so the course of those negotiations took place during 1989 and at the end of the year—this may in fact be the anniversary of it—we concluded the sale.

RITCHIE: Burson Marsteller was based where?

GOLD: In New York.

RITCHIE: What problems does that create when you have a company that's outside of Washington trying to direct lobbying that's inside Washington?

GOLD: It isn't so much the geographic location of the parent company, as the mentality of the parent company. Burson Marsteller did not have in my view a very defined plan for how they wanted to expand in government relations. For example, they had their own government relations capability within their Washington office. When they bought us, they did not shut that down. Then, rather than make further investments in us, which was something that they had promised they would do, they went ahead the next year and purchased yet another lobbying firm, adding to their stable.

From one perspective, I could understand that, because it gave them a place to park conflicts of interest. They established Chinese walls between all three of those lobbying entities, and so if the first one was lobbying on behalf of a client that had a conflict with a potential client, they could send the other potential client to yet another of their entities. That guaranteed them the ability to work all sides of an issue, because none of the people who were working under the umbrella of Burson Marsteller were talking to each other. On the other hand, it also meant that the talent and the capacity that was available in their system was hard to draw upon because of the necessity to have a Chinese wall

When Gold and Liebengood was purchased, we had nineteen people, and the promise of access to a lot of business opportunities in the Burson Marsteller system. After five years, we still had nineteen people, and much of that promise had been left unrealized. I think they did not make serious economic investments in our expansion. Also, public relations professionals know their job, but they don't know the job of the lobbyist. If they've got to solve a problem, they're going to solve it by doing what they know to do best and not necessarily to think of legislative angles to solve it.

At best, each side would try to understand the other's line of business and try to figure out ways of working through diverse disciplines in order to serve a client. But that requires time, and it requires effort, as well as an unambiguous sense of the people to whom they should talk. There was some time, and some effort, but lots of ambiguity because of the fact that they kept three entities working at the same time. It sowed confusion in the system. Finally, at the time each of their offices was a separate profit center. That meant that sending business from other offices to Washington meant robbing Peter to pay Paul. It was not a

system that ultimately was conducive for a lot of cooperation.

In summary, we had people who didn't really understand the lobbying world confronted with three different lobbying entities and economic disincentives for the referral of the business. My assessment of that sale was that it did give us an immediate infusion of cash, and the continued transfer of funds for the first five years after the sale date, but that access to broader reaches of the system was a promise that was pretty well unrealized.

So, to answer the question you didn't ask me: If I had to do it all over again, in retrospect we would never have sold the firm. If we had not sold the firm we would have ultimately made just as much money and had more autonomy. From my perspective, it is a very good example of not fixing what is not broken. We had a successful firm and it remained successful, but the firm once sold was no longer truly ours.

RITCHIE: When you dealt with the people in New York, did they have any different aspirations, or did they want you to go in different directions, or was it just a matter of another layer of bureaucracy?

GOLD: People in New York had aspirations for the overall Burson Marsteller system. I think they were very talented, imaginative people, who understood their line of business if not necessarily ours. But I don't believe that we got particular guidance from them that was useful in the conduct of the lobbying business. They, for example, tended to work on a billable-hours basis, we worked on a retainer basis.

Shortly after we were purchased, we were subjected to a post-acquisition audit conducted by Burson Marsteller's own parent company, Young and Rubicam, the advertising agency. They looked at some work we had done for the state of Arizona on a project called the Superconducting Super Collider. It was a high energy physics project that was proposed during the Reagan administration and ultimately it was awarded to Texas. The work we did for Arizona was paid out of appropriated funds. We kept track of billable time even though we didn't charge the clients pursuant to the billable hours. When the post-acquisition audit was done, it demonstrated that had we billed them according to the hours necessary to perform the work, we should have really charged them more money. The people conducting the audits said either we didn't charge them enough money, because we didn't realize all those funds, or we did too much work and we should not have put in so much time. I

explained that the money being paid by Arizona was out of appropriated dollars. There wasn't really a way to get more money out of them. And once we were committed to the project, we had to do what was necessary.

For instance, when we started in the lobbying business in 1984, a lot of work was done on a billable-hour basis, but in our firm and in many other firms, retainers became the rule after about the middle '80s. Working under a retainer, there are a lot of things that you can do for clients that are prophylactic in nature—relationship building and preventive care, shall we say, that you would not necessarily be able to charge them for if you were running the meter every time you made one of those phone calls. The retainer gives you the flexibility to do what is necessary on behalf of a client, and in essence it provides budget predictability on both sides of the equation. It also is the foundation in many cases of long-term relationships, which connotes that people who have legislative business in Washington often have continuing interests, not just situational interests.

But that's not the way the public relations field operates. That's a crisis-management business in many respects, and at least is working in particular campaigns that in a lot of cases are not continuing in nature. They also have cost-plus pricing for the advertising work that they place. Consequently, the entire fee structure of the business is different, the way you think about a business is different. The simple fact is that the people who bought Gold and Liebengood did not have a real understanding of the lobbying business in Washington. It wasn't because they were located in New York, just because they came from a different line of work.

RITCHIE: Almost all industries go through phases; there's a lot of competition between small operations and then there are mergers or buy-outs by larger conglomerates, which tend to reduce the number of competitors in the field. Is that the direction that lobbying in Washington is going, do you think? Bigger firms and more parent companies?

GOLD: There are eras like that, and then there is retrenchment. New boutique shops emerge, and then there are further acquisitions. One thing I can say for sure: the amount of competition in the lobbying business in Washington in 2003, as compared to twenty years earlier, is immense. When we opened in 1984, there were competitors, but for the most part nothing like what you have now. So with all the mergers and all the acquisitions there still is robust competition in this field.

RITCHIE: Just down the hall from us is the Office of Public Records, which acquires vast quantities of filings from lobbyists around Washington. Has that complicated the work of the lobbyist in the last twenty years?

GOLD: There are many things that have complicated the work of the lobbyist in the last twenty years. Filing reports is one of them. Lobbying disclosure legislation has been amended, of course, and that meant that there was a requirement for substantially additional detailed reports. It just goes with the territory. It doesn't really stop you from doing anything that you would otherwise be doing.

But there have been other burdens, none of which, by the way, has especially impeded the work of the lobbyist. Back at the beginning of the Clinton administration, for instance, Congress passed a law saying that you could only deduct a portion of lobbying expenses rather than all the lobbying expenses. I thought that was gratuitous and a rather cheap shot by the advocates of those proposals. It seems to me that if you are a businessman and you hire a lawyer in order to protect you from the potential adverse affects of litigation, you can deduct the legal fees as a business expense. If you hire a lobbyist to protect you against the potential adverse affects of legislation, or perhaps to try to pass something that might benefit your business, it seems to me that's also a business expense and I see absolutely *no* distinction between those two situations other than a political distinction. The tax provisions relative to the deduction of lobbying expenses were in my opinion nothing more than rank populism, without any real policy foundation in law.

There have also been changes, and changes that have come to the gift rules, that have really adjusted the way people do business here. When I started out, there were no such restrictions, and now they do limit what is done here in terms of everything from tickets to sporting events to bottles of wine, or taking people out to lunch, anything of that nature. There certainly are changes in the way business has been done.

Honoraria is also different. When Gold and Liebengood began in 1984, the two main partners were high-profile Republicans who worked for the sitting majority leader. After the 1986 election, that majority leader was gone and the Senate had turned over. Howard Liebengood and I faced a question of how we could demonstrate to clients that this bipartisan firm, with a Republican marquee, could do business in a Senate dominated by Democrats. In the first year, after the 1986 election, twelve of the thirteen new senators came down to

the firm and spoke to our clients. Of those twelve senators, eleven were Democrats. Now, we were able at that time to pay honoraria, and did to the limits permitted by law. Most every one of them accepted the honorarium. In one case somebody asked that it be donated to charity, and that was something that we were able to do. If we had not had the ability to use honoraria for that purpose, we might have had a harder time getting all those members to come down and talk to the clients. Now the ability to use honoraria is obviously eliminated, except for charitable purposes, and most people don't even bother with that any longer.

So there are a lot of changes that have been occurring in the last twenty years as to lobbying, whether it's disclosure, whether it's gifts, or the deductibility of lobbying expenses, or honoraria. But in the final analysis, the reasons that people hire lobbyists are the same now as they were twenty years ago, and lobbying continues.

RITCHIE: I was just thinking about this holiday season. When I first came to work for the Senate, as the holidays came there were all these carts of gift baskets that were being delivered from office to office. You don't see very much of that anymore, because the baskets have to be very small to fall within the dollar limits!

GOLD: When I started—this probably stems from my love of wine—but if somebody helped me, I'd send them a bottle of wine. It was a way to say thanks, nothing more. I never do that anymore. And if I want to send a bottle of wine to the Capitol, I'd have to take it in myself or else that bottle of wine is going to be x-rayed in Ohio, which probably destroys it. It's just a different world.

RITCHIE: So it really hasn't changed your business, it's just refocused some things.

GOLD: The mechanics of the business have not changed. You still have to do the same sort of thing which you did before in terms of trying to represent your clients, maybe with a slightly greater emphasis in terms of substantive issue development. It seems to me that one thing that has changed a bit over time has been that the preparation for Hill meetings is more important than it used to be. In the very beginning, access may have simply been enough. Now, I think, more preparation has to be done. In a way, a greater professionalization has been introduced into this process.

The administrative changes that we just talked about have had little to no impact on the substance of the work. For instance, if somebody has a client interest that they need to represent up here, I don't think they're going to worry about the deductibility. It's not going to cause anybody not to hire a lobbyist if they otherwise need to hire that lobbyist. The honoraria bans haven't affected the business either. You have to go about the business in a somewhat different way, but the overall purpose for your being there has not changed.

RITCHIE: You mentioned earlier fundraising. Do you get involved much in campaigns?

GOLD: For some people, fundraising is their point of entry into the process and they are extremely active in it. It is extremely helpful if you have a client with a big PAC [Political Action Committee], or if you are working for an organization that has a big PAC. Then you can be involved in the distribution of the funds and maybe even the direction of those funds. As it happens over time, I never really had clients with major PACs. Consequently, the fundraising that I was engaged in often involved my having to write personal checks. Thank heavens there's a limit to how much you can write!

The simple fact is: I was never deeply engaged in the fundraising side of this business. My way of developing relationships with members was through educational programs and seminars over many, many years, as opposed to the fundraising point of entry. A lot of people have no other point of entry. I was fortunate. It was in a way a method of compensating for the absence of having clients with big PACs or writing more checks than I could manage.

RITCHIE: I was wondering, because members of Congress spend a large part of their time raising funds for their next campaigns, since campaigns have gotten so expensive. Do they expect in some cases that if you are asking something from them that you should be providing something in return?

GOLD: Well, they probably appreciate it. [Laughs] There are people who I probably shouldn't name, who were very obvious about that. If you went into their office, they never asked you for anything before the meeting, but shortly thereafter you'd probably be hearing from them. That would be the case even if you went to see a staff person, not the senator. There are plenty of other cases where there is no evident quid pro quo at all. The vast

majority of cases are that way, not the other. The vast majority of cases are such that you might have better access to a member if the member understands that you've been a supporter and a friend, but they don't make it a condition. In a few cases, I felt as though it was a condition, but that's the small minority.

RITCHIE: Well, in terms of elections, a big election occurred in '92. The Republicans had held the White House for twelve years, and now you had a Democratic president coming in and Democratic majorities in both houses of Congress. How does a change in party of an administration affect the whole lobbying structure in Washington?

GOLD: If you have established clients, you're probably not going to lose them, particularly if you have made an effort to work on both sides of the aisle. I suppose if you have been a serious partisan, and have put your eggs strictly in one basket, where you cannot work the other side of the aisle or don't have a partner who can, then the change in control might necessitate a change in client relationships. What I know is that the relationships that I had over a period of many, many years did not change because the control of the Senate or the White House had changed.

The great unknown is how much business never comes through the door because of that change. Where people don't have an established relationship with you, they don't know what you can do, so they assume things that might not be correct, as in: this person is a high-profile Republican lobbyist or so-and-so is a high-profile Democratic lobbyist. His people are out of office and we need to find somebody who is well connected with the people who are in. If we're talking about disturbing existing relationships, not much of that happens. But as to new relationships, you don't know in many cases about the opportunities that were missed because they're never presented you in the first place.

RITCHIE: And because you know that you have different firms that are advertising their connections to the new incumbents.

GOLD: Oh, and there's always a flavor of the month, the person who is freshly out, who has just worked with somebody that a client needs to get to. If you're not the flavor of the month, and the people don't have a more sophisticated approach to who they might want to hire, then they'll find the flavor of the month. There's always somebody who's going to be fresher than you are.

My feeling about it is that when a person comes straight off the Hill without any private sector experience, they have certain strengths that they bring, the leading one of which is access. But not everybody who was good on the Hill is good in the private sector. It's a bit of a different mentality, trying to organize a lobbying campaign, or trying to present a case, and people don't have to listen to you when you're in the private sector if they don't want to. You're working on the Hill representing a member, who's got a voting interest, people have to pay attention to you no matter what they think of you because you're representing somebody who's important. When you are representing a private client, important as that client may be, not many people have to pay attention. Consequently, you are on your own. It's not enough just to be your resumé, you have to be able to stand up and have some credibility, and show some talent in that field. A number of people who were formidable on the Hill were not so formidable once they left.

RITCHIE: During the Clinton administration, in the early years in particular, did the type of issues and the type of clients you were dealing with change in any way?

GOLD: Well, business will tend to gravitate to the area of immediate stress and tension. In the Clinton years, at least early in the Clinton years, that was health care. The Clinton proposal for health care reform was so profound and so sweeping that any client that had health care interests could not fail to be engaged in it. Consequently, that became a great source of business in the early to middle 1990s. But I can remember going back to Gold and Liebengood years, with the 1986 tax bill and that being a great source of business. Some clients who are annual, and have long-term concerns, will just be with you no matter who's in office and no matter what the issue of the day seems to be in Congress. But then you do also have these situational clients who come to you at least in the first place because of something that's very active. If you are fortunate, after those issues are disposed of they will also see that they have lasting interests and they will stick around.

RITCHIE: You went back and mentioned the 1986 bill, and that seems to be an interesting contrast to the Clinton health plan in 1993. In '86 everybody had an exemption they wanted in the tax bill, and the solution was that Senator Packwood basically said no exemptions. It was actually a vast simplifying of the tax codes, and in a sense ruled out everybody's special interest. The '93 plan was just a mess of special interests. Nobody ever found a simple answer to the whole problem. I wondered if you could comment on those two bills and the story behind them from your perspective.

GOLD: The 1986 tax reform process ended very differently than it began. I can remember Packwood having a mark-up in the Finance Committee where more and more exemptions were loaded into the Code. Packwood, who had begun the process from the perspective that he liked the Code sort of the way it was, and who very much believed in tax exemptions as a way of steering public policy, was dismayed. I think he understood that if that process were left unleashed they would never have a bill at all, because ultimately the weight of all of the exemptions would destroy the bill. So he reversed course. The fellow who said he liked the Tax Code the way it was and who believed in tax exemptions as an incentive for public policy changes went in exactly the opposite direction, and in the course of doing that saved the bill. He actually gained substantial credit for being a tax reformer.

It interested me immensely because he was a very talented senator. He was able to rise above the special interest concerns that were beginning to overwhelm the process and propose something that was extremely innovative, that was not really on anybody's drawing board at first.

The '93 health care reform was exactly the opposite. It was a process that was fundamentally done in secret until the plan was revealed. The plan had tremendous complexity, because of the need to cover everything. The Clinton task force was not content simply to make a dent in the uninsured problem but rather had to solve it completely. They made very little effort to reach across the aisle and secure Republican support for anything. They wanted to own the issue, and in the course of owning the issue, and getting complete credit for it, they had to do it their way and only their way. So they came out with a plan that was so complicated that nobody could truly understand it. The single most devastating thing that was said about that plan was Arlen Specter's diagram of how the health care system was supposed to work. There may have been great logic to that diagram, there may have been great logic to the plan, but the public recoiled from it.

If you look at the dynamics at the beginning of that Congress, and you see a freshly elected president, who campaigned heavily on that issue, and was deeply, personally invested in the success of the reform, the engagement of his wife in that process as a further personalization of the issue, and the commitment of the Senate majority leader, George Mitchell, and the House majority leader, Dick Gephardt, to passing something. If you take all those dynamics—there are not a lot of people at the beginning of the process who would have told you no bill would pass. I for one thought it was reasonably inevitable. But then the

complexity really began to weigh it down. It was late in coming out. And the tardiness in producing the plan and the complexity of the plan gave people a reason not to support it.

So it is exactly the opposite example from 1986. Not only as to the question of complexity versus simplicity but also as to the notion of bipartisanship. The bill that came out in '86 out of the Finance Committee, to my recollection, was reported unanimously. And the effort on tax reform was done on a bipartisan fashion, between Senator Packwood over here and Congressman [Dan] Rostenkowski on the other side. So not only for reasons of simplicity but also for reasons of bipartisanship, '86 was a piece of landmark legislation that passed. In health care reform you had no bipartisanship, extreme complexity, and it didn't pass.

RITCHIE: The health care plan was essentially forged by task forces that operated out of the White House behind closed doors, and was then presented to Congress. Does that add to the problem? In other words, is it easier to pass things that come up through committees than are submitted from the administration as its bill?

GOLD: I think that it's useful for the administration to have a well thought through plan that they can present to Congress. I don't have any quarrel with the use of task forces to accomplish that. It's just that in that case the task force produced too complicated a plan, took too long to produce it, and had too little consultation with Congress along the way. What they gave Congress instead was an extremely complex fait accompli. It's easy to quarterback this after the fact, but it is plain that the absence of congressional consultation was a fatal mistake, because if it had happened, then a more realistic plan would have been presented. I think they might have been told that the plan that was under development could not pass. But because they in essence offered very little consultation with Congress and almost nothing with the minority, you had the appearance of a demand as oppose to a request. That is always poorly received here

RITCHIE: The Finance Committee played a role in both of those bills. In one case you had Bob Packwood as chairman, and by '93 you had Daniel Patrick Moynihan as chairman. Moynihan actually advised the administration that they shouldn't go with health care first, that they should take something like welfare reform where there was more bipartisan support, but the administration seemed to pretty much ignore Senator Moynihan's recommendations.

GOLD: They ignored his recommendations, and he was never a supporter of their proposal. As I recall in that year, one of the more controversial features of this was the employer mandate, where every employer would be mandated to provide health insurance coverage for his employees. I remember that on the Republican side there were about twenty-five members who were prepared to sign up for an individual mandate, that is, a requirement as a matter of law that individuals have health insurance. That actually could have resulted in the same sort of universal coverage, it seems to me, that the administration was attempting to get through the employer mandate. What it indicates is that if they had made an effort to do any bridge building, they might have actually found enough partners on the other side that they could get something done. But they didn't make any effort at bridge building. Consequently, they violated two precepts of Moynihan's. One is that they started with the wrong issue, but the second was bipartisanship. Moynihan had a pretty good bipartisan relationship on that committee and the administration approached this problem without any particular regard for that bipartisan relationship.

RITCHIE: Even Senator Dole, as a former chairman of that committee, initially talked about supporting some kind of a health care plan, and he was the Republican leader.

GOLD: Senator Dole was one of the senators who supported the individual mandate. He had appointed Senator [John] Chafee to chair a Republican task force. I believe that Chafee had endorsed the idea of the individual mandate and then Dole had signed up for it. Now, when Dole went to campaign for president, somehow that fact was completely submerged, but if you look at the dynamics that were present in 1993, if you had had a relatively prompt plan, with congressional input, and bipartisan input, even if it did not solve the problem completely it might have made a serious dent in it, and the administration would have gotten credit for a signal domestic achievement and that credit would also have redounded to the credit of Senate and House Democrats, both of whom got blamed because nothing happened.

RITCHIE: Yes, in fact the failure of that bill caused a political change of enormous magnitude in the '94 election, the first time in forty years the Republicans took control of the House of Representatives, and they took back control of the Senate. It was remarkable how quickly the political landscape changed. The failure of the health care plan seems to have been the central factor in all of that.

GOLD: That's what I think.

RITCHIE: How did the "Contract with America" election affect your operations?

GOLD: Well, I think that the advent of Republican control after 1994 opened again business opportunities that probably eluded us during the first two years of the Clinton administration. Again, existing client relationships remained stable. The relationships that were long-term remained stable through good times and bad. But the '94 election would provide opportunities for Republican organizations to gain access to new business opportunities. And Democratic dominated firms needed to find a way to shore up their Republican connections, which was what happened to me.

In 1994, I completed five years of service under the Burson Marsteller umbrella and then left Gold and Liebengood. Howard Liebengood also left at the same time. The paradox was that the name Gold and Liebengood continued for about a year and a half after that but neither Gold nor Liebengood were there, and in fact had not left the business but were elsewhere in town. I decided by the end of 1994, when my contract was up, that it did not make sense to try to renew that contract, and I would look for an independent firm that seemed similar on its face to what Gold and Liebengood had been prior to the Burson Marsteller purchase. Thus I joined Johnson Smith Dover Kitzmiller & Stewart. That firm previously had been known as Griffin Johnson. The Griffin was Pat Griffin, who had worked for Robert C. Byrd here and later was at the Clinton White House—in fact in 1995 was at the Clinton White House. The Johnson was David Johnson, who had worked for George Mitchell, when Mitchell was the head of the Democratic Campaign Committee. So the firm, although it did have Republican representation, was dominated by Democrats.

They were interested in trying to get some more strength on the Republican side, perhaps to bring them new business but also to offset any possible loss of business from clients that might not have been completely anchored there. So I looked at several opportunities in the fall of 1994 for future employment, and settled on Johnson Smith. When I began there in 1995, I actually got a fair number of new clients. Would they have come my way but for the '94 election? Perhaps not. I brought over clients from the old firm and got a number of additional clients, so I think helped the bottom line of Johnson Smith in 1995.

RITCHIE: When you moved from company to company did you take clients like the NFL with you?

GOLD: I had a non-compete agreement with Burson Marsteller that theoretically would have prevented me from taking anybody for two years, but we negotiated something else that permitted me to take certain clients outright, permitted me to continue working for other clients but to pay over the fee income to Burson Marsteller, and to reduce the two-year non-compete to one year. So for 1995, I took all the clients that wanted to go with me and in the majority of those cases the fee income did go to Johnson Smith, but in some cases it went to Burson Marsteller. After 1995, all the fee income went to Johnson Smith.

RITCHIE: So it's really the personal relationship that you have with certain clients that transcends the type of company that you're working for, in many cases?

GOLD: In many cases. When I worked at Gray & Company in 1982-'83, into '84, I did a lot of work for the Turkish government, but the Turkish government had reasons for being in Gray & Company, not the least of which was Gray's very close ties to the administration. So when we started Gold and Liebengood, the Turks did not go with us. The NFL, by contrast, actually has followed me three or four times. I think it depends upon why a client is with a particular organization. If they have a rationale for being with the organization that goes beyond the person servicing the business, then they might not go with that person. But if they develop a personal relationship with an individual who has worked on their behalf for a long time, it would be a rare case when the business would not follow out the door.

The mitigating factor would be how many other persons at the firm had also a consulting or service relationship with the client. In other words, the question becomes: how deeply rooted is the client in the firm? If they have a broad rationale for being there, they'll probably stay. If multiple people have been working for them, they'll probably stay. But if they don't have deep roots with an organization but only with the individual, then they'll probably follow the individual.

RITCHIE: With the '94 election, the big change was in the House. You had not only the first Republican majority in forty years, you had fifty new House members, you had all new chairmen of committees for the first time, and you also had a new leadership, because

Bob Michel had retired and Newt Gingrich had come in as Speaker. Even with Republican roots it was a very different Republican party in the House, it seems to me, at that stage. How did you go about coping with the new House of Representatives?

GOLD: Well, there was a lot to learn. That includes all those changes as you mentioned plus another, which is that Gingrich tended to run a lot of business out of the Speaker's office, working with task forces and not necessarily through the committee system. So people who had developed long-time relationships with committees, and feeling as though that was a good insurance, all of a sudden found that the committees were supplanted by the task forces. There were very few people who were fully prepared for that revolution. I think lobbyists very much had to play catch up. Unless they were a Gingrich person in the first instance or a Dick Arme y person in the first instance, and there weren't too many of those people out on the market. They came out later. But they understood the thrill of being in the majority and nobody who served with Gingrich or with Dick Arme y in the minority was going to hang out a shingle the moment that those people went into leadership positions in the majority. They wanted to serve with them in the majority first.

My recollection is that there was pretty much a vacuum, where nobody was well prepared for it, where there weren't Gingrich or Arme y people already in the marketplace, and where existing lobbyists were just finding whatever means they could to catch up with the changes that had happened in the process, and to try to give clients a reasonably sophisticated view about how the new majority in the House was going to operate and what this new Speaker was like as a leader.

RITCHIE: I thought that turnover was also a good object lesson in the differences between the Senate and the House. The House after that election came in with a mandate to enact the Contract with America, and Speaker Gingrich promised to do it in the first hundred days. He essentially did that. But then it went to the Senate, which, even though it had a Republican majority, acted like the Senate. It slowed things down, it took things apart.

GOLD: I gave many speeches in those days about this. I told people: Gingrich has got about a 53 percent majority in the House, and Bob Dole has got a 53 percent majority in the Senate. Gingrich can get through whatever he wants, and Bob Dole can't. How is that? Was it because Dole was a less effective legislator somehow? Less able? Of course not. It's just the nature of the institution.

People do not understand the Senate for what it is. They will understand superficially two senators from every state as opposed to a House based on population. They'll understand the limits of terms, in other words two years against six, they'll understand that. They'll understand the numbers are smaller. But they don't understand the nuances of the institution and why it is so hard to get anything done here. It is the issue of Senate math that we've talked about in previous discussions.

RITCHIE: Well, even the House members didn't. They were complaining that Senate Republicans weren't supporting them after they had passed everything.

GOLD: One of the things that I have thought to do, and probably will before too long, is to give a seminar over in the House for senior leadership people about minority rights in the Senate. I think it would be well for them to understand that. It might lead to fewer tensions and fewer misunderstandings.

RITCHIE: At some point there was a quote in the paper where at the House Republican Conference some member stood up and said, "The Senate is the enemy."

GOLD: [Laughs] A lot of people have said that!

RITCHIE: The single most dramatic moment I remember from that time, and I was sitting in the gallery, was the vote on the Balanced Budget Amendment, which the House had passed over the two-thirds majority required, and the Senate was one vote short of two-thirds. Everybody was there, they were all in their seats. The galleries were packed. And the one vote that made the difference was Senator Hatfield, as chairman of the Appropriations Committee, breaking with his party. It was probably the dramatic and in many ways the most courageous moment I ever saw, with one senator speaking his mind and standing up against his party in the process. How do you explain Hatfield's taking such an enormous personal sacrifice in casting that vote?

GOLD: In 1966 he was the governor of Oregon. A resolution was put before the National Governors Association to support the Vietnam War. It passed forty-nine to one. He was the one. It almost cost him election to the Senate that year, because even though he had been a popular governor in Oregon, Oregon was not yet a dovish state, and he was running against a congressman who was a supporter of [Lyndon] Johnson on the war. His antiwar

position had cost him a lot, but he prevailed with 51 percent of the vote. I thought about that vote in the Governors Association and the vote that you talk about on the Balanced Budget Amendment as being bookends on a career, because in both instances they were acts of conscience. That's what that vote was in 1996, it was an act of conscience. He had so much pressure on him to act opposite. You know, a number of Democrats actually changed their position on the Balanced Budget Amendment so as to give Daschle the votes he needed to stop that constitutional amendment. There was no focus on them. And Senator Grassley actually opposed it also, but there was no focus on him. All the focus went on Hatfield.

One thing that I understood about Hatfield was he was a very deeply convicted person. If he believed in something, he was not afraid to say so, even if the position was not popular. That was where he was on the Balanced Budget Amendment. His attitude about Vietnam almost cost him election to the Senate. It probably cost him a place on the national ticket in 1968. That's how he conducted himself his whole public life, so the vote did not surprise me. If he had actually sought reelection to the Senate in 1996, my belief is he would have won.

As it was, several of the younger members of the Republican Conference attempted to discipline him for that vote and take away his committee chairmanship of Appropriations. Dole was not for that. Jesse Helms was not for that. And it never got off the ground, but I always thought that these young members of the conference, who had recently come over from the House, needed to really understand something about the difference between the House and the Senate. That kind of thing might happen in the House, but not here. This was an act of conscience, and I thought to myself: someday they'll probably have an act of conscience of their own, who is going to discipline them for it? So the disciplining went noplacement, and that's just where it should have gone, noplacement.

RITCHIE: Senator Helms is a good example of somebody who took his own positions out of his own conscience, regardless of what his party thought, but he got to be chairman of a committee because of seniority, not because he always followed the party line.

GOLD: And when he ran for chairmanship of that committee against Senator [Richard] Lugar, who was the choice of the committee members on the Republican side, the issue was put to a full conference vote and people like Hatfield, and Lowell Weicker, and John Chafee, they all supported Helms, because I think they understood that if seniority did

not prevail, ideology would. In that case, their own chairmanships would at some point be in jeopardy. So Hatfield was content to have Helms be the chairman of the Foreign Relations Committee, believing ultimately that it would also preserve his own chairmanship on Appropriations, which I'm sure it did, because if the precedent had been established that Helms was thrown out, regardless of seniority—not thrown out but not permitted to accede to the chairmanship regardless of seniority—what would that have meant for somebody like Hatfield that members wanted to discipline for apostasy?

RITCHIE: They did at least change the Republican Conference rules in terms of the election of chairmen. Isn't there a separate election of chairmen of committees now?

GOLD: I believe that's correct, but it has still been done purely on a seniority basis.

RITCHIE: So perhaps the more senior they become the more tolerant they'll become of chairmen following their own conscience.

GOLD: Well, Hatfield came into office believing that you should only serve two terms here. He was all for a constitutional amendment to limit Senate service to twelve years. Then in his third term he kind of thought the better of it, and he wound up serving five terms.

RITCHIE: It's interesting that a number of senators who come over from the House initially want the Senate to act more like the House, but the longer they stay in the Senate they tend to appreciate its unique features. It seems also that they tend to moderate a little in their views. I think about somebody like Connie Mack, who was very close to Newt Gingrich in the House and came over to the Senate and began to gradually move over to the center of his party. Is there something about the Senate that does have a moderating effect on senators?

GOLD: Yes, I think so. I think that you eventually come to terms with what the Senate is about and you either love it or you leave it. There will be people who never really take root in the Senate, and get frustrated by it, and ultimately leave, even though they are probably good senators and could easily be reelected. Fred Thompson would be an example of that. I think he was deeply frustrated by the Senate. I don't believe that the institution suited him temperamentally. There were other people like Hatfield, who had been a governor, and who I believe had executive ambitions, who ultimately accommodated himself to the Senate and had a thirty-year career here. So I think that people ultimately have to come

to terms with an institution that is a very beautiful thing to watch, but also very complex. If they can do that, and they maintain their political standing at home, they can be here a long time and will want to be. But for some people, the frustrations of operating here are just far too great, and they never warm to the place, and ultimately want out of it, and get out of it.

RITCHIE: I was sitting in the gallery at the beginning of this Congress watching knots of senators on the floor during the budget debate, and watching Don Nickles, who also started out as a very conservative sort of non-cooperating member of his party who was suddenly in the center of the knot as chairman of the Budget Committee. There were Democrats and Republicans alike clustered around him, and he seemed to be forming coalitions, fending off criticism from within his own party. He was someone who had figured how the whole system worked, and I thought he was really on the top of it all, and then he announced his retirement. But he seemed another whose attitude had change considerably in the course of his Senate career.

GOLD: I remember when he got here and he was exactly as you described, an absolute outsider, very young, no experience in the House, but a product of the Reagan election in 1980, with probably unrealistic expectations of how the place ought to operate. Then he was leavened by several terms in office, by his experience in the leadership, and ultimately, I think, became a senator of great skill, who will be missed upon his retirement.

RITCHIE: Yes, he was thirty-one years old when he was elected in 1980, and it struck me that his picture of him in the middle of this knot of Democrats and Republicans as manager of a bill, that here was someone who after twenty years knew every aspect of the floor, and knew what he had to do.

GOLD: And, had he stayed in the Senate, would have remained extremely effective. Fundamentally, his political maturation happened in this place. Not in any governor's office, or mayor's office, or in the House. Some people just can never make themselves into what think senators should become. Nickles made himself into what a senator should become.

RITCHIE: Back in 1996, Senator Dole left to run for president and Trent Lott got elected as the Republican majority leader, and Nickles came in as the whip. Lott is one of the few Senate leaders who had experience in a House leadership position, even though he was in the minority on that side. Did that have any impact on Lott's Senate leadership, do you

think?

GOLD: I think Lott has loved being in the leadership in Congress since his beginnings here. His ambitions in both the House and the Senate were to serve in the leadership. He is a person who if he had stayed in the House would have been Speaker, which is remarkable considering where he wound up in the Senate. If there had been any prospect in 1988 that he might have been Speaker, who knows but he might not have ever run for the Senate. It's just that the Republicans seemed to be in such a permanent minority that he had gone as far as he could go in the House and was not going to replace Bob Michel then, and he needed to go out and do something else. A Senate seat opened and he ran for it.

I am certain that Lott's experience in terms of his House years, in terms of dealing with people and moving legislation through Congress, was valuable to him when he was a Senate leader, but I never found him as a Senate leader to have been conditioned excessively by his experience in the House. To me it's very interesting that he was able to make that transition, because a lot of people who had been so invested in the other chamber might not have been able to do that. But I thought that he was effective here, and he was not hampered by his experience in the House, but probably helped by it. He probably had a better understanding than any other person could have about how both chambers operated, because he was intimately involved in the leadership of both chambers.

RITCHIE: How would you compare him to Senators Baker and Dole, his predecessors?

GOLD: It's a little hard to answer because I worked for Baker and I saw him much closer up than I did Lott. And I also knew Dole here when I was on leadership staff before and Dole was chairman of the Finance Committee. I had a personal relationship with him which I did not have with Lott. So my perspective on Lott is very different. I never sat in leadership meetings with him, never saw how he approached issues, and I probably am not qualified to make a comparison of that nature, other than a lay comparison, which is not what you want here.

RITCHIE: There were people who expected that he would be a more conservative leader, but he's another who seemed—

GOLD: He's a pragmatist.

RITCHIE: Yes, exactly, who became much more pragmatic as a leader.

GOLD: No, Lott is a pragmatist. He comes from a very conservative state. His roots within the Senate were among the conservatives. He challenged Alan Simpson for the whip's job with the support of conservatives, who probably thought the same thing, and who may have actually been dismayed at what he did when he first became leader in terms of cutting the Gordian knot on several pieces of legislation in negotiating with the Clinton administration to move things along. I think that in the end, the leadership is a very bad place for an ideologue. You have to be pragmatic. Bob Dole was the essence of pragmatism. Howard Baker was a pragmatist. Lott was, I think, also pragmatic.

RITCHIE: Given the nature of the Senate, you almost have to be pragmatic to be a leader of the Senate.

GOLD: Well, I think you do. I don't know how you would operate otherwise, unless all you want is a forum. Maybe in the minority, you could be a minority leader perhaps and be more of an ideologue, but if you have to have responsibility for moving legislation around here, you cannot be anything other than a pragmatist or you'll never get anything done.

RITCHIE: On the other hand, Senator Lott did attempt to make things a bit more regular and gain more control for the leadership. He made a big effort to try to control the number of amendments that were filed by using amendment trees, and the Democrats complained that he was being restrictive. It seemed to me that as a leader he was trying to, maybe in that sense, exert a little more of the House leadership style. Did you see any differences in the procedural approaches that he took?

GOLD: If I had to note him for anything procedurally it would be that. The Democrats would complain that he was quick to fill the amendment tree and quick to file cloture, both of which would be efforts to try to move the process along as best as you could and to avoid the prospects of the minority taking advantage of nongermane amendments. I can't criticize him for doing those things, but I know that they were not loved on the minority side because the minority felt that they were becoming shut out of debate, shut out of amendments, and that's the two great hallmarks of the Senate: the freedom to debate and the

freedom to amend.

Senator Frist just one time this year filled the amendment tree, and for the most part had been chary about filing cloture until the need to do so, I think, was quite evident. Lott was quicker to file cloture and much more aggressive in terms of filling the amendment tree.

RITCHIE: We always get questions about whether there are more filibusters in the Senate than there used to be. Our answer is that we can't quantify filibusters, but we can tell you that there are more cloture motions than there used to be.

GOLD: Sure.

RITCHIE: There have been a great number of cloture motions in the last decade, and you can assume that each one of those cloture motions suggests that there is a filibuster, although in many cases not a word has been spoken about the bill at that stage; it's an advance tactic.

GOLD: Even though I think Frist has done less of it—I think your statistics will bear that out. Other than on judicial nominees, Frist has done less of it. But what it is is not a response to the presence of a filibuster, it's a response to the absence of a consent agreement. The absence of a consent agreement doesn't necessarily connote a filibuster, because the problems that prevented consent from being entered in the first place might be worked out over a period of days. The issues is: do you have a period of days? Or do you have to begin to try to move legislation more expeditiously. So filing cloture is at least a response to that. If they can get an agreement that would come after cloture has been filed, then the cloture vote can be vitiated. So it's often a backstop.

I'll put it like this: you can have filibusters without cloture, and you can have cloture without filibusters. I think it's very hard to develop statistics on that, particularly if you get to this question: what constitutes a filibuster in the first place? After cloture has actually failed, you can probably say there's a filibuster going on. But beyond that, you can never quantify it.

RITCHIE: Yes, because senators don't stand up and say, "Now we're going to begin a filibuster."

GOLD: No, of course not.

RITCHIE: It's really a pejorative term that applied to it. Those who are filibustering just say that they're conducting an extensive debate over an issue of national concern.

GOLD: Exactly.

RITCHIE: So filibusters are in the eye of the beholder. But cloture motions can be quantified. When George Mitchell was leader he had the Congressional Research Service do a study of filibusters, but it was really of cloture motions. It pointed out how dramatically they had increased, and the Democrats at that time were arguing that filibusters had become a terrible problem and that we needed to reform the filibuster rules.

GOLD: I recall that. Well, I think that the mere increase in the number of cloture motions proves very little. For example, when we had a filibuster in this Congress on the Miguel Estrada nomination to be a circuit court judge for the District of Columbia circuit, we waited a long time before we filed cloture the first time, even though it was evident that the minority was not going to permit the nomination to come to a vote. Does that mean that they weren't conducting a filibuster prior to the time of the cloture vote? Absolutely not. They *were* conducting a filibuster, it's just that there was dispute within the leadership about whether a cloture motion was the best way to approach that. Perhaps there were other mechanisms that could be used to allow the nomination to come to a vote. Those mechanisms were not successful, and ultimately we had to go ahead and file cloture. Sometimes Lott would file cloture just the moment an issue was made pending before the Senate. So the presence or absence of a cloture motion doesn't prove much about whether a filibuster is going on.

RITCHIE: In the earlier case, when Senator Mitchell was promoting a rules change on filibusters, after the Democrats lost the majority in '94, in their first conference after the election Senator [Tom] Harkin said that they had made that point while they were in the majority, and now that they were in the minority, we're in a position where we can stand on principle and go along with these reforms. And the rest of the conference thought that was crazy, that in the minority they needed that protection. They are currently talking about changing the rules, but is there anything foreseeable in the way the Senate operates in terms of filibuster and cloture?

GOLD: My experience is that the minority has grown increasingly reluctant to allow any truncating of minority rights, no matter how that happens. For instance, and I think we talked about this in a previous session, on the Medicare bill, there were cost containment procedures that were debated that would permit expedited legislation to be introduced in the event that the amount of money going to the Medicare program from general revenues exceeded 45 percent. The minority was willing only to give the most grudging expedited procedures. What I mean by that is they allowed for certain expedited procedures but as few as possible, and nothing that was really going to affect minority rights very much. And that's just an illustration.

The minority will resist almost any effort to limit its rights. It wasn't always the case, but it is the case now. Because of that, I think that if you put the question this way: can you foresee cloture reform by any process that involves the regular order for the rules change? The answer will be no. I can't foresee that happening for some time.

There are people who advocate not using the regular order and trying to use what they believe is the "constitutional method" or in some parlance the "nuclear method." The constitutional method would say that the Senate has a constitutional right to make rules governing its own proceedings and it doesn't have to proceed according to the process set out in the existing rules, they can make a process up as they wish. A new Congress is not bound by the old. The only way that I could see a rules change occurring would be through a method like that. That would be a majoritarian process, if the majority party could actually hang together and make it happen. But in the absence of extreme provocation and sufficient numbers in the majority to permit several defections of people who simply would never go with a change like that, I can't even see that method being used. So the very short answer to this complex question is: if the regular order is used, I see no change. If other than the regular order is used, I see some possibility for change, but that would require extreme provocation and it would also require a majority sufficient to prevail despite several defections. The minority simply will not permit the change under the regular order.

RITCHIE: It's interesting if you go back historically. For years it was liberal Democrats who were trying the same device.

GOLD: Absolutely.

RITCHIE: At the beginning of every Congress from the Truman and Eisenhower administrations right on through to Nelson Rockefeller, when he was vice president, they were still hoping to do that. It's interesting that the ideologies and parties have changed, but the talk of the tactics has stayed the same. What really did change things in the past was whenever you had an election that gave one party or the other a large majority, instead of having things as evenly balanced as they are now, or at least that's the way it's seemed to me.

GOLD: Well, that's right. You know, I have looked at a lot of that history and can trace some interesting people. You talk about how people have changed after they got accustomed to the Senate. When Mike Mansfield was elected to the Senate in 1952, and when he arrived in 1953, the first issue before the Senate was reform of the filibuster rule by the so-called constitutional method. There were twenty-one senators who supported that change that year, almost all of whom were Democrats. Mansfield was one of them. He was part of that intrepid group that tried to change the rules by such a means. By the time he got into the leadership and the same efforts were being made by others, he spoke out vigorously against it. Part of that was a change in role from being a freshman member pursuing a particular ideology without regard to Senate traditions to being the majority leader and being the defender of those traditions; also lots of years of experience in the Senate and an evolving sense of what the Senate was supposed to be about.

But you are absolutely correct to say that in the years between 1953 and 1975, whenever these efforts were made, and they were almost made biennially, they were done by liberal Democrats, with some support on the Republican side from people like James Pearson of Kansas, or Javits of New York, or Clifford Case of New Jersey, and others.

RITCHIE: And occasionally with a Republican vice president. Nixon was going to go along with an early effort.

GOLD: Nixon and Rockefeller both. You had three vice presidents in that period of time who were very sympathetic to the constitutional method: Nixon, [Hubert] Humphrey, and Rockefeller; and two who were not: Johnson and [Spiro] Agnew. And that made a big difference in terms of how far the process went along, what kind of rulings you could get from the presiding officer.

RITCHIE: The people you mentioned also wanted the vice president to have more of an activist role. One thing that's changed in the last half century is that the vice president has steadily receded away from the Senate. He comes down for ceremonial purposes—

GOLD: And to break a tie.

RITCHIE: But has there ever been a vice president who has been an active player in the Senate during the years that you've watched the institution?

GOLD: No. When I got here, Agnew was the vice president. He didn't preside very much. [Walter] Mondale in the Carter years, George Herbert Walker Bush during Reagan's time, Dan Quayle, and then Gore.

None of them I think was particularly active, even if they had served in the Senate before. [Dick] Cheney does come up to Republican policy luncheons, so he does come up to the Hill, and he's very important in terms of behind-the-scenes negotiations, but has spent little time presiding.

RITCHIE: Is that a detriment in some respects? Do you think that the vice presidency should be more active on the legislative side of things? Or is there no platform for them here?

GOLD: Cheney for one has been active in the legislative side of things in the sense that he's been very important in helping to negotiate specific pieces of legislation. What he hasn't done is to sit and preside, except in the rarest of circumstances. We had a debate earlier in the year on the constitutionality of filibusters and he presided for one hour, all according to plan, but my sense is that the vice president winds up being involved in so many things now that presiding over the Senate during some desultory debate is probably not a particularly good use of his time. So long as he can be instrumental as a spokesperson in private negotiations for administration policy, and as long as his presence can be felt that way, as it very much is in the case of Dick Cheney, then I think that that probably is all that can be expected in a modern vice president.

RITCHIE: He's essentially a neutral presider anyway, although in the case of the filibuster rule there was the hope that the vice president would make an activist ruling. But

99.9 percent of the time, the vice president says what the parliamentarian is telling him to say, isn't he?

GOLD: That's right. In Nixon's case, according to Dr. Riddick's oral history, the ruling was probably contrary to the advice of the parliamentarian, and Nixon spent a lot of time working on it, but even that now I think would be hard to get. The key is not to have the vice president preside. The key is not to have the vice president divorced from the Hill. He's got to be very much involved in what goes on up here as a spokesperson for the administration, and as a negotiator for the administration. The fact that he is not performing the ceremonial role of presiding is less important, I think.

RITCHIE: The other factor in the business about filibusters and clotures is that essentially for the last decade the two parties in the Senate have been relatively close in number. You've got 53 to 47 or 51 to 49. The minority and the majority are only a few votes apart, and that's perhaps another reason why the minority asserts its rights so vociferously. After the 2000 election you had this remarkable situation in which both parties were exactly equal in the Senate. There were 50 Republicans and 50 Democrats. Did you get involved at all when they were negotiating the arrangements for how they were going to work out a divided Senate?

GOLD: Only peripherally. I was more involved in how they were going to count the electoral votes, okay, and what was going to happen if there had been a challenge to some electors, which thank God there was not.

RITCHIE: How did you get involved in that end?

GOLD: I was asked for counsel by Senator Lott's office and the rest of the Republican leadership, and met several times with them. I had a trip planned simply as a vacation going to London in December 2000. I thought it was a perfect time to go because the election, of course, would be over by then and the new administration, whoever that was going to be, was not coming in office for another month, and it would be just a fine time to go to London and enjoy the Christmas decorations at Harrod's. I wound up taking reading on the trip but it was not the reading I planned. It was a big stack of information that the leader's office provided for me to review, previous electoral vote challenges. So that was very interesting reading. Fortunately, they never had to act on any of it.

RITCHIE: What were you afraid that they might do at that time?

GOLD: Well, there was a question of competing electors from Florida and which set of electors was going to be accepted. Vice President Gore was still the presiding officer of the Senate, what kind of rulings was he going to make? Or if he wasn't going to make the ruling then the president pro tem was going to be Robert C. Byrd, what kind of rulings was he going to make? Nobody knew how those rulings would go, but the notion of a Senate majority, which Democrats had in that seventeen-day period between January third and January the twentieth, ruling on the electoral challenges where the House would go in one direction and the Senate was going to go in the other, was a spectacle that, I think, worried people.

RITCHIE: The only comparable time would have been 1876-77.

GOLD: The Hayes-Tilden election.

RITCHIE: Where the two parties having different control of the two bodies, and the question of which votes they were going to count.

GOLD: And that was the issue. Were you going to count the Bush electors in Florida, certified by the governor, or some Gore electors that might be certified by somebody else? Or the ones that the state legislature sent to you? The legalities of all of that are beginning to recede in my mind a little bit so I'm not as sharp on that subject as I was three years ago, but I do remember that very little was clear about it.

RITCHIE: There's sort of a void in the Constitution on some of those questions about what do you do when you can't resolve the differences. Usually you have to be creative in coming up with something like the commission they appointed in 1877. A totally extra-constitutional solution to the problem.

GOLD: Yes, ultimately Congress accepted the conclusions of the commission, but they appointed somebody to review it, essentially. Who knows what they would have had to have done? But the prospect that there would have been a challenge to the electoral vote in Florida was I thought fairly high. It almost happened. There was a lot of agitation to try to get that done prior to the moment that the electoral vote was counted. The people would

make these protests, but no senator would stand up and say, “We will endorse the protest and we’ll take the matter back to the Senate.”

Just before that, the 50-50 bipartisan arrangement had been reached here in a fashion that was satisfactory to Senator Daschle. Had it not been done ahead of time, I’m not sure the Senate would have not taken up one of the challenges.

RITCHIE: That 50-50 agreement was in itself unique. The only other time that the Senate was equally divided was in 1881, but there wasn’t any agreement like that then. And in 1953, there was a period in which they were almost equal but again no agreement. In fact, during the Eighty-third Congress we found there were several times in which the minority party had more senators than the majority party!

GOLD: There were a number of deaths in that Congress, as I recall.

RITCHIE: Nine senators died in that two year time period, including the Republican majority leader who was replaced by a Democrat. That 50-50 resolution seemed critical in getting anything done, but it was still remarkable that the incumbent majority party, the Republican party, was willing to gamble on losing the majority during the Congress. They agreed in advance that if the numbers changed, the majority would change with it, so it’s the only Congress where we have a switch in the majority in the middle of the Congress. Do you think in retrospect that that agreement was an absolute necessity or was a mistake made in agreeing to that kind of an arrangement?

GOLD: Because I was not intimately involved in that negotiation, and I don’t know what the trade-offs might have been, it is a bit difficult for me to answer that, but I do know that they reached the agreement on the organization of the Congress and *very* shortly after that there was the electoral vote count that went smoothly because no senator took up the issue that was raised by members of the House protesting the count. I have a hard time thinking of those two things as being disconnected from each other. I think that essentially an understanding that was reached as to the organization of the legislative branch materially assisted the organization of the executive branch. If that is so, then I think they did what they had to do.

RITCHIE: Of course, all of the party switches that had taken place within memory were Democrats becoming Republicans. There hadn't been a Republican who became a Democrat in the Senate since Wayne Morse in 1955. So I suppose there was some assumption that if a change occurred it would be in the Republicans' favor.

GOLD: Well, I think the grave concern was about Senator Thurmond and his health. The question was whether he was going to live through the Congress. If anybody had tried to predict in January what the change might be, a very hazardous thing to do, but I think they would have predicted that Thurmond might not live through the Congress, and that would be the change.

RITCHIE: And there was a Democratic governor in South Carolina.

GOLD: Exactly. It was all so tenuously balanced to begin with that anything might have made the change but what did happen was I think outside the expectation of most people, and Thurmond wound up living.

RITCHIE: Also in that couple of months when the Republicans were still in the majority, that's when Senator Lott fired Bob Dove as the parliamentarian.

GOLD: That's correct.

RITCHIE: Again hard to fathom, but an indication of some of the tensions that were going on. Did he consult with you at that point? I know you had been asked in the past to become parliamentarian.

GOLD: Yes, I was consulted several times, and had no interest in the job for a few reasons. One, I strongly believed that the job should not go to a partisan. Although I had tried as a lobbyist to work on both sides of the aisle, I obviously had a partisan background and I thought that firing the parliamentarian and replacing him not with a career person but with a partisan was probably a big mistake for that office. I was concerned that it would taint any decisions that I made. If I ruled for the Republicans I would be seen as a party hack. If I ruled for the Democrats I'd be seen as disloyal. I did not think that I had any possibility under the tensions and circumstances that existed at the time of overcoming that. Even though I think

that there are a number of Democrats, Daschle I think, and Joe Lieberman, perhaps Robert C. Byrd, who would have perhaps given me the benefit of the doubt going in, but would have been under a lot of pressure if I had come down on rulings that ran contrary to their party's interest.

I did not see how I could be effective in that atmosphere. Nor did I see the necessity of doing it because I thought that the wise thing was to promote from within. Alan Frumin, who had served eight years as the parliamentarian, was there and prepared to assume the job, so my position—as I very much expressed to Lott's people—was Bob Dove should not be fired. If it were inevitable that he would be fired, then he should absolutely be replaced from within and not from the outside.

RITCHIE: The previous two times in which there had been firings of parliamentarians was at the beginning of a Congress when the parties were changing. This was in the middle of a Congress, and Bob Dove had been a Republican staff member during the Dole years, so he wasn't perceived to be hostile to the Republican majority.

GOLD: Correct.

RITCHIE: But here in the middle of a Congress, in the middle of a negotiation—he was actually meeting with senators when he was suddenly informed that he was out—do you have any idea what went on that led to that decision?

GOLD: I was not privy to it. I've heard various stories from people later on, and I've asked that question, but let me say there were a lot of negotiations occurring about budget reconciliation, as I recall, so I know that those negotiations and his positions on those negotiations led to his dismissal. But what might have been the catalyst, I can't say. What I do know is that the discussion about removing him long preceded those negotiations. So if you ask what the catalyst was, I'm not sure. But if you ask if this matter was under review for a very long time, then the response is absolutely yes.

RITCHIE: It's interesting that budget reconciliation was going on at the time. There are a number of things that give parliamentarians a considerable amount of influence, such as referring bills to committees, which in some cases can be an extremely important tactical move. The other situation involves reconciliation bills, does it meet this or that criteria. There

are a lot of judgment calls. Does this reflect the fact that Congress has devised plans that increase the authority of the parliamentarian to make decisions that are decisions that the senators think should be theirs?

GOLD: Well, these decisions always belong to senators. They can always appeal. The job of the parliamentarian has become infinitely more complex. They have to deal with a lot of things that they didn't have to deal with when I first started here. Most notably issues that come from the Budget Act and interpretations of the Budget Act. They have help with that, because the Budget Committee, of course, is of great assistance to the parliamentarian, but ultimately it's the parliamentarian's call. However, ultimately the decisions are the Senate's call.

I look at that parliamentarian's job as being a fundamentally no-win situation. You're a legislative judge with no tenure whatsoever. You have to make rulings in a process that is inherently adversarial, and will ultimately work to the political disadvantage of one party or the other. You can only hope that you have made those rulings with integrity and you have people in the Senate who will respect the integrity of the rulings even if they don't agree with them. I could see dismissing a parliamentarian for incompetence. I could see dismissing a parliamentarian because of the appearance of unfairness or partisanship. Those would be two reasons to get rid of the parliamentarian. But Bob Dove suffered this fate twice and I never saw the propriety of it in either case. I didn't think he should have been relieved in 1987. I didn't think he should have been relieved in 2001. In neither case was he incompetent or partisan, and in fact I believe was discharging very difficult responsibilities in a very responsible way.

RITCHIE: I suppose that the parliamentarians can justify their rulings on the grounds that they're being consistent; in other words they are ruling the same way when the Democrats are in the majority as when the Republicans are in the majority. It's the senators who are inconsistent in that they have to think differently when they're in the majority or the minority, and they naturally do. Rulings that seem fair when they're in the minority might seem to be obstructionist when they're in the majority.

GOLD: That's absolutely correct, which is what I mean when I say that if you have intellectual integrity as the foundation of the ruling, then you have to have people who are going to be willing to acknowledge the fact that it's going to work to their disadvantage and

move on. Otherwise, the parliamentarian becomes a tool of whoever is in the majority at the moment, and that is a very bad thing for the Senate. It's hard for the Senate to swallow, and another reason why if at all possible promotion in that office should be made professionally and within as opposed to somebody being imposed from the outside.

Believe me, in some respects I would have looked upon the appointment as parliamentarian as being a great honor and a career capstone. But I also thought it was a horrendous morass. So I couldn't see the justification in replacing Bob, who is a personal friend but beyond that somebody I admire very much professionally. I absolutely could not see the justification in failing to promote Alan in the event of his dismissal, because what I just said about Bob I also feel about Alan, as well as the others in that office. I thought that a partisan parliamentarian was bad for the Senate and would never catch a break. So, a series of good reasons not to take the job.

RITCHIE: You had operated out of the Senate for about twenty years, and turned down several offers to come back. What changed your mind when Senator Frist became leader?

GOLD: The call back to the Senate from Senator Frist was very much unexpected, as was his own ascension to the leadership. I did have several conversations on the weekend of January fourth, fifth of this year with senior Frist people offering to help however he might need help, but assuming in those calls that the help was going to be rendered from the outside. I had just started on the first of January at Covington & Burling, where I anticipated working out the rest of my career.

His chief of staff asked me if I would entertain the possibility of coming back up here. I did not dismiss it out of hand, which I suppose was an invitation for Frist to call. But I also had decided that I would not take the job unless Frist did call. That was not because I have such an ego requirement that I need a majority leader to call me, but rather I thought: I'd like to help in any way I can. Is it really that important to him that I drop my career plans, at least temporarily, and take a pay cut, and leave the firm I just joined, in order to be in his service? Is it really that important to him? If it were, he might call. If it weren't, he probably wouldn't.

That Sunday, which was the sixth of January, I didn't hear anything all day long. I assumed that in the end somebody thought the better of it, and I was not disappointed. That was fine with me, because it avoided my having to go through a dislocating experience, and it avoided my having to tell this firm that I had just joined that I was leaving before I ever unpacked my boxes. And about ten o'clock at night he did call, and asked me to come up and help him out. He said I should think about it not as service to him particularly but service to the institution. If I would do that he would be most appreciative, and he understood that it would be difficult for me to make a long-term commitment, but he would take a lesser commitment in time. I said, "Well, let me talk to the firm about it." I could not commit to him on the phone without at least having a conversation with them. The morning after, I went into Covington & Burling and I talked with a number of very senior attorneys there. They made no effort to restrain me. They said, "You do what you have to do." So later in the day, after touching that base, I called back the chief of staff and I said, "Okay, we have a deal." We worked out a starting date and by the twenty-first of January I was here.

I did it because he cared enough to call, and because I could see the necessity for my being there. He had not been ambitious to be in the leadership, at least to be a majority leader. He had not especially prepared himself for the role. I was told by Frist's staff that he needed help in acclimating himself to the job, and that although it would be possible to offer that help from the outside, what he really needed was for me to be there full-time on the inside. So when I combined that thinking with his phone call, and with desire to lend a hand, then I came back.

It was different—I felt strange turning down Senator Lott but coming back for Senator Frist. It didn't have anything to do with my attitude toward either member. It had to do with the fact that I thought the parliamentarian job was not the appropriate place for me to be for reasons I've just outlined, but that this job, which was not the job of a legislative judge but the job of an advocate inside the leader's office, helping to prepare a new leader who was thrown into circumstances not of his own choosing, was a more compelling case to come up here. The first time I was on the floor and saw Senator Lott I had very mixed feelings. I thought to myself, "Are you thinking: 'Well, you wouldn't for me but you come for him'?" I hoped that he would understand that the circumstances of these two situations were radically different. Moreover, the parliamentarian's job, I felt, was a career commitment. Whereas in this case, I could make a time-limited commitment and then go back to doing what I was doing, serving clients, either going back to Covington & Burling

or going to a different location.

RITCHIE: How would you compare the job you do with Senator Frist with the position you held for Senator Baker? Are they essentially the same or are there any significant differences?

GOLD: They're broadly the same. There is more outreach to other caucus members in this job than there was for Baker. With Baker, I was the one that wrote the unanimous consent agreements. I don't do that now. I review a number of them but I don't write them. With Baker, apart from Bill Hildenbrand, I was the only person on the staff that was knowledgeable about process and was very much relied upon for that purpose. Frist also has additional people who can do that, so I'm not fully relied upon for that. I am relied upon for a number of major things, but not for everything.

With Baker, I did a little bit of education work outside of the leader's office and certainly was available to other Republican senators. With Frist, the education program is a major initiative on his part. He and I discussed it early and we decided that it was something we would do under the sponsorship of the leadership. So in 2003 I did eighty programs around the Senate, sometimes for senators, sometimes for staff, and sometimes for the policy committee, eighty programs overall under his imprimatur. I also have been engaged in the preparation of a book, which will be a big expansion of the manual that I did, also under his encouragement and with his complete cooperation. So certain of the internal functions are narrower, and the external functions—external within the institution—are broader.

RITCHIE: Would you be there to advise him when he's getting ready to go on the floor with a bill? Would you advise him in terms of tactics, things to watch out, or anticipated responses from other parties?

GOLD: All of the above. The way that the office is organized, that tends to be done by committee as opposed to Baker's system, which was more to rely on individuals in their particular roles. So the answer is that I get involved in a great number of things. My jurisdiction is a little bit flexible. But certainly the functions that you just raised are functions that I have performed.

RITCHIE: Is the leadership staff much bigger now than it was twenty years ago when you were with Senator Baker?

GOLD: I actually have never made a count of it, but my impression is that that's so. It is bigger.

RITCHIE: Senator Baker took over the old Disbursing Office, which was next door to the Republican leader's office, and expanded the space. Now the leadership offices have gone around the corner and down the corridor. You have a large amount of real estate in that part of the Capitol.

GOLD: It went around the corner the last two years of Baker's tenure. My recollection is that people filled those spots, so I'd have to do a roster count to figure out if we were really any bigger than before. But I know that when Baker was the minority leader we had a very much smaller staff, and when he became majority leader the initial expansion would have still left us with a much smaller staff than Frist has now. It's just that I'm not sure that by the end of Baker's time if we hadn't rounded it out.

RITCHIE: Beyond working by committee more often than individually, are there any other major changes you notice between the Baker style and the Frist style of leadership?

GOLD: Baker was leader before there were Blackberries and e-mails, so it was much more personal. Maybe it was style or maybe it was just of necessity, but there was more individual face time with the leader in those days than there is now. Frist likes to communicate a lot through the Blackberry. So the following statement would be true: When you have face time with him, it tends to be in a group. Yet I have freer access to him than I ever had to Howard Baker because I can always communicate with him by Blackberry, and do so in an unfiltered way, and get back an unfiltered response, quickly. On the face of it, I had more apparent access in Baker's time than now, but the reality of it is I have more access now.

They are stylistically different people. Baker had a very well developed and very gentle sense of humor that he often used to leaven conversations. Frist also has a sense of humor, but he doesn't use it much in leavening conversations. What he does is extremely businesslike. He is very, very focused and knows where he wants to go.

RITCHIE: I don't think a lot of people see him as having a great sense of humor, but I got invited to the Gridiron dinner this year and he did a wonderfully funny skit of himself as a doctor doing a physical examination of David Broder on stage.

GOLD: [Laughs] I'd like to have been there for that!

RITCHIE: And he compared the bodily functions to the legislative process.

GOLD: [Laughs] He does have a good sense of humor, I think, and is a very, very decent man. But I didn't see that sense of humor for months when I started. There's the question of when you see humor coming from the leader, and the next question is: when can you use humor to talk to the leader? If you've not seen a lot of humor coming in your direction, you're a little bit reluctant to use humor going back the other way, which is a way that I tend to communicate. So I found initially that I had a very easy relationship within the staff, but a formal relationship with him. But as we have gotten to know each other better, that has very much eased. It's always been a good professional relationship, and I also consider it a good personal relationship.

RITCHIE: You mentioned that with Senator Baker there was a Tennessean influence on the leader's staff. Is that the same with the new Tennessee leader?

GOLD: No, it isn't. A number of the people who came to his office had no Tennessee connection whatsoever. He did not bring a lot of Tennessee people over from his Tennessee senator's office into the majority leader's office. He brought several, but not everybody, and even the ones that he brought were not necessarily native to Tennessee. I've had the privilege of working for two leaders from Tennessee and one senator from Oregon, and I'm not from any of those places.

RITCHIE: Senator Frist got into the leadership under the most extraordinary circumstances. First that one leader had to go and another had to replace him abruptly. He was elected on a conference call. He didn't campaign, as far as I know, for the job. How does that affect his style of leadership? Did his election and the means of his election give him more leeway than some of the other leaders before him?

GOLD: I don't know that it gives him more leeway. In his early months particularly he was extremely solicitous of other people's opinions and worked a lot through other senators who were in the leadership, as well as with his committee chairs. At the time, somebody interviewed him and asked him about [Robert] Caro's book, *Master of the Senate*, and did he want to be a leader like LBJ. He said, "No, that's the last kind of leader I would want to be." The leader that he more wanted to model himself on was Mansfield, who would have had exactly that type of approach, working with his leadership and working with his committee chairs to try to build consensus.

As he got more sure in his footing, you could see him leading that group more as opposed to simply consulting with it. His style is to try to build consensus through the leadership group and through the committee chairs. The way that he came into office necessitated that he operate that way, in any regard.

RITCHIE: He's in a tough situation in that he has a very narrow majority, and he's also got a president with a program, and a House leadership of the same party. Everybody's looking to him to get things through the Senate, but as we've said, it's much more difficult to get things through the Senate. How partisan can he afford to get? Does he need to retain that pragmatic approach and bipartisan approach or can he afford to be a more partisan leader as the Republican majority leader?

GOLD: As with anybody else in that role, there are limits to partisanship. The Senate is a much more partisan place now than it was when I left twenty years ago. There are various symbols of that about, but in any event, for the moment we'll say that it makes it hard to get things done here. Sometimes he has to tack to the right in order to make people believe that he's not simply being a pragmatist, as in the case for example of the forty-hour grand debate that we had on judges. That wasn't anything he worked out with the Democrats, except after he announced that we were going to do it. It was something that we did to highlight the issue and to respond to pressures from within the party.

On the other hand, in the drafting of the Medicare bill, he worked extremely closely with Senator [John] Breaux, with Senator [Max] Baucus, in terms of trying to come up with a bipartisan vehicle, and absolutely *avoided* the possibility of using the reconciliation process to pass that bill, believing that it was worth taking the risk for sixty votes because a bill of that magnitude needed to have a sufficient bipartisan consensus behind it. He was not

advised to do that by staff, nor was he advised to do the contrary. He was given options. But that's the option he chose, and that was the rationale he gave. So it was his own thinking, not supplied thinking.

Moreover, in response to the filibusters that have been launched on the judges, he was under a lot of pressure from within the caucus as well as from outside groups to do more about that than he has done. He made a proposal for filibuster reform on nominations, but he was urged by a number of people to try to launch the constitutional or nuclear option, however you want to phrase it, and essentially had to eschew doing that because he had an agenda that had to get passed. If he gave in to the ideological impulses or the most partisan of impulses he wouldn't have gotten those things passed.

My belief is that his is extremely focused and driven and has learned a lot in a short while about how to adapt his own style to the needs of leadership, and how to lead. I think he has emerged from this year as a very good leader, not without some bumps and not without some bruises, but a very good leader. Going forward, I would predict that he would be one of the more effective leaders that the Senate has had, notwithstanding how he came to the job and notwithstanding the fact that he had no ambition for the role.

RITCHIE: I thought that one of the advantages he had in not having to campaign for the job was he didn't have to promise a "quality of life" platform.

GOLD: And he wouldn't give you one. That is not high on his agenda. What is high on his agenda is coming up with a legislative program and getting it done.

RITCHIE: He's certainly kept the senators' feet to the fire. There have been a lot of late-night sessions, and he's talked about sessions on Mondays and Fridays. He seems to have been more persistent, perhaps he hasn't promised senators they could go home for supper on as many night as some of the other leaders have.

GOLD: I think that's very true, and it's also reflective of his own work ethic, which is extremely rigorous. He doesn't sleep too much, and he is always busy. He is around a lot. I think if you were to look at his life and everything he has ever done, he has approached all of those positions that he's had the same way, which is an extremely rigorous work ethic. What he does for himself he expects from others.

RITCHIE: Well, what do you expect for yourself at this stage? What's the next stop? You said you were planning to leave sometime in January.

GOLD: The fifteenth. I'm going to return to Covington & Burling. I accepted a partnership and I'm going to co-chair the legislative practice group there. So I will begin with them on the sixteenth. I'm going to change for two reasons. One is I had not prepared myself to go back into the government, so I did not put myself in a position financially where I could afford to do that. I have not made changes in my lifestyle this year to speak of, anticipating that we're just going to be a year. If I were really going to stay longer I would have to make significant changes, sell my house and do other things. My wife would be okay for me to do that, but I don't think that that's the sort of retirement that I want to plan for her or for myself.

I would not limit myself from being able to serve in government again. But in order to do that I've got to take a period of time and establish the proper economic foundation. I wasn't ready to do it now, and if I had stayed longer now the ability for me to leave would have been more restricted. So part of it is economics. Another part is commitments. I told the National Football League when I left that I would be gone a year. They were kind enough not to replace me. They've been a loyal client for twenty years, transitioned with me from one firm to another. I thought I owed it to them to honor that commitment.

So because of economics, because of commitments that I made to private sector clients on the amount of time that I would be gone, and because of the understanding I had with Senator Frist at the very beginning of this process as to the amount of time I would stay, I thought that I should go ahead and execute the plan. I do approach it with very mixed feelings. I am anxious to join Covington & Burling and serve the National Football League. But I have an enduring affection for the Senate that has increased in this year. Coming back reaffirmed why I liked it in the first place. I have engaged a number of friendships here over the year that were either a deepening of friendships that I already had or in a number of cases new relationships. All that has been great.

Working with Senator Frist has been wonderful. I knew him a little bit prior to the time that I started here, because most of the relationship that I had with his office was really with his staff. But now there's a relationship that I deeply value. So if I didn't have economic reasons or commitments, I simply wouldn't leave. I used to tell people that they ought to

leave the Senate when they still loved it, because they would still have to work with it and it was better not to do that as a cynic. I love the place now more than I ever have, so that means that I'll have a good time working with it, but still be very sad the day that I walk out that door.

RITCHIE: It must have been special to walk back into the Senate chamber, out onto the floor after twenty years of watching it from the gallery.

GOLD: Fabulous, actually. The first thing I noticed that was different was the lighting, because of the television. It's one thing when you're sitting in the gallery, of course it's brighter in there but you don't get the full effect of the lights because the lights are not concentrated on you, they're concentrated on the floor. The first day I went in there, I felt like I was under a bunch of spotlights, and at the close of business that day, they turned off those lights. The chamber lights remained, which made the place at that point seem very dark. But I realized that's what the Senate used to be like.

There were some people on that floor, Orrin Hatch, Dick Lugar, Thad Cochran, Chuck Grassley, Ted Stevens, John Warner, who of course were there when I was here before and were very gracious to me when I was standing there. In many cases came over and thanked me for coming back, which was very good of them. There were also a whole lot of new faces, senators who I didn't know all that well, and certainly staffers who I didn't know all that well, and so I had to get a sense of bearings again. The day I started was the twenty-first of January; the leadership office had been up and running for two weeks at that point, so it was like running to catch a train that was already moving. How do I reconnect with it?

For the first two weeks that I was here, I felt like I may have made a mistake. Is this really for me? Should I have left well enough alone? And then we went to the Greenbrier for a party bicameral conference, where we could actually do some planning for the year, and I could listen to people, socialize, and get my bearings. That was the great steadying moment. After that, I felt totally at home.

RITCHIE: The faces keep changing but the institution remains remarkably the same. It has had a lot of differences, but it doesn't take long to realize you're back in familiar territory.

GOLD: I feel that way every time I go to New York. After you live in the pace of Washington, you go to New York and the whole scale of things is different. It takes me about a half an hour to get myself situated in it and then I'm in the crowd. The same thing is true here. There are changes in the institution, it is more partisan, the television has had a big impact, I think, on that, by the way, because I think it has led to more posturing. Howard Baker used to talk about it as just an extension of the public gallery. It is that, but it's much more than that. It's a major magnification of the public gallery.

So aspects of the institution have changed. The senators' dining room used to be open whenever the Senate was in session but now it no longer is after a certain hour of the day. There's construction all over the place. There's security regulations all over the place. It is not as easy an environment to be in as it was before. People who come to Washington now don't know any better than that. When I tell them that when I started here you could drive right in front of the Capitol Building and catch a cab right in front of the steps on the east front, nobody believes that, because they can't imagine that that could be so. But I remember when it was that way, as you do. I felt, well, okay, that was an easier environment. The changes that have occurred are not for the most part changes that are for the better. It's not for the better that there's more partisanship. It's not for the better that there's more posturing and more intractability. It's not for the better that there's more security, even though it's a necessity. None of that is for the better in my opinion. I don't think the institution is improved over what it was before.

But there is such resilience in the Senate that it survives all of that, and it's still as magnificent a place to be, to work, to study, to observe, as I can imagine there being. I was in Moscow a little over a year ago to speak to the Federation Council of the Russian Federal Assembly. They wanted to know about the Senate. I talked about the Senate basically for a couple of days to very avid listeners. As I did that, I thought to myself: this is a labor of love, because I'm describing something that I love, describing something that I'm very proud that I maybe have contributed to to a modest extent, and I'm describing one of the great institutions of this country. The hope is that in those lectures and whatever teaching I can do around here, to convey that, because if people here for example don't feel privileged to be here, in my opinion they're missing the story.

RITCHIE: Well, hopefully this oral history will also be a contribution to that understanding as well. Are you thinking about writing a book? You mentioned that you've

got an expanded version of your procedures coming out but have you ever thought about doing any more writing about the Senate?

GOLD: We'll get this one published and then think about that. I actually have a book that I'd like to write someday that isn't about the Senate per se although it involves the Senate, which is a study of the Twenty-first Amendment. There are books out about the Eighteenth Amendment and the advent of Prohibition but the thing that has always interested me so much is that this great political consensus that led to the Eighteenth Amendment over so many years of development sufficiently evaporated where the amendment could be repealed as a matter of federal constitutional law and the issue of alcohol regulation could go back to the states. My interest in that stems in part from my interest in wine, and wine shipments. I'm very interested in the story of where the repeal began, and what was the origin of it, in what state legislature did it begin in, did it begin in Congress, did it begin in the states, I have no idea what the answer is to that.

RITCHIE: And the problem that it created for senators who had taken positions one way and had to justify switching later on from dry to wet.

GOLD: Well, that's a book that I have interest in doing, but that's a book that's going to require a lot of time and going out and looking at archives, and legislatures, and so forth. I think that for that reason it's a book that won't be written for a few years.

RITCHIE: There was also the "Man in the Green Hat," the rumrunner who handled the Senate and House office buildings in the 1920s. The *New Yorker* did a profile on him later, after Prohibition was lifted, and he mentioned that of his clients in the Senate and the House he had more dries than wets. He said it wasn't that the dries were more hypocritical, it was just that there were more of them. But that's a wonderful topic. If the Senate Historical Office can be of any assistance, let me know.

GOLD: Well, if that ever gets started, there is no question about where I will come.

RITCHIE: Well, thank you for participating in our oral history project. As you look at the transcripts, if you think that there is anything that we have omitted, or should have talked more about, I'll be very happy to extend this.

GOLD: All right. I will do that.

RITCHIE: Well, I have enjoyed this.

GOLD: So have I, thank you so much.

End of the Fifth Interview

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