

**EDWARD E. (TED) KAUFMAN**  
**United States Senator from Delaware and Chief of Staff to Senator Joe Biden**

Oral History Interviews  
August 17 - 24, 2011, September 27, 2012

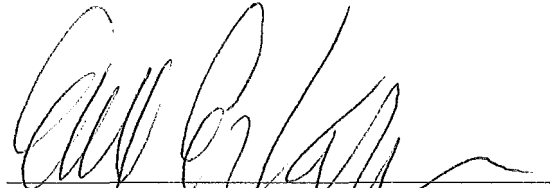
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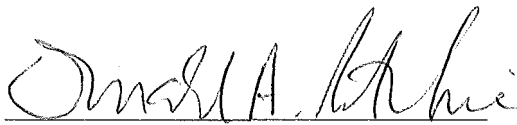
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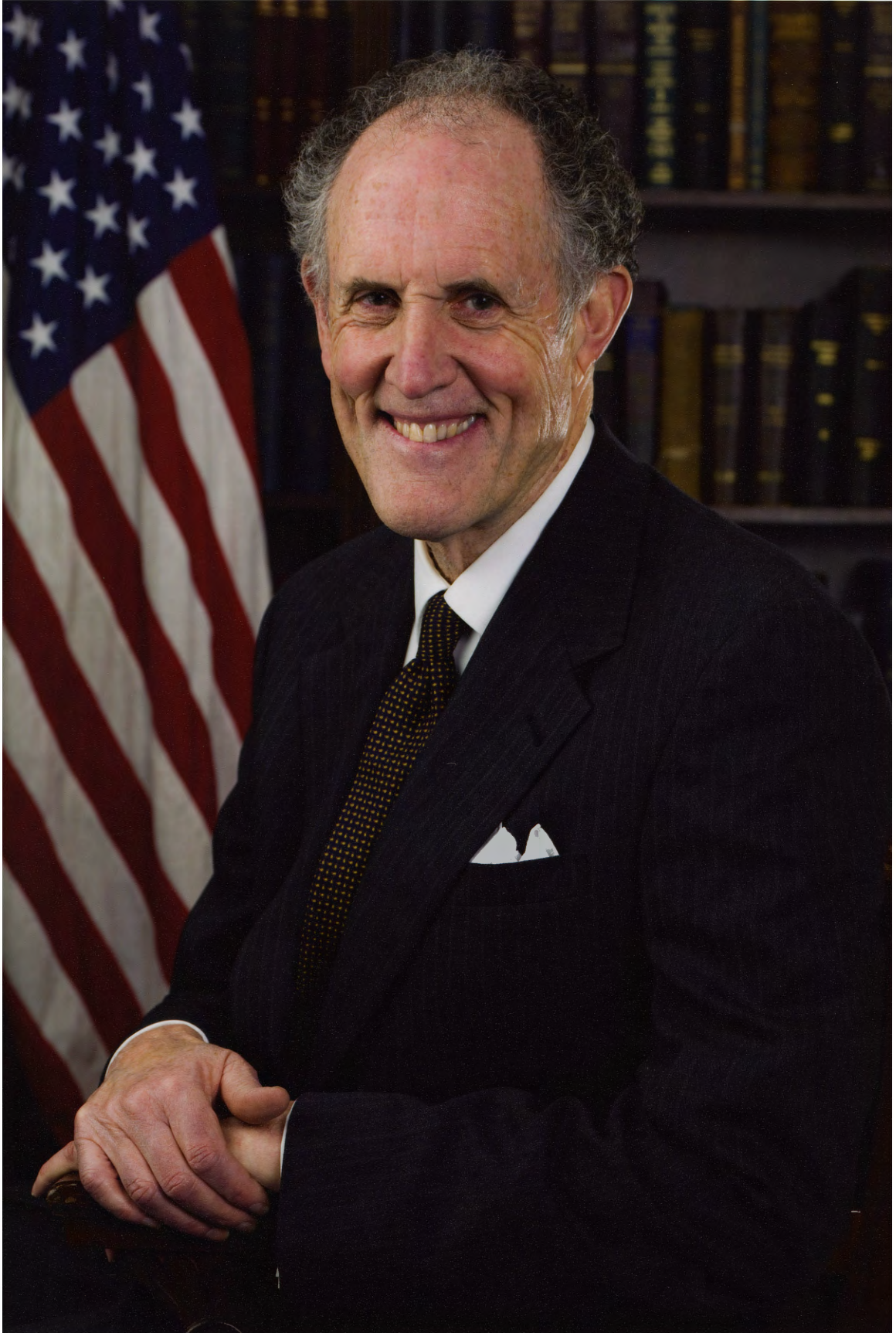
  
Edward E. Kaufman

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Accepted on behalf of the  
Senate Historical Office by:

  
Donald A. Ritchie

September 3, 2013



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## Dedication

To Lynne, who is the love of my life, my best friend and has made all this possible.

To Mom, who taught me to fight for what I believe in, and Dad, who was the greatest man I have ever known.

To my daughters, Kelly, Murry, and Meg, who have taught me so much about life and married Fritz, Matt and Tom whom I love.

To my wonderful grandchildren, Ginna, Kirsten, Natalie, Liam, Calvin, Martha, and Lincoln, the joys of my life.

To my sisters, Lee Jane, Helene, and Suzy, so like our parents—smart and principled—and their partners David, John, and Peter, and their children.

To the Mayos, Ned, Janet, Robb, and Susan, and their children—no one has had better in-laws.

To the Biden family,

To Joe, a great leader, example, and friend who has been a constant source of support and counsel.

To Jill, Valerie, and Ashley, they are the embodiment of strength, character, and grace.

To Beau and Hunter who are like my own.

To my Senate Staff, and the Biden Senate Staffs, smart, accomplished, and great friends on this wonderful journey.

To Chris Schroeder, Jeff Peck, and the Law, Sanford, and Fuqua students at Duke University, from whom I have learned so much.

To the United States Senate, which I love, and the Senators and Staff who work there.

## Preface

“Mr. President, I love the Senate,” Senator Edward E. (Ted) Kaufman began his farewell address on the Senate floor. “It is not always a beautiful thing, and surely it is not a picture of a well-oiled machine, but years ago I found a home here.” Kaufman had a long and unusual career with the Senate, having served for 22 years on the staff of Senator Joseph Biden—19 of those years as chief of staff—and then succeeding him to spend two years as a United States senator from Delaware. Those experiences as staff and as a member gave him a unique perspective on the Senate as an institution.

Ted Kaufman was born in Philadelphia on March 15, 1939, the son of Manuel and Helen Carroll Kaufman. He attended school in Philadelphia and Washington, D.C., and graduated with a degree in engineering from Duke University. In 1960 he married a fellow student, Lynne Mayo, and took a job with American Standard Industrial Division, working in North Carolina. Then he attended the Wharton School of the University of Pennsylvania, where he earned an M.B.A. in 1966. A job with the DuPont Company brought him to Wilmington, Delaware.

In 1970 he became involved in Delaware Democratic politics to manage the campaign for a candidate for county executive. He soon met county council member Joseph R. Biden, Jr., who, although not yet 30 years old, was planning to run for the U.S. Senate in 1972. Biden’s sister Valerie served as his campaign manager and recruited Kaufman to work in their uphill fight against the incumbent Republican senator J. Caleb Boggs. Biden proved to be an extraordinary campaigner. Going against the tide of Richard Nixon’s landslide reelection that November, Biden upset Boggs to win the Senate seat. A month later, the senator-elect suffered a devastating blow when his wife and infant daughter were killed and his two sons injured in an automobile accident. At first uncertain about whether or not to enter the Senate, Biden eventually took his oath as a senator in a hospital room in Delaware. From then on he commuted almost daily between Washington and Delaware to spend as much time as he could with his sons.

Ted Kaufman took a one-year leave of absence from DuPont to join Biden’s staff in the home state office—which turned into a 22-year career on the staff. In 1976 Kaufman became Senator Biden’s chief of staff, commuting regularly with the senator, both by car and train. Over the years, as Biden advanced in seniority on the Senate Judiciary and Foreign Relations Committees, Kaufman became immersed in a multitude of issues relating to these committees, from Supreme Court nominations to matters of war and peace. In 1987 Kaufman took a role in Senator Biden’s campaign for the Democratic presidential nomination. When that campaign ended in controversy, Senator Biden returned to chair the hearings on the nomination of Robert Bork to be a justice of the Supreme Court. In 1988 Biden underwent surgery for two brain aneurysms that temporarily sidelined him from the Senate, with Kaufman keeping his office in operation.

At the end of December 1994 Ted Kaufman retired from the Senate staff and took a variety of positions, including appointment to the Broadcasting Board of Governors and teaching a course on Congress at the Duke Law School. He returned to work on Senator Biden's campaigns for reelection, and in 2008 once again joined Biden's presidential campaign. Although Biden withdrew from the race after the Iowa caucuses, he was tapped to run for vice president on the ticket headed by Illinois senator Barack Obama. Kaufman once again became part of the campaign, and after the Obama-Biden ticket was elected, he served on the transition team.

On November 24, 2008, Delaware governor Ruth Ann Minner announced that she was appointing Ted Kaufman to fill the vacancy created by Senator Biden's resignation. He took the oath of office on January 15, 2009, and made it clear that he would not run in the special election scheduled for November 2010. Instead of campaigning, he devoted himself to Senate service.

Opening during the "great recession," the 111th Congress faced critical issues of restoring the economy, regulating the financial excesses that had caused the collapse, and reforming the nation's healthcare system. Democrats held a large majority in the House of Representatives and 60 seats in the Senate, which enabled them to invoke cloture and limit debate. The Republican minority opposed the president's initiatives, making it essential for the Democrats to remain united, which promoted debate and compromise within the Senate's Democratic Conference. In January 2010 Republican Scott Brown won a special election to fill the late Senator Edward M. Kennedy's seat, costing the Democrats their 60th vote.

In this dramatic setting, Ted Kaufman combined a brief career as a senator with a long Senate perspective. In his oral history, conducted in the offices of a law firm in Wilmington, Delaware, he recounts the ways in which the Senate operates, the relationships between senators, and the influence of civility and partisanship on the institution. He also discusses the rules and procedures of the Senate that were so much in contention during the 111th Congress. In his farewell address he described the history of the Senate as "a struggle between compromise and intransigence." Senators were often frustrated by the Senate's slower pace and when good bills were blocked for the wrong reasons, but he pointed out that the Senate served a different constitutional purpose from the majority-rule House, for the Senate was designed to insure that the "fast train of majority" did not overrun the minority. "I love the Senate," he concluded, "and I will always cherish the unlikely opportunity I had to serve Delaware as its Senator."

*About the Interviewer:* Donald A. Ritchie is Historian of the Senate. A graduate of the City College of New York, he received his Ph.D. in history from the University of Maryland. His books include *James M. Landis: Dean of the Regulators* (Harvard University Press, 1980), *Press Gallery: Congress and the Washington Correspondents* (Harvard, 1991), *The Oxford Guide to the United States Government* (Oxford University Press, 2001), *Reporting from Washington: The History of the Washington Press Corps* (Oxford, 2005), *Electing FDR: The New Deal Campaign of 1932* (University Press of Kansas, 2007); and *The U.S. Congress: A Very Short Introduction* (Oxford 2010). He served as president of the Oral History Association and of Oral History in the Mid-Atlantic Region (OHMAR), and received OHMAR's Forrest C. Pogue Award for distinguished contributions to the field of oral history.



## ENGINEERING, BUSINESS, AND POLITICS

### Interview #1

Wednesday Morning, August 17, 2011

**RITCHIE:** I wanted to start at the beginning. I note that you were born in Philadelphia, and I wondered if you could tell your childhood in Philadelphia. What was your family like?

**KAUFMAN:** Let me start with my present family. Lynne and I are truly blessed. First are our three daughters, Kelly, Murry and Meg. They have grown into wonderful people and three of our best friends. They also married three men we could not love more. Kelly met Fritz Lance at Dickinson College. They live outside of Baltimore, and have two daughters Ginna who went to Penn and Kirsten who went to Dickinson. We are very lucky that they both now live and work in Washington and we see them a lot. Murry went to Duke and met her husband Matt Pierce, a Michigan State graduate, when she was working for General Electric and he was designing cars. They live in Birmingham, Michigan and have two children; Natalie and Liam who we fortunately get to see a lot. Our third daughter, Meg met her husband Tom Hartley at the University of Pennsylvania and lives in Hammersmith outside of London. They have three children, Calvin, Martha and Lincoln. Between our regular trips to London and their trips to the United States we spend a lot of time together.

I was born in Philadelphia. My parents were both born and raised in Philadelphia. My father, Manuel Kaufman, was Jewish and my mother, Helen Carroll, was Irish Catholic. They both lived in South Philadelphia, on either side of Broad Street, and there was no chance that they would meet each other. Back in those days, and even when I was growing up, Philadelphia was a city of great ethnic divides, where the Italian, the Jewish, the Irish, the Polish, the black community, and—to the extent there was a Hispanic community—the Hispanic community each lived in their own neighborhood (s) with very little interaction.

They both went to the University of Pennsylvania, but didn't meet there. They met later on. They were both working in public assistance as social workers when they got married. The biggest thing was that back in those days an Irish Catholic was not very welcome in a Jewish family, and a Jew was not very welcome in an Irish Catholic family, so it was interesting growing up with these two ethnic backgrounds.

At Penn, my mother was president of her sorority and was a big person on campus. Interesting point, at that point the *Daily Pennsylvanian*, even though women had been there for a number of years, never had a woman's name in the newspaper. Even though they were students there, they were never mentioned. My mother went to John W. Hallahan Catholic Girls High School in South Philadelphia

My father went to South Philadelphia High School, and then went to Penn on a basketball scholarship. He was six feet one-and-a-half inches which in those days made him big enough for him to play center. He thought he may have been one of the first Jews to play in the Ivy League. He played and started his first year, but he hurt his knee and lost his scholarship—which is what they did back then. His picture with his team 1931-32 is on the wall of the Penn Palestra. He went back and earned a degree in fine arts at Penn. He then taught art in the city schools, and then returned to Penn and earned a master's degree in social work. He spent his career in social work and especially helping children. He finished his career as Deputy Commissioner of Public Welfare for the City of Philadelphia. My mother worked in a number of social work jobs and later was a teacher in the Philadelphia City Schools. In 1942 my parents had the first of my three wonderful sisters, Natalie Jane, who we called Lee Jane.

Philadelphia was a great middle-class or lower-middle-class place to grow up. I spent most of my early years there. Then we moved to Washington, D.C. We lived out in McLean Gardens, in a very nice apartment neighborhood. There were a lot of ex-military people. This was in 1946 or '47, or '47 and '48. My dad was down here working in social work. We were there for two years. I went to Hearst Elementary School close to home. My dad played tennis every weekend at Sidwell Friends. So I remember those years. It is also where we were joined by my sister Helene. Then we moved back to Philadelphia.

My mother's parents lived in a place called Logan, which is in North Philadelphia. We moved into their house, at 1500 Ruscomb Street. This was a great community, mostly Catholic. There was a big church, Holy Child. Just about all of my friends were Catholic. There were mostly Irish-Americans, with a smattering everything else. It was a great place. Kids went out after school and played in the street. Before we moved to Washington I had attended first grade at Holy Child. Then we moved back I went to a public school called Logan Demonstration School. It was called Logan Demonstration School because in those days they would bring people there from around the country and around the world to demonstrate what education was like in Philadelphia.

It was a neighborhood where everybody felt safe. It was a great place to grow up.

I went to Jay Cooke junior high school. I walked—I did not walk two miles through the snow—I walked probably a mile or so to this school. It was a good school. Two big things happened in 1952. One, was I was accepted in Central High School, which was about three miles from my home. It is the second oldest public high school in the country. It was what they now call a magnet school; it had high entrance requirements, and it was a great school to go to.

Second, we moved to West Mount Airy in northwest Philadelphia. Shortly thereafter we had my third sister Susan Phyllis, who we called Suzy. A little about my sisters. Lee Jane went to Penn and then received a PhD from the University of Virginia and taught at the University of South Carolina for years. She and Dr. David Whiteman, have two children Carrollee and Athey. They also have 3 grandchildren. Helene went to Penn also and then to Bryn Mawr where she received a master's degree in social work, and worked for years at US AID. She and her husband John Rosenberg have a daughter, Jessie. My youngest sister Suzy followed the family tradition and went to Penn, and received a master's and PhD from Penn. She is a clinical psychologist, married to Dr. Peter Waldron, and has a daughter Miranda and a son Jacob.

I was the only member of the family who didn't go to Penn undergraduate. My father went to Penn and got a master's in social work. My mother went to Penn. My three sisters went to Penn. I'm the only one that didn't go to undergraduate school at Penn. I went to Duke, but I did receive my MBA from Wharton at Penn. As I said before my daughter, Meg and my granddaughter Ginna graduated from Penn, so we're now four generations that went to Penn.

Central was a great place to go to school. It was a school where you learned a lot. It was a good academic environment. The large majority of the students were Jewish, and there was a great deal of give-and-take of ideas, the Socratic method. It was like the polar opposite of Japanese schools where you have rote education. There was a constant battle between students and teachers on just about everything. It was like pitched warfare. One of the great things about being a senator is that I was asked to speak at Central's annual alumni dinner and my class's annual alumni dinner. What I said was that never once in my life, in all the things that I did, and all the people that I met, did I ever feel like anyone could intellectually overpower me. Not that I was the smartest guy, and not that I

didn't meet people that were a lot smarter than me, but coming out of that background, you'd seen really, really smart people. I remember one time it was reported that Central, during the period that I was there, was second, or third in the country in the number of graduates going on to get Ph.D.'s The other two were the two in New York City. I can't remember the one—

**RITCHIE:** Stuyvesant?

**KAUFMAN:** Stuyvesant and Bronx High School of Science. Many of my friends went on to get Ph.D.'s or go into law or medicine. So it was a wonderful place to go to school. And West Mount Airy was a wonderful neighborhood. I think it was one of the earliest racially integrated neighborhoods in Philadelphia. It stayed racially integrated. It was again a great neighborhood. Central was a great place to go to school. It was a wonderful experience.

**RITCHIE:** You had two different sides of your family, a Jewish side and a Catholic side. How did that influence you?

**KAUFMAN:** Well, first off, it taught me that there's no monopoly on prejudice. When I was at an Irish event, like a wedding on my mother's side of the family, there were lots of people who were there who didn't know I was half Jewish, and I learned that they had certain feelings about other ethnic groups. And when I went to Jewish events, I found out that they had pretty strong opinions about other different ethnic groups. One of the things that I've tried to do in my life is try to understand—emphasis is on *try*—try to understand what other people are like. Of course, it is impossible to really understand what motivates people even if you know them for a long time. One of the important things I learned on this was from a management consultant when I was working for DuPont. He said that when you're dealing with an employee do not assume you know where they are coming from. He told the story, and it was perfect, about a manager who had someone working for him who had great potential but he left every day at five o'clock. The manager went to him and said, "Look, you have great potential. I'd like to push you up the ladder to get the prestige and money and everything else. But look, you've got to start staying later." The guy says, "Sir, you have to understand, I want to be a great professional bowler. So at five o'clock I'm going to go bowl." So I aspire to understand others, but I know when dealing with people it is always best to ask them what their aspirations are and not assume you know.

I think one of the great things coming out of that background was that I had a head start in understanding two disparate—at that time very disparate—cultural groups. Very distinct, very admirable in my opinion, to the extent that I picked up from them certain talents, but that would be the big thing, to get me off on a track where I really became fascinated by different people, different cultures. Not like studying anthropology or sociology or anything like that, much more of a: “My name’s Jim.” “Hey, Jim, where are you from? What have you done?” It is the ability to at least get on the same plane. Like the old thing about maybe it’s like a baseball game analogy, I’m not standing on second base, but I just want to be in the right stadium. I feel that gave me a real head start.

**RITCHIE:** What was it like having two parents who were social workers? How did that influence you?

**KAUFMAN:** Mom stayed at home until Suzy started school and then she became a teacher. What’s really interesting is that my parents and my three sisters all worked in the public sector helping people—one teaching in South Carolina, one at US AID, one a clinical psychologist, my father was a social worker, my mother was a teacher for most of her career. I was the only one that went into the private sector. The big thing was, how did I end up at the Wharton School at the University of Pennsylvania? That’s the real question, and it came out of a lot of discussions with my Dad, who became Deputy Commissioner of Public Welfare in Philadelphia, which is a big job and he was in charge of all the children’s programs in Philadelphia. Somehow or other along the line, I became kind of convinced that—and discussed with him—that a lot of people in the business community in Philadelphia had a lot more to say about what happened with children and those things than did my Dad. So I ended up being the only person in my family to go into the private sector.

People say they were the first person in their family to go to college. Well, I was not the first person in my family. One of my grandmothers, my mother’s mother, went to college. So I’m nothing new about that, but the one thing that I’m different about is that there’s nobody that I knew in my family that ever obtained an engineering or science degree—one of the big things that I worked on in the Senate was promoting Science, Technology, Engineering, and Math education, and I still do to this day as Co-Chair of the Delaware STEM education council. I was the only person in my family to go into engineering or science.

**RITCHIE:** Well, that's the question. What led you towards engineering?

**KAUFMAN:** At those days at Central, many of the really smart kids went into the sciences or went to medical school. Some became lawyers. Business was—back then many of the people who went into business said, “I couldn't do anything else, so I went to business school.” Which has totally flipped since the '50s. I made my decision before Sputnik, but you could tell there was a technology boom coming. Another thing was I was 17 years old! Even then when you're 17 it's like what looks good, “Okay, what's the big challenge? I'm going to show the world I'm smart.” I made the basic decision that I was going to be an engineer, which makes no real rational sense. And then, to top it off, I decided not to go to Penn but to go away to school. The reason for that is that at Penn the tuition and fees were \$850 and at Duke the tuition and fees and room were \$650. I had a great family, I always had great relations with my parents. I've always said my father and my mother were the nicest people I've ever known. So I wasn't in a rebellious stage or anything like that, but for some reason I just felt it was time for me to get out of Philadelphia. That's when I went to Duke.

I'm sure part of that was engineering, but in a rebellion like you see in the movies, or a rebellion most people have with their kids where they are trying to prove something. Maybe I was trying to prove something, I don't know, but I got interested in the south. My father had a woman who worked for him whose grandmother was still alive and was from Franklin, Tennessee. So I went down to visit her grandmother, and she told me all about the civil war and the battle of Franklin. I've read since that more people were killed per capita than any other battle up until that time. At one time there were five confederate generals lying on her mother's porch. It was the south, and I was interested in the Civil War. So that's why I went to Duke. I had never visited Duke.

The first time I went to Duke I got on the train in Philadelphia and rode 13 hours to show up for the first day of class. But I had never visited and I never knew anyone who went there. When I got down there, I found one other student at Duke that went to Central that I met, that I bumped into. He was a senior when I was a freshman. So that's how I got to Duke and that's how I got into engineering.

**RITCHIE:** Well, Durham is a lot different environment than Philadelphia. What was it like going to the South in the '50s?

**KAUFMAN:** You know, it's a terrible thing, and I'm sure that anybody who's my age or around my age can really understand how institutionalized segregation was. I went to Duke, which was a good school, and the only African Americans that I saw were the maids that came and made our beds very morning. I was not involved with the black community at all—I mean *at all*. It was really later in the 60s that the demonstrations started and things like that. So I just lived in a white world, much like I lived in in Philadelphia. I lived in a very ethnically divided environment, which was the way things were back then, not just in the South but in the North. One of the things that I found out early was that, the kids at Duke who were most prejudiced, the kids who regularly used the N word were the kids from the North and not from the South. I learned that many of the kids from the South had been raised in small towns, where they did know the black community, because they were just small towns where everybody knew each other and they interacted. It didn't mean there weren't problems, because there were, big problems. But my friends from the North, they by and large had never met a black person. We didn't play sports against African Americans. It was totally insulated.

Durham, even though probably because of the university was there one of the more, I wouldn't say liberal but I'd say left of center places. But Durham was also the headquarters for the Ku Klux Klan in North Carolina at that time, at least eastern North Carolina. I can remember them demonstrating. But it was different. After I left Duke and went back and lived in North Carolina for four years, 1960 to 1964, I saw a lot more. That was a period when there was a lot going on and we had demonstrations and they passed the Civil Rights Act in 1964. My wife tells the story, she went to Duke and was a year behind me, that she and her friends went to a Fats Domino concert at the Armory in Durham. I don't think that I went, but I think some of my friends went to other different events like this one. But the way it worked then, this was in 1956 or '57, the African Americans would be on the ground floor and the whites would be in the balcony. Everything was segregated.

It was a southern experience in that there were a number of students there who were clearly from the South, but I had four roommates while I was there—the first year, I had one for my freshman year, he flunked out; I had one for my sophomore year, he flunked out; I had one for my junior year, he flunked out; in my senior year my roommate graduated. One of my roommates was from Memphis, Tennessee. Again, it was a great experience to meet people from the South. It's one of the things that enriched my life. We are a much less of a regional society now. Everybody reads the same books

and watches the same TV shows. But back then there really were dramatic regional differences in culture and the way people approached problems. I'm not talking about just the racial problem, I'm talking about all the other problems. Clearly there were big differences in racial problems, too, although again I have to say that many of the super-prejudiced students were from the North. But it was fascinating. I spent four years at Duke and then four more years in North Carolina, and I learned a lot about people in the South.

**RITCHIE:** If you had three roommates that flunked out, was Duke a pretty intense place?

**KAUFMAN:** Yeah. It was very different than it is now. And this is not just Duke—I've had friends at other universities who tell exactly the same stories. That is, they had an auditorium at Duke and at the first orientation meeting for freshman we had, I don't know whether it was the president or the dean of students or whoever got up there and said, "Look to your right, look to your left, and after a while if they're here you won't be." Now over the years, it's hard to get into the university, but once you get in you can stay. When I was in college lots of students flunked courses and flunked out. We had students—there was a big band leader called Les Brown whose son went to Duke. He flunked out by Thanksgiving of his freshman year. At the end of two months he was gone. In engineering, especially, you really had the feeling that it was a hurdle. You were going to learn a lot but they were going to put hurdles up to weed people out. And they weeded a lot of people out. One of my best friends from high school went to the University of Virginia, and then the University of Virginia had to accept anybody who graduated from a University of Virginia accredited high school. He said they sent droves of people home after the first report period. So the university was a different kind of experience, and Duke was insistent about that. Getting in was a ticket of admission but as demonstrated by my three roommates—they were not dumbos, they were smart fellows, but it was a tough school. I'm sure it wasn't as tough as going to MIT or something like that, by any means, but a lot of students did leave.

**RITCHIE:** What kind of engineering were you studying?

**KAUFMAN:** I majored in mechanical engineering. When I was in the Senate I met with a lot of engineering groups and I used to tell them a story, to put in context my remarks, I said that in engineering school back in those days, every student had to take a



year of engineering drawing. Engineering drawing used to use this linen paper. You'd lay it out and they'd give you this package of tools that you needed to use to put the ink down on the linen paper. They had a way to make lines, circles and squares and spirals. But the heart of the matter was a pen—they didn't have pens like they have now—it wasn't quite a quill pen but it was something like a quill pen with two metal pieces at the end. What you had to do was you had a little container of ink with a sharp fine-point on it. You put a drop of ink between the two metal pieces and you had to draw all your lines that way, whether you were using a compass or whatever you were using, that's the way you did it. Well, if you just made the littlest jot the ink drop would come out and you had ruined the paper. At the year, it may have been a semester but I seem to remember you had to take a year of it. It was a laboratory class and I think it met once a week for three hours in the afternoon. We were getting ready to end the class and the teacher says, "Everybody go, I want to talk to Kaufman." I went up and said, "Yes, sir?" He said, "You're awful. But I'll tell you what, I'm going to give you a D, but there's a condition." I said, "What's the condition?" I was so pleased I was getting a D! He said, "You can never tell anybody that you ever took this course with me." And that's the honest to God truth. He gave me a D.

The first year I was there, just to show how different it was, I was an engineer and I was in Air Force ROTC. Air Force ROTC took the normal class and then held a drill once a week. Because of the science labs, a freshman engineer at about any school back then was going to class something like 28 to 30 hours a week. It was very different than it is now. And they had changed from a program where freshmen engineers took chemistry and physics, they decided that year it would be better to flip and have freshmen take physics and then chemistry. What that meant was in the physics classes that year—and everything in engineering was done on a curve, and on a curve where so many students had to flunk—in that mix were freshmen engineers, sophomore engineers, physics majors, and then some pre-meds, like third-year and fourth-year pre-med, and then some science majors and math majors. Well, you can take a look at that bundle and figure out who was going to be at the bottom of the pile, and it really was the bottom of the pile! In fact, a number of students that later graduated flunked physics right out of the box and had to take physics all over again. So it was tough and we lost a lot of students in engineering in the first year.

Now, the one thing that—I don't know if this was determinative for me, but I know it was a factor in all the engineers' minds, was that at that point, to graduate from

Duke in anything but engineering you needed three years of a foreign language. So if you got to your sophomore or junior year and decided you didn't want to be an engineer anymore, you had to figure out how you were going to take three years of a language. So it was an incredible disincentive to leave engineering once you got to the end of your sophomore year. I don't know if that's the reason why I finished. I don't think so. Again, I was 17 to 21 and I'm going to accomplish this, to finish this. And I'm glad I did. There are parts of engineering that I really was fascinated with and enjoyed. But it was a hard, tough slough.

The other thing about Duke was that I used to come home at Thanksgiving and at Easter, and Penn used to be still cold, you'd be indoors, while at Duke, come March you'd walk down the Quad and the sun would be shining and the music would be blasting. Every weekend there was a party—a very different kind of a party than there is now, from what I understand, but the same in that there was a lot of drinking. No drugs, but it is a miracle that more students were not killed. Just about everyone was driving drunk. It was a tough place to study in that great weather, especially if you were doing labs every afternoon. It was more of a southern tradition than it was in the North, there was a lot of socializing. I always fall back on that saying that there's more to education than just what you learn in the classroom. I really believe that I learned a lot at Duke not in a classroom.

The other problem was that coming out of Central I had such a good education. They didn't have Advanced Placement back then—at least I don't remember them having it—but I had a big advantage in that my high school chemistry and physics and math classes were much more advanced than what most of the other students had received. So my freshman year wasn't as hard as it was for the other students because I had covered most of this ground before. So I developed a lot of very bad study habits. I like to rationalize—one of my favorite sayings is “Never underestimate the ability of the human mind to rationalize”—so I don't know whether this is just rationalization, but I felt I learned a lot at Duke even though I did not receive great grades. However, I also learned a lot at Wharton and received excellent grades.

**RITCHIE:** Later on, you were distinct from a lot of senators who had law degrees and came from different backgrounds. Do you think engineering trained you to think differently?

**KAUFMAN:** Absolutely. Engineering is really fascinating, and the classic is I worked for 22 years with non-scientist Joe Biden. I think if you ask him, he'll say the same thing, that we were kind of right-side of the brain/left-side of the brain team. I'm more left side of the brain – a scientist, and Joe Biden is more of the right side - a poet. That's what he used to say, and that was really true. We would approach many of the same problems differently. And remember, he was on the Judiciary Committee for practically his whole career, and he was ranking member or chairman of the Judiciary Committee for a lot of that time, plus there were a lot of lawyers on the staff. They took a legal approach. They were interested in the logical approach but seasoned by experience of how human beings behave. In law school you clearly learn a lot of laws and rules and take courses where you learn precedent and how judges have ruled and probably will rule. Tough courses like torts, intellectual property, constitutional law and many others. But there is also a lot of work on individual cases which introduces human or more irrational considerations. My experience in business school was very much like law school. Engineering was *all* rules. It was all laws. It was all rational. I'm not using irrational as a pejorative. I'm just saying when you do engineering you start out with a formula, and then you work out the formula the same way you do in mathematics. It's a very numbers, rational, logical approach. That doesn't mean you come up with the right answer, or it's a better way to get to an answer, but many times you end up with the same answer but you come at it from a very different way.

My experience in dealing with other senators, with staff, and with others was I brought a different view to many of the discussions, a different approach. That being said, when I became a senator one of the questions I was asked in practically all my early media interviews was: "Where are you going to be different from Joe Biden?" I said, "I don't know". I spent time trying to think about that because I was getting asked that question a lot. Loads of people asked me, but I could not think of an issue where we differed. I would say, that "I am sure over these two years there will be something I disagree with him on." But it really never happened. A lot of it, I like to think that over all those years with him it was a collaborative effort. He was definitely the person in charge. He was definitely driving the show. And he was where we ended up. But he and I many, many times—I mean even to this day, if you give us a problem, we will not start out in the same place. If it's a problem we've already covered, and we talked about, that's different. But if it's a whole new area, where all of a sudden we start talking about Zanzibar. If Zanzibar becomes an important place. What should we do about Zanzibar? We'd be guided by some overriding shared principles about what we should do about

foreign policy, but by and large we'd start at different places.

What was extraordinary, truly extraordinary, was how many times not just Joe Biden but other lawyers that I dealt with and I ended up at the same place. As you know, since 1991 I've been teaching at the Duke Law School, as one of the many things I'm doing, teaching lawyers. So to answer your question, yes, engineers and lawyers really do start out in a very different place. That doesn't mean they end up with a different solution to problems.

**RITCHIE:** The two most famous engineers in politics were Herbert Hoover and Jimmy Carter. Both were brilliant men but they had a lot of problems in office, I think because they thought the political world was going to be more rational than it was, or that the solutions were going to be more rational.

**KAUFMAN:** I don't know about that. Let me put it this way: China is run by engineers. I don't know if you know that. The top management in China, I think two of the last three leaders have come from Tsinghua University, which is China's best engineering school, not Peking University (which is Beijing University but they call it Peking University). You look at Harvard and MIT, Tsinghua University is China's MIT and Peking University is China's Harvard. Their major leaders are not from Peking University, they're from Tsinghua. So I don't know. We were very close to Jimmy Carter. Joe Biden was the first elected official outside of Georgia to endorse Jimmy Carter—when nobody endorsed Jimmy Carter. Nobody endorsed Jimmy Carter until long after Joe Biden did in terms of that campaign. I like to think that I was a pretty good manager, and I'm an engineer. Jimmy Carter just turned out to be a very poor manager, in my opinion. But there are all kinds of stories about Jimmy Carter, and of course Herbert Hoover ended up not doing well, but there are just way too many incredibly successful engineering managers in U S industry to not believe that engineers make as good managers as lawyers. In fact, there are some people who think the reason the automobile business went in the toilet was because of hiring accountants and lawyers to run the major automobile companies instead of having engineers run them. It was interesting being on senate staff with very few scientist or engineers it was even more interesting being the only engineer in the Senate.

**RITCHIE:** You mentioned earlier that you were in Air Force ROTC. Did you have to do any reserve duty?

**KAUFMAN:** No, what happened was I was in it for two years, and then I couldn't schedule it. When I got to my junior year, I had failed a course in the first two years and in order to make it up, it didn't fit with the Air Force ROTC schedule. So I gave up ROTC only because I couldn't fit it into my schedule.

**RITCHIE:** The draft was still on at that stage, right?

**KAUFMAN:** No, not really. I graduated from Duke in 1960 and no one was being drafted. The other thing was when I graduated it was a tough economic period. There weren't a whole lot of jobs. I did not have a distinguished undergraduate record. So I had decided—because of Air Force ROTC I was interested in flying—I had decided I wanted to fly. I signed up to go to Pensacola as a naval aviator. I went through all the paperwork to go, and was accepted. Then I got a call from the Placement Office at Duke in August. They said, “There's an outfit looking for an engineer. They want to hire you. You'd do engineering work but you'd be working with consultants and architects and folks like that.” So I interviewed for the job. They were going to give me an expense account. They were going to give me a company car. So, I went to the navy and I said, “Look, can I put this off for a year or do I have to go through all this again?” “No, no, you can put it off. If you want to put it off for a year, that's okay.”

So I went to work for American Standard Industrial Division and found it really challenging and enjoyable and never went back. But at the time no one was being drafted. In 1961 Kennedy first introduced the Green Berets into Vietnam, and shortly after that the real draft started. By the time I was married and had two children.

**RITCHIE:** So you got married right out of college?

**KAUFMAN:** Yes, I was married right out of college, exactly right. Best thing I ever did. Lynne Mayo and I were married in Durham and then I went to work in Detroit, Michigan for the American Standard Industrial Division. Lynne stayed at Duke for her last year. I went to work in a six-month training program in Detroit. This company made two main groups of products. One was power plant equipment for big electric power plants, like electrostatic precipitators to take the pollutants out of the emissions, and mechanical draft fans, and other power plant equipment. Then the second piece of the business was equipment for commercial heating and air conditioning. What I did was to meet with the contractors, consultants, and architects and tried to convince them that our

equipment was the best equipment to put in their power plant or hospital, or new building. The six-month training program in Dearborn, Michigan, was pretty intense, and then I moved to Charlotte, North Carolina. I was there for two years. I traveled mostly in western North Carolina.. The engineering part of it was very interesting. I found the business part of it fascinating. I liked sales. I met some incredibly interesting people.

The biggest excitement while we were in Charlotte was that our daughter, Kelly was born. We really enjoyed Charlotte. We lived in a community called Selwyn Village with about 200 couples who had just graduated from college and were starting families.

But after two years the company decided they wanted to branch out and do more in eastern North Carolina. They asked me to open an office in eastern North Carolina, which I did. I opened an office in Raleigh, North Carolina. It was just a one-person office. We moved to Raleigh and I spent the next two years in Raleigh. At the end of our stay our excitement was that our second daughter, Murry was born. We enjoyed Raleigh every bit as much as Charlotte. We bought our first home, and traveled regularly to Durham for football and basketball.

While I was doing that, I found that I was really enjoying business. I also realized that the engineering part of it was good to have, but to really make the right decisions, which I thought were incredibly interesting, complex decisions about business, you really had to know something about business. So I decided to go back and get an MBA. We lived in Raleigh and the University of North Carolina then had a program in close by Chapel Hill, where you could get an MBA in a year. I had two kids, and so I figured I could take a year off and go back there. Then, in one of those things you do, I thought, “Well, if I’m going to business school, and everybody in my family, except me, had gone to Penn, I ought to apply to Wharton”. So I did and was accepted. Then it was one of those things that makes life decisions so interesting - that is the safe choice versus the road untraveled. I was saying to myself, “Oh my God, if I pass up going to Wharton, and I’m really interested in this stuff, it’s going to be a nightmare. If I pass that up, will I regret that for the rest of my life?” In the end Lynne and I decided that we’d take our two children and go back to graduate school at Penn. That’s how I got to the University of Pennsylvania.

I took a very different approach to Wharton than I had at Duke. After all I had worked for 4 years in the interim and I was married with a family. I took the whole

experience on as if it was a job. No matter what time my class started, I commuted first thing in the morning and except for time off for exercise or squash, I worked the whole time. I logged a lot of time in the Van Pelt library. I never missed one class during the whole time. I thought every class they handed out lessons for life, dollar bills or both. The vast majority of the classes were on topics you would expect such as finance, marketing, and administration. One of the most off beat and interesting courses I took for a whole year every Wednesday for two hours was called “A Seminar in Managerial Philosophy”. It was a freewheeling course taught by Professor William Gomberg. It had great readings from most of the major philosophers and economists and looked into the philosophy of operating a business, but even more what was important to employers and employees. In the intervening years I have found myself going back to what we read and talked about in that class while working in the senate, but also in the other parts of my life.

One final point: Many today put great importance on “going to the right school to make the right contacts for life.” I, for one, if having to choose between my Wharton contacts and my Wharton education, would pick the education in a second. Contrary to Duke I did very well academically at Wharton, and learned a lot of things in the classroom which complimented very nicely what I had learned at Duke. It was a great experience.

The major reason that made going to Wharton relatively easy was that my parents lived in Philadelphia. We rented an apartment about three blocks from where my parents lived. I took the train or drove into school. One of the problems is that when we were in Raleigh we had a company car and an Austin Healey 3000 sports car, and I had to give up the company car.

How I got the Austin Healey is a story I always tell when I meet with engineering groups. Everyone agrees that to get students involved in science, technology, engineering, and math, you have to get them when they are young. You have to convince them to take the tough demanding course like physics, or chemistry and especially calculus in high school. To make that sacrifice they need an incentive. I find one of the most important questions to answer for everyone before they start a new venture is, “What’s at stake for me in this venture?” I would say to STEM audiences “I don’t know about you, but I hear these stories about making education more fun and relevant. That’s great, but I always laugh when I hear about making calculus more fun.” Engineering

groups all laugh. One time someone came up afterwards very upset about it. I said, “Look, there are some people who love calculus, but the United States cannot survive with the small number of engineers who love calculus and find calculus to be fun. Calculus is just one of those things you just have to buckle down and do in order to be successful in STEM. To students in high school there has to be a reason for taking the hard course, when their friends are sticking to the easy course; there has to be something at stake to make it worthwhile.

When I was a junior at Duke I was having a hard time in engineering and as I said earlier I was trying to decide what I wanted to do and I was talking with my mom, a very wise woman. I said, “This is a lot of work, and I don’t see why I am doing it” And she said, “What’s the single most important thing you want to get when you get out of college?” In a flip comment, I said, “A sports car.” She said, “Well, get a picture of a sports car and put it up over your desk. And every time you’re sitting there doing this stuff, look up at the sports car.” Back in those days engineers were making a good living. When I got out of engineering school I think I started at \$475 a month. That doesn’t sound like a whole lot of money, but it was a lot of money back then. So, when I got out of school, as soon as I could afford it, I bought an Austin Healey 3000 which was a two seater with two jump seats in the small back. It worked out fine because, as I said before, we also had a company car. The problem was that when I went back to Penn I lost the company car. So, God bless Lynne, we lived in Philadelphia, Pennsylvania, with Kelly, Murry and a car that if she put the two kids in there she could barely get the groceries in.

**RITCHIE:** How did you afford to go back to school?

**KAUFMAN:** Fortunately for us, Lynne’s grandfather was a veterinarian for the Seventh Cavalry. He was involved with Abbott Laboratories in Chicago when they were first getting started. Abbott Laboratories did very well, and he was a wise man. Her grandparents and parents gave Lynne and her brothers Abbott stock, which turned out to be very good. It turned out to be a true blessing. It wasn’t a fortune, but it was enough so that when we came to make a decision about whether we could afford for me to go back to school or not, I could do it. So for two years it was sparse living, but we didn’t have a whole lot of expensive tastes that we had gotten used to. So we were really thankful for these gifts that had been given to Lynne.

**RITCHIE:** You graduated in 1960, when a Catholic was running for president.



Were you politically aware back then?

**KAUFMAN:** No, I was not politically aware. My parents both were, especially my mother who was a Democratic committeewoman. She was involved in the party. I always tell the story about my mom in 1952. On the election day morning before I got on the trolley car I was riding to Central my mother told my sister Lee Jane and me, “Just hope that Eisenhower doesn’t get elected, because if he gets elected he’s going to change this country so we won’t recognize it.” She was a real Yellow Dog Democrat. The biggest thing I did was in 1952 in Philadelphia, the only political involvement I had—and I had forgotten about it until this moment—was Joe Clark ran for mayor of Philadelphia and Richardson Dillworth ran for District Attorney. They ran on a reform, home-rule platform. Philadelphia was very corrupt and very Republican—I’m sure that was just coincidental—it was very corrupt back then. Clark and Dillworth ran on a home-rule charter and I was involved in that, I hadn’t thought about that, it was probably because of my parents. But I went around door-to-door, not any major thing. Then when Clark got elected, he asked my father to become Deputy Commissioner of Public Welfare in Philadelphia. Dad was not involved in politics practically at all. Mom was involved in local politics.

In 1960 I wanted John Kennedy to win. I voted for Kennedy. But I was not politically aware, and I would say not really partisan. I was a Democrat and voted Democratic. I went through the ’60s when there were a lot of concerns about a lot of different things, but I didn’t look at the party as the way to fix it. In fact really until 1971 I had not done anything outside of petitions for the home-rule campaign. I had not done anything with political parties and frankly was not very aware of who was running outside of Philadelphia. Clark went on to be U S Senator and Dillworth became mayor, I was aware of them. One thing I do remember is when I was a freshman, the Air Force ROTC marched in the inaugural parade for, I believe it was Governor Luther Hodges. The reason I remember is because we had wool uniforms and it rained the whole length of the parade. The ride back in the bus we practically suffocated.

The other thing I remember is Terry Sanford, who became Governor, then President of Duke University and later U S Senator, a great man and very liberal for North Carolina—in fact, people talked about him running for president for the Democrats, a very liberal guy. The first time I ever saw an ad for him, they ran a full-page ad in the *Durham Morning Herald*. A bunch of us were sitting down eating lunch,

and someone said, “Who is this guy?” He showed us this full page picture in the ad of Sanford when he was a paratrooper in the 82<sup>nd</sup> Airborne, top to bottom with his machine gun across his chest, his helmet on, and it said, “A Leader in War and a Leader in Peace: Vote for Terry Sanford.” Years later I always harkened back to that. Terry Sanford, I’m sure he was against the Vietnam War, being the type of guy he was. But that’s the only politics I remember.

The other thing I remember, and it wasn’t politics, was when we were in Raleigh for two years. They had just started editorials on the local television shows. The guy who gave the editorials on the Raleigh radio and TV station was Jesse Helms, who ended up being U S Senator from North Carolina. But I was not involved in politics.

**RITCHIE:** Well, what were you thinking as you finished up at Wharton? What did you hope to do?

**KAUFMAN:** That’s a good question. For most graduating MBAs back then, the first big choice was the split between: Do I go to Wall Street or management consulting which were based in New York, or do I go to work for a corporation? I interviewed with the big management-consulting firms, McKinsey, and Booz Hamilton, and with A.T. Kearney. A number of the guys who graduated with me did go to work on Wall Street, but after some thinking I decided that I really was interested in the business part of business, I was really interested in the big corporation part of business, but after that, I never really thought about going to work on Wall Street. It was a different world back then. Most of the big Wall Street firms were like family firms. But a lot of people went there from Wharton. But my big decision was that I wanted to learn business. Do I do it as a consultant at one of those business-consultant firms or do I go to work for a corporation?

After I talked to the consultants, I just didn’t think that’s what I wanted to do. I wanted to be involved in something, get my hands dirty early in my professional career. It was a totally different economic situation in 1966 than when I graduated from Duke. I’ve said many times when I have spoken to graduating students, that I’m really glad I graduated from college in the tough economic climate in 1960. Because of that, I always appreciated having a job because it was so hard to get one then. When I graduated from Wharton, it was entirely different with booming economic times. Some of the MBAs wouldn’t wear a coat and tie to their interviews. They wouldn’t shave. They would pick

companies to interview because they wanted to go to New York and see their aunt. The ego inflation that went on among the students was incredible.

Really, my final decision came down to—after I had interviewed with a number of companies— DuPont and IBM. IBM was probably the top marketing company back then, and I was interested in marketing. It was a tough decision, but in the end I picked DuPont because at DuPont during your career you could do marketing, then you could do finance, you could do manufacturing, you could get all into all areas of the business. At IBM you're in marketing almost until you became senior vice president level or higher. So I went to work for DuPont.

**RITCHIE:** What did you do for DuPont?

**KAUFMAN:** I was an engineer. I started out working for a year at the Chestnut Run Technical Services Labs in Wilmington, Delaware in the Plastics Department. It was engineering plastics, not like plastics for toys. People made gears and products that had engineering properties. If you had a customer come in and you wanted to show them a new plastic resin - how to design their part or manufacture it, or how to turn it into a product, or if they were having a problem, you brought them into this lab. Also, You traveled to their design or manufacturing locations. If they were having a problem, you'd be the expert from out of town. There was an old joke that "an expert is someone from more than 50 miles away with a suitcase in his hand". I'd be the guy with a suitcase in his hand, who would come and tell them why a machine wasn't working or why this wasn't happening. I did that for a year. Then I went to work in the Boston office, doing essentially the same thing in the New England area. After a year there I was transferred to Los Angeles—

**RITCHIE:** Oh, boy.

**KAUFMAN:** Yeah. Lynne and I moved seven times in the first nine years we were married. We used to say that every June our furniture would start moving toward the door. In California, I was doing more marketing. It was technical, it was all technical, dealing with designers, but it was more trying to figure out: How do we convince you to use our resins? I worked in LA and traveled to San Francisco. After a year there, we moved back to Wilmington. The best thing that came out of California was we had our third daughter, Meg, who was born when we lived in the Los Angeles suburb of La

Canada, way up in the foothills. It had a very good school system, a nice place, but Los Angeles was not the place for us. I really got the feeling that I had learned just about all I could learn in that kind of a job. So I came back, which was the great thing about working for DuPont. I went to work in financial analysis, which was fascinating. One of the things that made DuPont great was that Pierre S. DuPont had developed the financial system required to create the modern highly decentralized corporation. DuPont had owned General Motors, and if you ever read Alfred Sloan's books on managing General Motors how he made it the number one corporation in the world, a lot of it was based on the DuPont financial system. So it was fascinating working with DuPont. They've changed a lot since then but back then I worked with the original DuPont financial system.

I spent two years there and then I went to work on a product called Corian, I don't know if you've ever seen it, but it's a product used on bathroom and kitchen sinks. It was still in the research and development stage. I went to work in the Development Department to help figure out whether Corian was a product that could be a commercial success. I spent two years on that and then days before I went to work with Joe Biden literally right when I left they went commercial and it has turned out to be a very good business for DuPont.

**RITCHIE:** So you were really peripatetic at this stage.

**KAUFMAN:** Seven moves in nine years. Now, since then, we've lived in Wilmington, Delaware, for the intervening 43 years!

**RITCHIE:** I was going to ask, out of all these places, did you like Wilmington the best?

**KAUFMAN:** Wilmington is just a great place to raise kids. And then after you have raised the kids, a great place to be. You can get on the train and be in New York, get on the train and be in Washington. The Philadelphia orchestra, opera, museum, you're 45 minutes away from Philadelphia. But there is also a lot of things to do in Delaware. No, no, Wilmington is a wonderful place to live and raise kids.

**RITCHIE:** I noticed among your accomplishments that you were part of the Brandywine String Band.

**KAUFMAN:** Yes. This started when I was at Duke. Back then in the 1950s the ukelele was popular, so I learned the ukelele and guitar, self-taught. My boss at DuPont was in the Brandywine String Band and they asked me to come and play guitar. The best I can say is that I didn't do a whole lot of damage, and they invited me back. They used to perform before all types of groups— many of their performances were before shut-ins. Disadvantaged kids, orphanages (back when there were orphanages), a lot of senior centers, senior homes. It was fun, and I love the music. It was all string-band music, and I loved watching some of the banjo players and guitar players we had who were really good. I did that for a few years.

**RITCHIE:** It seemed like you were getting community-oriented. I noticed you were on a church parish council as well at that stage.

**KAUFMAN:** Yes, I was on my church, Saint Mary Magdelan's, Parish Council. It was a great honor. Fascinating dealing with the two very different views in the Church at that time on just about everything.

At the same time I moved from marketing to being in Finance and Development, which was very different than marketing. In marketing, I traveled and worked long hours. I moved back to Wilmington and it was incredible. In the Headquarters, at a quarter to five, everybody went to get in their car pool. Even back then, lots of people had car pools. I can remember at five o'clock you could roll a bowling ball down the halls. When I came back to Wilmington I did little traveling in financial analysis to the plants where we did manufacturing. All of a sudden, I had time. I'd be home relatively early, even though I worked later than most. I was ambitious, plus I found the work fascinating. But you're right, I got more involved in the community, and more time with the kids. There's a time in your life when the kids are coming along and you can do more things together. So it was great. It was a wonderful time. Then in 1970 I decided that I could start getting involved a little in politics. I called around and found out who was the Democratic chair of my local election district. I called him and he said, "We're having a meeting of the election districts in our representative district next Thursday, why don't you come?" I went to the meeting and it was a small operation and I got involved pretty quickly.

**RITCHIE:** What kinds of things were you interested in doing?

**KAUFMAN:** I had just reached the point in my life where I was following my

father's advice: Okay, I'm in business but I care a lot about these things, what's the best way to influence change and do some of the things I believe in? So I got involved in some of the things with the party, and it was a very welcoming group. In fact, they had a group out in the Brandywine area of Delaware where there were four representative districts that got together and called themselves the Brandywine Hundred Democrats. William Penn had divided Delaware into "hundreds" for taxation and the name stuck for politics. They used to meet as a group and they were of common mind on a lot of things. The leader was a fellow named John Daniello. John was a county councilman in our New Castle County Council, which is where this group was located. In 1970, he had run against a DuPont family member named Pete DuPont for the lone Congressional seat, and almost beat him. He lost by 14,000 votes or something like that. I got to be friendly with John. Incidentally, he was serving on the county council was this brand-new, young, 27-year-old Joe Biden.

John decided that he wanted to run for county executive, a step up from the county council. He asked me to help him. I became his campaign manager for a very short campaign. We had a Democratic straw vote of the county to pick the Democratic candidate, and I learned a lot about politics right out of the box. You learn from your mistakes. Well, I made a lot of mistakes, big time. I really did. I learned how important and difficult it is to count votes. You go to one of these things and you learn that when you don't hear from somebody, the answer is probably no. I learned body language and a lot more. John lost and later that year I became chairman of one of the four representative districts.

The next big thing that happened was the campaign for the Governor's seat then held by Republican Russell Peterson. He had worked at DuPont before I was there in the same Department where I had worked. He was up for reelection with a very difficult financial situation in the state, and everyone was pretty sure he was not going to be reelected. There was a five-way Democratic contest. This was in the day of caucuses, when we didn't have many primaries. Candidates were selected by a convention made up of those who were active in the Democratic Party and had been selected by their local representative committees to be delegates to the state Democratic convention, which was held in Dover, our capital. Those 250-some-odd people picked the Democratic candidate for governor, for senator, for all those posts, there was rarely a primary. You could have a primary, in fact we had a primary in 1970, but in reality they were the people who selected the candidates. It was pretty well assumed that whoever received the Democratic

nomination would probably be elected. The four representative district chairs in Brandywine hundred got together and we supported Sherman Tribbitt, who was the lieutenant governor, for governor, and Sherman won the nomination. That really set off the beginning of my work with Joe Biden.

I met Joe Biden in 1971 or early in '72. I lived in an upper-middle-class development outside of Wilmington. John Rollins, who was a major figure in Delaware had built a building near our neighborhood. He was CEO of number of companies he had started and was very wealthy. He had run unsuccessfully for lieutenant governor, he was an interesting guy, very big contributor to the Republican Party, very wealthy. Back in 1972 they didn't have campaign financial reporting, no one knew who raised how much. At the Presidential level they used to have an informal system much like what developed in Russia during the Communist years, where at the May Day parade you could see where someone fit in the hierarchy, based on where they stood at the top of Lenin's tomb. Well, the story goes at Richard Nixon's inauguration; Rollins was just two people away from Nixon. He was just someone who was very wealthy and a very big supporter of the Republican Party. The problem was that he wanted to put a helicopter platform on the building he had built near our neighborhood. Well, there was a school not too far from the building, and people were worried about the noise and things like that, so there was a major effort to stop him.

The President of my civic association, by the way my area was heavily Republican, called me and said, "We're having a real problem." I said, "What's that?" He said, "We want to stop the helicopter pad, but Rollins is so important to the Republican Party that none of the Republican county councilmen will take this on. I know you're involved with the Democratic Party, can you help us?" I said, "Well, I think you're in luck. There's a Democratic county councilman who is thinking of running for the U S Senate, and you might want to talk to him. Maybe he can help you." He said fine and I contacted Joe Biden and we set up a meeting for all the leaders of the civic associations of the developments around our area in my living room, and Joe Biden came out with his brother Jim. I had seen him at some Democratic events, but I didn't know him that well. He came out and sat with a group of these development people and said, "Yeah, sure, I think that's outrageous. There's a school right underneath it. This would be a real problem." In fact, one of the issues he ran on was how he stopped the helicopter platform on top of the Rollins building. That's how I met Joe Biden.

What happened next was Joe Biden's sister Valerie, who was his campaign manager, called me. This was in June of 1972, so the campaign was well along. I just have to tell this story about Joe Biden: I was sitting around with a bunch of these people in the Brandywine Democrats in 1971 and they said, "Who's going to run for the U S Senate, because nobody can beat [J. Caleb] Cale Boggs. Who's going to be the sacrificial lamb?" Someone said they thought it would be Joe Biden. Then someone said, "Well, who's going to be his campaign manager?" They said, "His sister, Valerie." Another guy said, "Great ticket. They ought to reverse it!" Valerie had been a top student at the University of Delaware. She'd been homecoming queen. She was an absolutely incredible person. Anyway, Valerie called me and said, "Look, Ted, I know you worked for Sherman Tribbitt and he will cruise to election. Would you think about helping our campaign?" I came down and met with Joe Biden in his office. He had started his own law firm. We talked about it and I said, "I'll be happy to help you. You're right where I am on so many issues." These were issues that not a lot of elected officials had been talking about: The Democrats didn't say much about balancing the budget. No one was saying that we have to do something about the environment. He was for a strong criminal justice system. That was a no-no among Democrats. The Republicans were the people who were concerned about crime. But Joe Biden talked about the fact that the people who were getting hurt by crime were our people. The people who were for us were the ones who were hurt by the criminals. He was strongly for civil rights and felt we should have a system that absolutely sticks to the rules on civil liberties, but once you're convicted of a crime you should go to jail. So there were a number of issues like that.

I told him that, "I'll be happy to help you, but I've got to tell you that you have no chance of winning." To give you some idea of how lopsided this race was, Cale Boggs had been a congressman, then a governor, then a senator. He was beloved throughout the state. Joe Biden was at that point 29 years old. He started out the campaign when he was 28. The southern part of our state is very southern. That's where a lot of the Democrats were, but they were conservative southern Democrats. He was Irish Catholic, which was considered anathema in that part of the state. He was a Kennedy-liberal from the northern part of the state. Cale Boggs had won by beating the Democratic incumbent Allen Frear because Cale had the support of the unions and Allen Frear was the right-to-work guy, so Cale started the campaign with good support among the unions. Biden was not only young, he looked young. The only thing he had ever run and won was for the county council. And then the most difficult challenge was it was 1972 and George McGovern was at the top of the Democratic column and Richard Nixon was at the top of the



Republican column. The problem is that in the northern part of Delaware the Democrats were pretty liberal. It's more like Philadelphia and Baltimore, right along I-95. If you weren't for McGovern, you were in deep trouble. The first question was: "Okay, are you for McGovern? We're for McGovern." The Democratic Party back then was pretty much like the Republicans today. If you know anything about the tea party, you can think about the liberal Democrats: This is our party, this is the way we want to do it. [Snaps fingers] Coming out of 1968 and the riots at the Chicago convention and the rest of that, they were not to be crossed. You had to be with them. At the same time, in southern Delaware, if you were with McGovern you might as well have just hung it up.

To this day I am amazed that Joe Biden could ever overcome that massive problem—but he did. He worked it all out. He had support from Democrats both north and south of the canal. The canal runs right down the middle of our state. He went back and got the total support of labor. He had no money. He just had absolutely totally no chance. I remember on Labor Day, I think the polls showed that he had only 17 percent of the vote—Labor Day, 1972. He turned out to be an absolutely incredible candidate, as has been demonstrated since then, and Valerie was absolutely incredible in running his campaign. His whole family was involved in it. And he just caught on.

We had a fellow named John Martilla who came down and did our media—and it was great media. Pat Caddell was a pollster. He came and did our polling. It was really a ragtag group of people, all young. The race got very close, and by God, he won. It was by 3,600 votes. On election night we had our postelection party at the Hotel DuPont which was ironic because practically no one in the upper management supported Biden in DuPont outside of some folks in the legal department led by Jack Malloy, Roy Wentz and Irving Shapiro. One of the things in my life that I always remember was that night, in the Gold Ballroom of the Hotel DuPont when they announced he had won. I can remember just as distinctly as if it just happened. I thought to myself, "I will never, ever believe anything is impossible again." That was in 1972, it's been almost 40 years. I've seen a lot of campaigns, I've been in a lot of campaigns, and I have heard about a lot of campaigns, but to this day the greatest upset was that race. The come-from-behind, 29-year-old (he wasn't even 30 years old on election night) running with George McGovern at the top of the ticket, up against an icon in the state. I'll put that race up against any race I've ever heard of in terms of an upset.

**RITCHIE:** What do you think did it for him?

**KAUFMAN:** Oh, I think it was a number of things. Number one, he turned out to be an extraordinary candidate and an extraordinary person. The thing about Delaware is that it is so small that it's all retail politics. Even in medium size states like North Carolina TV is key. I remember there was a candidate in North Carolina named John East a number of years ago who was in a wheelchair. Jesse Helms was the senior senator and wanted East to win. He bought a whole bunch of advertising for him so he could run on the advertising, and something like 85 percent of the people in North Carolina never knew he was in a wheelchair. In Delaware, it's all face to face. There were no TV ads in 1972. There were some radio ads. We had this printed paper, like a tabloid newspaper, that we put out just about every week that we distributed around the state. But it's face to face. It's not like hale-fellow-well-met. But, you've got to have a good personality, I think, but it's one on one. We did a survey in the late '70s and something like 150,000 people in Delaware said they had personally met Joe Biden. Well, he knew a lot of people there's no way that ever could have personally met that many people.

He was an incredible person, and so was his family. His wife, Neilia, was wonderful person and campaign representative. Everybody who met her was impressed. Valerie, his sister, as I said was well known. His brothers, Jimmy and Frank, his parents were well known and liked. His Uncle Frank was here. People just knew him, and knew him to be a good person. And he was the new wave of the Democratic Party. They talk about 1974 but most of the things that happened in 1974 Joe Biden ran on in 1972. So he ran on the issues. He ran a nationally creditable campaign. It is not exaggeration that he had thousands of dedicated hard working volunteers. He had wonderful help from John Martilla and Pat Caddell. But it was really the force of his personality, which happens in Delaware. That's one of the great arguments for small states. If you've got blemishes in Delaware, or Rhode Island, or Wyoming, or Nevada, you're in deep trouble because people really can get to know you, and that's what happened. It also creates the possibility for upsets, but the other side is Cale Boggs had been working the state for years, I can't even remember when he was first elected, but he had been a congressman, governor, and senator. Everybody knew Cale Boggs.

**RITCHIE:** What did you do during the campaign?

**KAUFMAN:** Since I was an officer in the Delaware Democratic Party they asked me to be the campaign liaison to the Democratic Party, which worked out very well. My two main jobs back then were registering voters, which was a big deal for Democrats that

year. We had a lot of people, which resulted in an incredibly successful registration drive, because we worked with the McGovern organization with all their volunteers. We had loads of volunteers. I'll never forget there was this one family in Delaware—I won't embarrass them by giving their name—but they didn't agree with Joe on a single thing, but they were all out working for him. He played football with them and that sort of thing. So we had this incredible registration drive. I forget how many we registered, but we registered *a lot* of people. And when I say "we," I really mean we, it's not like self-deprecating. The McGovern campaign especially, we really worked together well in registering a lot of people. The second part of my job was to get out the vote. Again, because of our volunteers, the enthusiasm of the Biden and McGovern supporters we had a wonderful turnout. To give you some idea of what a tough year it was, while we won by 3600, McGovern lost by almost 50,000.

The rest of the campaign we really didn't do much with the Democratic Party. It was an independent campaign, which was another new thing. Most candidates were very much tied to the party back then because caucuses picked the candidates by and large and the party was really important to you. But Joe Biden was one of the really first entrepreneurial candidates. He was out there working on his own. A big part of my job was to smooth over things with the party so that they didn't feel like he was running away from the party, which they didn't. Then we had this get-out-the-vote effort. The race turned people out, but I spent a lot of time on that. I had great people coming in. Back in those days you really used to get a lot of volunteers, and a lot of way-out quality volunteers, so that helped.

**RITCHIE:** The Boggs people were mad at President Nixon because he flew over the state but never stopped to campaign. Do you think that made a difference?

**KAUFMAN:** Well, I think up until the end it would be crazy for him to stop because Cale was so far ahead. Nixon had really been responsible for talking Cale into running to avoid a primary between the Congressman Pete Dupont and Wilmington Mayor Hal Haskell. Cale was of an age where, like a number of recent politicians, he wanted to retire. I think that Cale's retirement was one thing that is discussed about why Cale lost, but he ran the hardest, best race he could. It is overstated, the fact that Cale wanted to retire. The big advantage that Joe Biden had was that there was a whole series of senators back then that had never really run a modern campaign. I remember there was a picture of Cale, on election night getting election returns on a wall phone in his home.

There was a whole group of senators, Democrats and Republicans, during the '70s—starting with '72 right on through 1980—who got knocked out because they just didn't know how to do modern campaigns, and they couldn't change enough. Gaylord Nelson, Clifford Case in New Jersey, [Gale] McGee, there was a whole series of candidates who didn't know how to run modern campaigns. Cale was one of those who did not run a modern campaign.

And when I say a “modern campaign,” I don't mean a media campaign like right now. I'm talking about modern in the 1970s. Philadelphia was the third largest media market, and Delaware was only 6 percent of the market, so 94 cents of every dollar we would have spent on TV went to New Jersey and Pennsylvania. I think we raised a total of \$230,000, and we had a debt when the campaign was over of over \$70,000. The person who was probably most helpful in raising money was Al Gore's dad, former senator [Albert] Gore from Tennessee, who headed up a group called the Council for a Liveable World. They didn't actually raise money, but they sent out letters—they do this a lot now, but back then it was unique almost—to people who were interested, saying “Look, there's a race in Delaware, send money to the Biden campaign.” And they did. So we got a lot of money and profile from the Council for a Liveable World,.

One of the keys to success was when he hired John Martilla's consulting firm. John was from Boston and brought credibility and extraordinary talents to the campaign. He is another person that stayed involved in all the Biden efforts for almost 40 years. His plan helped because we had practically any money. John had had success in using newsprint tabloids in his campaigns. When I said we handed out these tabloids every week, they were on newsprint. We got them at the lowest price we could from some firm with a union label, in northern New Jersey. We actually had to have someone every week get in a truck, drive to New Jersey, pick up 150,000 of these newsprint brochures, bring them down to Delaware. Then we had to put them in the different headquarters. Then we had to have volunteers to come in and pick them up. Then the volunteers had to get out and distributed them. We didn't have the postage.

**RITCHIE:** Delaware, at least, was a small enough state that you could hand deliver them.

**KAUFMAN:** This was Delaware. A lot of this you couldn't do in another state.

**RITCHIE:** Billboards were still a way of advertising.

**KAUFMAN:** Yes, billboards were still a way, and we had some billboards. We may have had a few, but I just look back and see how few dollars we had. The big thing back then, in late 1971 or early 1972, were things called coffees. His mother ran the coffee programs. She and his Dad were both amazing people, and among other talents great at campaigns. Back in those days, most women were stay-at-home-moms. A woman could volunteer and say, “Okay, Joe Biden come to my house at three o’clock in the afternoon. I’ll have 30, or 50, or 70 women here. We’ll have coffee here and he’ll have a chance to talk to them.” I don’t know how many coffees the campaign did, but it was way more than 100. They used to just spend a day doing five, six, seven coffees a day. That’s another thing you couldn’t do in a big state.

**RITCHIE:** John Kennedy used that device when he was running for the Senate in 1952.

**KAUFMAN:** That was Matt Reese, I think Matt Reese was his consultant.

**RITCHIE:** Well, Biden won, much to your surprise. Did he offer you a job right away?

**KAUFMAN:** No, no, no. Oh, no, I was not thinking of that. On election night we had no idea—and by the way, most Americans don’t have any idea what kind of staff does a senator get. Remember, up until fairly recently senators didn’t have much staff. Up until 1947, I think, they had a secretary. It was much like the British system where senators had two or three people, something like that. It was only in the ’60s that it started to grow in size. For instance when Biden was elected most congressional staff was in DC. I think maybe Cale had a one-person office in Delaware, but I don’t think the other congressmen even had an office in Delaware. We were the first to have big offices and major staff in Delaware. But on election night we had no idea what staff was and I was not interested in becoming staff. This was totally out of mind, so no, I was not.

And then, obviously, the big game changer for him, the big, big, big game changer for him, was that on December 18, six weeks after the election, his wife Neilia was bringing the Christmas tree home, with their two sons and daughter in the car and got hit by a tractor trailer. She was killed, and the daughter was killed, and the two sons

were in the hospital. I went to the memorial service. It was awful. I mean, he and Neilia were a real love match. They walked around holding hands. The worst thing is, you're on top of the world. You're 29 years old. You've been elected to the United States Senate. And then, bang, you get hit with this thing, blind-sided with this thing. He was really devastated. Later on, one of the reasons I thought he should be president and worked for him to become president was because he had so much character, and I saw that then. It was awful watching him go through it. It was just awful.

In January, Valerie called me and said, "Would you come and talk to my brother." So I went and talked to him, and he said, "Look, what I want to do is I want to change the way things are done in the Senate." Most of the Senate offices, there were a few but like 95 of the Senate offices didn't have anything back in their home state. He said, "I think with all this new communication equipment"—we had new things called fax machines, to compare it to a fax machine right now, back then it was a machine with a roller and special paper which operated very slowly. He said, "I'd like to have more of my staff back in Delaware where they can meet with constituents instead of on the telephone when they do case work and things like that." He said, "What I'd like you to do is come to work for me to help me set up the Delaware side of my operation." Because I told him I couldn't move, I'm working at DuPont. He said, "Would you do it?" How could you say no? So I went to my bosses at DuPont and said, "He just wants me to get it started. It may take six months or a year." They said, "Oh, yeah, sure, we'll give you a one-year leave of absence." So I took a one-year leave of absence and was one of the first employees hired, to set up an office here in Wilmington, Delaware, and stayed for 22 years. They say life is what happens while you're planning for it. This was not ever a part of any plan that I had. Even when I took the job it wasn't part of any plan that I had. It was just happenstance.

**RITCHIE:** What did you do to set up a state office?

**KAUFMAN:** Joe Biden had hired a wonderful chief of staff, back then they called them administrative assistants, named Wes Barthelmes, who had been working for Senator Frank Church. He had been the first press secretary to Bobby Kennedy, before [Frank] Mankiewicz. He had written books with Congressman [Richard] Bolling, with Congresswoman [Edith] Green. He had been the city editor of the *Washington Post*. He was in the 82<sup>nd</sup> Airborne and jumped into Normandy on D-Day. When Joe told me his resumé I said, "You've got to be kidding me, there's nobody like that." But he was really

a great guy, a wonderful guy to work with. So I just set up the office in Delaware. Nobody knew the Senate better than Wes did, nobody knew the press any better than he did, so he set things up and because of my work experience I was doing a lot of the management—not that there was a lot of management. I was spending a day or two days a week in Washington, and setting up offices here, and Dover, and Georgetown, Delaware.

I remember when I told Lynne about the job. She said, “Is there enough to do?” Turned out there was a lot to do. It was a great job. If you ever want a job where you really can help people one on one, being in a district office for a United States senator is a wonderful place to be. The federal bureaucracy, as we know, is gigantic. I’m a big fan of the vast majority of people who work there, but it is big, and sometimes a word from the office of a United States senator can get a Social Security check delivered at the right time, or some young person can come back from the military overseas for one of his parents’ funerals. We just cut through the bureaucracy, and could do it. You would go home at night feeling pretty good about it. Another thing is you got involved in a lot of things in the state to make sure that the federal presence is doing a good job, in terms of projects that the federal government is involved in.

There used to be something that Nixon, of all people, had put in, Title 20 of Health and Social Services. The way I remember it, and it’s been a lot of years, was that any social service agency could go to the federal government and get practically half of any program paid for. I mean, it was an incredible program. Cooler heads prevailed around that time, I think before the election, and they said, “We can’t do this anymore.” So the first thing I got to do was to go around to all the social service agencies and tell them that the money isn’t there anywhere. They would say, “When Senator Boggs was a senator we got the money. What’s wrong now?”

But I got started and after a year I said, “Oh, God, I love doing this work.” I loved working for United States Senator Joe Biden. I mean, you had to pinch yourself. Working for the Senate? I had never thought about that. I never thought I’d have a chance to work in the Senate. Many times, people would say, “It must be a lot of fun.” I’d say, “No, it’s not a lot of fun, but it’s very interesting. And more important I never go home at night and wonder what I’m doing with my life.” Up until today, when I was working as the chief of staff to a senator, or even when I was working in Delaware, traveling to Washington, you come out of that door down in the Russell Building and start walking

down to the train station. You turn around and look up at the Capitol, lit up like that, and you say, “God, I’m part of that!” To this day I get goose bumps. When I was in the Senate, driving to work—we had an apartment at 7th and E Streets, NW. I’d drive down Constitution Avenue and look straight up at the Capitol every morning, God Almighty!

So after a year, I decided that I really wanted to keep doing this. DuPont was going to give me another year’s leave of absence, but I said, “No, I think we’re going to have a conflict of interest here.” So I didn’t take it. Then, tragically, in 1976 Wes Barthelmes got a brain tumor and died. Joe Biden asked me to become his administrative assistant and chief of staff. And I did. I stayed until December 31, 1994.

**RITCHIE:** You started off running a state office for a senator who came back to the state every night. Did he have a big presence in the state office when he was here?

**KAUFMAN:** You know, he really didn’t spend time in the state office, even though he was in the state a lot. One of the reasons is because we were blessed with great people who came to work in the district office early on, and stayed for decades. The beauty of them staying so long is that everybody knew that when they were talking to them it was just like talking to Senator Biden. Bert DiClemente, was the state director for many years, was universally liked, and brought a business approach to the office. Dennis Toner had so many talents, and had made a big difference in the senate campaign. He was invaluable in both Delaware and DC offices. Tom Lewis, was always with him, when he was in the state, and did great work for the Delaware veterans. Norma Long was excellent at scheduling, Terry Wright was a jack of all trades and became a legend over the years to the Biden interns, Bob Cunningham was press secretary and an integral part for most of Senator Biden’s early speeches, Vince D’Anna headed up the project work from early on and was the most knowledgeable person in the state on federal grants and funding. I will put the Biden staff over the years up against any group for their competence, loyalty, and length of service. I made the comment many times when asked about Senator Biden and his staff, that he is someone who wears well which is shown by the number of people that stayed involved with him for decades.

Back to the campaign; one of the reasons why I first thought he could win was because he was the first candidate I had known during a campaign who never came to the headquarters. The biggest reason was that Valerie was there and he could meet Valerie every night and talk to her. So, he was always out working with people. That was



unusual. The same with the Senate, he wasn't in the Wilmington office or the other state offices very often—Wilmington more than others because he was commuting from there every day. He lived in Delaware, so if the Senate was out of session on Friday, he was coming home Thursday night anyway, so Friday he would be here. So sometimes you had to be fast on your feet. But he commuted every day. That was one of the reasons why he kept getting reelected. First of all, people saw him there, and they knew that he was around the state. They knew that he cared about his family because he commuted every night, which was very difficult. Commuting every night was just horrible. When I was working for him in Washington, I used to take the 6:30 train home every night. People used to say, "What's the commuting like?" I'd rationalize and say, "Well, you know, it's not so bad. Going down in the morning I get an hour and a half to two hours to lay out what I'm going to do for the day. When I come home, I usually get home at a quarter to nine." Then, after I left his office, about two weeks later I took the train down in the morning and went through all that, rushing downtown, get the ticket, board the train, and ride down. I walked into Union Station and I said to myself, "You had to be out of your mind!" The thing about me was, 6:30 PM every day, I came home. I'll bet you easily a majority of the times, when I left, the Senate was still running. So he didn't take the 6:30, he took the 7, the 7:30, the 8, the 10, and he'd take them. He did not stay in Washington. The last few years he was in the Senate his son Hunter and his family was in DC, and sometimes he'd go and see them, but even then many times he didn't stay over, he'd go back to Delaware. It sent a real message to the people: Lots of politicians talk about family values, Joe Biden lives family values.

Plus it put him back in the state. As he's said many times, in Delaware you're standing on that train platform and somebody comes over and says, "Mr. Senator, sir, can I please ask your opinion on what you're doing?" Or more often: "Hey, Joe, what the hell are you guys in DC doing about this bill?" People see you on the street and they want to talk to you. He was out in the community a lot.

**RITCHIE:** In the beginning, didn't you drive down?

**KAUFMAN:** Yes, in the beginning—and I mean the very beginning—the rule was that Beau and Hunt sat in any meeting they wanted to. I remember when he met with [Henry] Kissinger when he was secretary of state, one of the kids sat in on the meeting. He said, "If the kids ever call me, no matter where I am, you find me. I don't care if I'm in a hearing, I don't care what I'm doing, you bring me out so I can talk to them. I never

want to be out of communication with the kids.” This was well before cell phones of any kind. The only mobile phones were the phones that you could get if you were wealthy, or were in a company, or had a real need in business, you could have a phone installed in your car. But it took up about half of the trunk. So the only way this worked for Joe Biden was to have a car phone. So we used to drive him back and forth. When he was on the train, he couldn’t talk to the kids. The other thing was AMTRAK was doing the Northeast Rail Expansion, which I will never forget. My God, it was like Russian roulette when you were going to show up in Washington every morning. So, yes, I rode down and back a lot of times in the car, and the train.

**RITCHIE:** What did that do to your family back here?

**KAUFMAN:** Fortunately my daughters were a little bit older. What I would try to do when I got to be chief of staff—remember I had half the staff here in Delaware—I would try to spend more time here. I probably was the first person to initiate the Tuesday-Thursday Club, where now the Senate goes in Tuesday and goes out Thursday. But I tried to spend Monday and Friday in Delaware, and Tuesday, Wednesday and Thursday in Washington. I see it now with my sons-in-law. At that age you’re working long hours almost no matter whatever you’re doing, if you’re into something complicated. The beauty of my schedule was I was home on weekends, I was home nights. I did very little traveling. I propounded my theory a long time ago, and that is: You can have a really interesting job, you can really take care of your family, but you’ll never be a great golfer. As long as you concentrate on the job and the family, and understand that the family comes first, you can do it. One of the great things about working for Joe Biden, one of the great things about being his chief of staff was it was a rule in the office from day one: Family comes first. I used to tell staff all the time, “If you miss a major family event because you’re working, and he finds out about it, you’re in deep trouble.” Because his rule was, “I’m not going to miss the big family events. I’m not going to do everything, but if there’s a big family event, I’m going to be there. If something happens to my kids, I’m going to be there.” In the office, we had loads of examples of people who got into a tough family situation, we would say, “Do your job, but we want you home at night with your spouse and kids until the trouble blows over.” There are always trade-offs, but in the end, the trump was your family.

As I say to people, “The Senate really is a different place.” It’s not like being in the executive branch where the president has to decide whether to go to war with Libya

tomorrow. The Senate is a place where most of the time there isn't an absolute urgency at a particular moment to do a particular thing. You've got to be there for votes. You've got to be there for things. You want to attend meetings like that, but you only have to be in Washington to vote. That's the biggest thing cutting down on spontaneity. The Senate is a different kind of place. The founding fathers designed it that way, and that's the way it is.

**RITCHIE:** Did you find that you could use the train as an office on wheels?

**KAUFMAN:** Yes, going down in the morning it was really good, and it was very helpful for the senator because he was the most prepared senator at practically every morning hearing. The hearings were usually at ten o'clock, and he'd show up for the hearing having read the material and having gone through most of that stuff. Oh, yes, you could work on the train, but you would set up your day and what would happen was kind of like fate. You'd be on time. You'd be on time. You'd be on time. So you'd say, "Okay, I'm going to schedule something first thing in the morning." Because once you're down in Washington, back when you're chief of staff, you're just as busy as a senator or maybe even more so in some ways, so you're trying to figure out how you can get more minutes in the day. But you'd be on time, on time, on time, and so you'd set up something for right when you get off the train, and then bang-o, the train's late, you're late, and your whole schedule goes down like a stack of dominos.

The trip was close to two hours, when the trains were on time, from when I left my home, got to the train station, got on the train, went up the Hill to the Capitol. Then you reversed it coming back, two hours each way, so that was four hours out of your day, so obviously you did a lot of work on the train. One of problems when you are in DC is that from the time you walked into the office until the time you left, there was no time for thinking. You're sitting with people and trying to reason things out, but there was no contemplative time. If you didn't do the contemplation on the way down or the way back, you were in deep trouble. So the train was very helpful, and obviously a thousand times better than driving. Ben Cardin, the senator from Maryland, drives [from Baltimore]. He and I used to talk about it. Of course, he doesn't have nearly as far to drive, but the train was Godsend for us. However, you did keep bumping into constituents on the train. The number of people who told me, "I was on the train the other day and I spoke to Senator Biden for an hour and a half." I'm thinking, "Oh, my lord!"

**RITCHIE:** Senator Cardin said that one of the disadvantages of living so close to Washington is that people expect you to be back for events.

**KAUFMAN:** Exactly, and if you think Ben Cardin has to be back, take it and multiply it by a thousand in Delaware. In Delaware they expect elected officials to be here. Two things: number one, they expect their people to be there, and two, they're going to travel down to DC and they're going to come to the office and they're going to be treated special. And there's a lot of them. I used to say, when 75 people get together in Delaware, they expect the governor and the senators and the congressperson to be there. It hasn't changed in 40 years. We had a deployment to Afghanistan when I was a senator. I think there were somewhere between 20 and 40 troops being deployed. At that deployment ceremony was the governor, the lieutenant governor, the two senators, the congressman, and the wife of the vice president of the United States. In New York they can have hundreds leaving and nobody's there except the troops themselves.

I used to have people come up to me when I was chief of staff and say, "God, it must be great. How many counties do you have?" I would say, "We have three counties, and four subdivisions, because we consider Wilmington a separate political subdivision." They would say, "That's great! Four subdivisions. I've got to deal with 75 counties and 75 county chairmen." I'd say, "Okay, I've got it, but how often do you see those country chairmen?" They'd say, "Some I see three or four times a year, some I don't see for a whole year." I'd say, "Let me explain something, when you've got a problem with a country chairman in your state, it's a problem. You got a problem with a county chairman in our state, you're going to see that chairman practically every day or at least once week, so you've got a big very big time sensitive problem and you have to deal with it."

If you want to use the old saying, everything is a mile wide and an eighth of an inch deep in a big state like California. You know what Delaware is like? An eighth of an inch wide and a mile deep. Everything is an interpersonal relationship. The staff person who does the mail, until you get the hang of it, really is a nightmare. People really do think that Joe Biden signs the letters that come back to them. It's very satisfying. You get to deal a lot with the substance of things as opposed to appearances because your press releases don't make it. It's not a state where you're going to get a whole lot out of a press release. It's a lot of hands-on, face-to-face. But the big advantage is if you have an issue, you can literally get four or five or six or eight people in a room and find out what the

people really think. When I was doing healthcare in the Senate, I had three or four groups. I met with the hospital people. I met with the insurance people. I met with the docs' and the patients' organizations. I could sit down and find out, "Does this make any sense?" "No, that doesn't make any sense at all. Let me tell you what's going to happen." And most of this stuff is not Delaware-centric. It's just about how difficult it is to get a policy in Washington—because this is a big country—that works for hospitals on the basic level. Washington spends a lot of time on that, and they do a good job on the hearings and the rest of it, but it's still very difficult.

Another big advantage of Delaware is when I was doing the Dodd-Frank banking legislation, there was a banker here in town and I would just call him up. He never changed my position, but I would ask him, "Just tell me the alternative view." I wasn't in alignment with the big bankers very much when we were doing Dodd-Frank. But, he'd tell me his point of view. He wasn't like a lobby operation. I think there's a reason why, when you look around at the senators who are generally recognized for quality, a disproportionate number of them are from small states. Obviously, when you pick two senators from a state as big as New York, or California, or some of those other states, you've got a much bigger bundle to choose from. But it's extraordinary—look at the Democratic senate majority leaders for the last 40 years Mike Mansfield—Montana, Robert Byrd—West Virginia, George Mitchell—Maine, Tom Daschle—South Dakota, and Harry Reid—Nevada, pretty impressive and all small states. I think small states turn out some pretty extraordinary senators.

**RITCHIE:** There's been a big debate lately about whether or not senators are ambassadors from their states. The question always is that you're representing your state so that even though you're dealing with national issues, you've always got to be thinking about how is this going to impact back on the state. So you've always got to know what the state really needs and what it wants.

**KAUFMAN:** And that's not easy. For over 20 years, I have taught a course on the Congress at The Duke Law School and we spend a lot of time talking about how do you find out what your priorities are and part of that is what they want back in the state? You cannot even say just go with the majority. For if you have a majority of people who feel lukewarm about something, but you have a minority of people who feel really strongly, which ones best reflect the opinion in the state. And all different shades in between. Another thing, what do you believe is the basic philosophy of senators? Should

a senator be a delegate or a trustee? A delegate is someone who goes to Washington, who represents totally what's going on back in the home state? There are a lot of people who believe that, a lot of senators believe that is what you should be. In fact, the studies all show that a majority of senators believe that. Or are you a trustee? That is, are you hired by your state when you win the election, and then you go to Washington for six years, and then your state decides whether to rehire you or not? There are all kinds of decisions on how do you decide what it is you're going to do.

In this course, I use a lot of "if you're elected for life." Because people believe that a lot of things that senators do is totally so they can win reelection, but I believe they would do these things even if they weren't running for reelection. There was a great political science professor from the University of Delaware, Jim Soles, who died recently. Jim and I had this argument back and forth on over the years before I was a senator. After I was appointed Senator I said, "Well, Jim, I've got a chance to try figure out, how much do you do as a senator because you're worried about reelection, and how much do you do because you want to do a good job to represent the state?" I decided I'm going to be a great test because I'm not running for reelection. For instance, I marched in parades. Now, I will bet you people sitting on the side of the road when a senator marches by in a parade will think, "The senator's doing that because he wants my vote." And a lot of senators are doing it because they want their vote. But they are also doing it because that's a responsibility of the office. When you start asking students, over the years, "If you were elected for life, what would you do?" outside of eliminating fund raising and actual campaigning, not much changes in what a senator does.

I was lucky as a senator. There were a lot of issues that effected Delaware, but there were very few issues where my position was different from Delaware's. By the way, most senators' positions aren't that different from the state they represent because they are from that state and they represent its culture. Where they're different is from senators in states. For years they used to say the great conundrum of polling is that when you ask people if they support Congress, 13 percent approve of the Senate. When you ask them, "Do you approve of your member of Congress," 65 percent approve. They say, "Why is this happening?" Well, it's real simple in my opinion: Your senator is like you. On the simplest level, I mean, if you're from Louisiana, you sound like Mary Landrieu. If you're from New York, you sound like Kirsten Gillibrand. Now, if you're from New York and you hear Mary Landrieu, you say, "Oh, I don't like what she's saying." And if you're from Louisiana and you hear Kirsten Gillibrand, "Oh, I don't like what she's

saying.” I don’t like *them*, but *my* senator is okay.

But anyway, there was this one issue. In my opinion the people of Delaware’s position and my position were totally in alignment. But there were some people that thought this was just me voting because it was a Delaware issue. I was talking to a very smart reporter—most reporters are very smart—and he said, “Why did you vote this way?” I said, “Because I really believe it and my Delaware constituents believe it.” But also, I said, “I represent Delaware. When you see my name up there, it doesn’t say Ted Kaufman, U.S., it says Ted Kaufman, Delaware. I have a responsibility to represent the people of Delaware. I have a responsibility to make sure the people of Delaware get as good an education as anyone else. I have a responsibility to make sure that things happen in Delaware.” But that has to be worked out with a lot of concerns and opinions that I have as an individual. One of the best things I ever heard for a new elected official at any level was what Congressman Henry Hyde use to say at the orientation of new members of congress. He would say you have to figure an issue or issues that you are willing to lose reelection over. He was absolutely right.

I don’t know whether it’s that people aren’t taking civics courses anymore or what it is, but lots of things that used to just roll off our tongue, like checks and balances, sometimes it would be clear from questions that students asked—law students—that they didn’t really understand the things you get in Civics 101, like checks and balances and other basic principles of our government.

But it’s clear that there are so many things that a member of Congress—I call them conflicts—I’ve got about 10, 15 different conflicts. Is this a good time to run through a bunch of them? Okay. Do I do what’s right for the state or for the nation? You, know, Edmund Burke’s a legislator’s job was to look after the nation, not the state you are from. An example is defense contracting because a lot of defense contractors now are smart enough to put a little bit of every weapon in every state to get people to vote for them. So I think another of the conflicts you have on every piece of legislation is: Is there conflict in my role as a senator and as a person? There’s a conflict between me and what my party wants. I’m a member of the Democratic Party. I can remember there was a senator who got elected and really got in trouble because there was a transportation bill and the leadership came to him and said, “I really need your support on this transportation bill. It’s just a small bill, but we really need you.” They asked all the freshman to vote for this bill, and he voted for it. And then all hell broke loose in his

state. “Why would you ever do that?” Another conflict is it may help the president of the United States. The president calls up and says, “Hey, Ted, I’m sending up a nominee for some position. I know you don’t like him. I don’t ask you for very much. You are a member of my party. Will you vote for this person?” Then you’ve got the House and Senate like we went through with the healthcare reform. “We’ve got to support the House.” “We’ve got to support the Senate.” “You have to support your committee, and/or your Chair”. We’ve got to support the President. How are we going to do that? You have your primary responsibility to your constituents. But also to your key supporters, to the people in your kitchen cabinet, and last, but by no means last to your family and friends. The successful campaign to stop the use of gillnets which were killing thousands of dolphins started with Ashley Biden coming home from school with a crayoned picture of dolphins caught in the gillnets which hung on Joe Biden’s senate office wall for years and resulted in notices on tuna cans that gillnets were not used to catch the tuna in this can.

I remember on the Brown-Kaufman amendment to the Dodd-Frank Wall Street reform Bill, just about every one of the committee chairs voted against me to support Chairman of the Banking Committee Chris Dodd who opposed our amendment. In addition, most of the members of the Banking Committee did not support my bill. So as a member of Congress you have a lot of different conflicts come up in how you make your decisions. It isn’t just about you and your conscience. Now, I never in my two years as a senator had to compromise any principle that I hold, but you do have a bunch of different matrix of decisions, choices you make when you make your decisions as a senator.

**RITCHIE:** You weren’t running for reelection, so you weren’t raising campaign funds, either, which is another factor.

**KAUFMAN:** You are right, although I raised a lot of campaign funds over the years for Joe Biden. My theory on campaign money is a little bit different. If there’s one thing I could do it would be to change the way we finance our campaigns, but the Supreme Court has made it extremely difficult, almost impossible, which is for another time in our discussions. But people don’t walk into your office and say, “I’ll do a fund raiser for you if you vote this way.” Not to say that people don’t try, but many people I have met over the years who aren’t in the Senate perceive that. But what really happens was explained in Joe Biden testimony before the Senate Rules Committee in 1973 about this when he was running in 1972. It was so good , it was on the editorial page of the



*Washington Post*. He was for public financing of campaigns even back then. He told the story about going to a meeting in Delaware, it was down to the end of his campaign, and he was closing the gap in the polls. We weren't raising very much money, and there were a bunch of people in the room who could make a serious contribution. They talked very nicely, and they had a drink, and one fellow said, "By the way, just for our edification, what do you think about capital gains?" Joe Biden said later, "I knew the right answer for \$20,000. I needed money for my campaign. I could get \$1,000 from each person in the room." He said, "It was a real test. I like to think I would do the right thing, and maybe I would, but I knew if I went home and told my wife that I had given them the answer they wanted, Neilia would have killed me, so I didn't do it."

Most of the decisions on whom and what you are going to support and oppose are made when you run. You make a basic decision when you run about what positions you are going to take. And then, like the old saying, "You dance with the one that brought you." There was also a quote from Simon Cameron of Pennsylvania who said, "An honest politician is one who, when he is bought, will stay bought." Where the corruption comes is this, in my opinion: If Tom wakes up one morning, and Tom has spent his whole life worrying about the poor and disadvantaged, and children, and social services, and things like that, and decides he wants to run for the Senate; and Mary wakes up, and Mary has spent her whole time in corporate America, She believes that the only good tax is a low tax, that we should have no capital gains tax because that's how we're going to grow. Now when Tom and Mary run, Mary is going to start out with a lot more money than Tom. She is not going to be taking positions in order to get the money, but because she honestly believes that's what we should do. When you look at most members of Congress, and when you look at the big interest groups, and you look at where they are, that pretty much defines it. The problem is it's corrupting from the beginning because clearly politicians that agree with people who have a lot of money have a much better chance of getting elected than those who don't. That's the corrupting influence.

Now, are there issues—and I can talk about this for hours—but are there issues if you're on the East Coast of the United States and there's a water issue that doesn't affect you, you don't have any principles involved, you don't even have time to sit down and figure out what the water issues are, and Joe Brown comes here from the Water Institute of America and says, "Would you come to a fund raiser for \$15,000 for the Water Institute of America?" Does that go on? I'm sure things like that go on. Not Joe Biden—and I really mean not Joe Biden—and as you say, I didn't have to raise money.

One of the things I get asked a lot is, did I regret making the decision not to run? I've made a lot of tough decisions in my life and that was, without a doubt, one of the very easiest. There are a number of reasons for why I did not run. I know campaigns. I've done seven senate campaigns, two presidential campaigns and one vice presidential campaigns, just for Joe Biden, and then helped other people on campaigns, so I know more than the average bear about campaigns, and how campaigns function. I know that if you are appointed to a seat in the Senate for two years, the opposing party knows that their best time to knock you out is that first election after two years. So you're going to have a tough race in two years if you're sitting. If you look back on the races last year, Kirsten Gillibrand and Michael Bennet ran, and from day one they had to be involved in their campaigns. It's *a lot* more than just raising money. It's strategy. It's being back in the home state more than you would be otherwise. It's incredible.

The way I find best to express my feelings is what I said to Roland Burriss when he came to me. Roland, as you remember, was appointed in that crazy mess in Illinois to take [Barack] Obama's place. He came to me after we had been there about three or four months and he said, "Ted, I'm really having a hard time making this decision whether I should run for office. You announced right out of the box that you weren't running and seemed very comfortable with it. What's going on?" I said, "Roland, look, you have two choices. One is you can decide to run for election to the Senate. If you do, you will spend 65 percent of your time, mark my words, and 85 percent of the last two months, when a lot of important things are going to be done, involved in running for the United States Senate. If you lose, you've never been a United States senator. Your other choice is to announce you're not running and spent the next two years actually being a United States senator. Now, that to me is the easiest decision in the world."

It is a different decision for young appointed senators like Michael Bennet and Kirsten Gillibrand. There was a much bigger advantage for them of running for election—because if they were elected for that first term, both of them are very able people, they could spend 20 or 30 years in the United States Senate. Clearly for Roland and me, if we got elected, because of our ages, we'd serve maybe one additional term. So the upside wasn't as great for us as the downside was. It was really a very easy decision for me. And I'll tell you that, it was a wonderful, wonderful two years. It was a great experience.

**RITCHIE:** Well, I wanted to go back to the 1970s, but I wondered if you'd like

to take a break now

**KAUFMAN:** Do you want to get some lunch?

**RITCHIE:** That would be good.

**End of the First Interview**

## CHIEF OF STAFF

### Interview #2

Wednesday Afternoon, August 17, 2011

**RITCHIE:** I thought maybe we could start when you moved from Delaware State Director to DC as Biden's Chief of Staff which was then called Administrative Assistant. What was the Senate like when you first got there?

**KAUFMAN:** I was already coming to DC a lot. There was a big change in '74. We were just beginning to go through this expansion of staffs. I remember there was a lot of discussion about the need more staff. There was one factoid that some 15,000 people prepared the defense budget and sent it over to 15 people on the Senate Armed Services Committee. The Senate really needed more people in order to compete, if in fact we were going to compete, with the Imperial Presidency. Because remember we were coming off of '72 , with Nixon and the Imperial Presidency and it had picked up steam in '74. In fact, we did increase staff regularly until the Republicans won in 1980 and we have remained level in numbers ever since.

So staff was growing and it was very crowded. The Hart Building wasn't open then. I remember Joe Biden's office when he first got there [laughs], it was on the sixth floor of Dirksen and the furthest corner from the Capitol. We used to say, "We think we're in Maryland." The elevators were just awful in Dirksen, and they're still not that great. There was his office, there was another room, then there was a third room, a long narrow room with a desk that ran along the long wall. It had five staff people in it, and if the staff person farthest from the door wanted to go out, everybody had to get up to step aside and let them out. It was really quite extraordinary. That was his hold-over time while they were figuring out where his office was going to be. Then he got his office and the space was a little better. But space was a real problem. That was another advantage of moving all that stuff to Delaware, because you opened up space in DC or staff.

There were still a lot of senators who were not campaign-oriented. I remember, this was a little bit later, but I was at a meeting one time with senators and staff and some group, and [Charles] Mac Mathias had just been reelected, so we can figure out what year that was. The meeting had just begun and he said, "I'm Mac Mathias and I'm looking forward to the next two years. The two years after an election of a senator is the closest thing we have in America to a statesman. The next two years I don't have to worry about

the politics of anything I'm going to do." I think there was a lot of truth in that. The first two years senators didn't worry about election. We did, and a lot of the new guys started worrying about election because when you first got there, the first two years were when you made an impression. So we did a lot of things and spent a lot of time worrying about communicating with people back home and those kinds of things.

At that time, I think we were allowed two squawk boxes. We had two little boxes, one was in the senator's office and one was in a staff person's office, where you could hear what was going on to the senate floor. There were still a number of the old southern senators who had been there for years. Back then, the South had the strategy of electing somebody and keeping them in office. That all fell apart over time, but you had James O. Eastland of Mississippi as chairman of the Judiciary Committee. Senator Biden, who didn't agree with Eastland much, worked with Eastland. Senator [Herman] Talmadge of Georgia was Chair of the Agriculture Committee. Senator [John] Sparkman of Alabama was head of the Banking Committee at that time. Senator [John] Stennis was Chair of Armed Services. A lot of the old segregationist senators were there. The interesting thing about them was their chiefs of staff, by and large, had been with them a long time, too. That's kind of what I did. I stayed for 22 years and that's very unusual. There are still some people in the Senate now, Marty Morris who is Dick Lugar's AA has been with him for 20 or 30 years. That's the way the place used to work. Now staff stays for much shorter terms.

It was very much of a "junior senators should not be seen or heard." It was dramatic the way it's changed now. I can remember that Senator Biden did not get to chair a hearing until, oh Lord, he had been in for well over a year. Ed Muskie was head of the environmental subcommittee of Public Works, and allowed Joe to chair a hearing—oh, there was a big movement to deal with lead in gasoline, which was a big issue with DuPont. DuPont had the main person testifying, so Muskie let Joe chair it. But you were not seen or heard. Joe said he didn't get up in the caucus to speak. It was months before the freshmen went on the floor to speak. That's basically the way the place worked. It was kind of a bridge, I guess, from earlier times when it was even worse.

They didn't have the Tuesday-to-Thursday club, the Senate was in session most of the week. There's a story I've heard a hundred times, in different ways, but the way I heard it, they asked James O. Eastland when the country went downhill. He was asked: What's the thing that most changed the Senate and the country? And he said "air

conditioning.” He pointed out that there used to be, in the ceiling of the Senate Chamber, glass windows where the sun could shine through, and when the sun came up, especially in June, July, and August, it would turn the place into a hothouse and everybody would go home. The other side of it is that at that time, when you look at what they were dealing with, when you look at what President Kennedy had to deal with, in terms of the issues the federal government was involved in, just the foreign policy issues the federal government was involved in, there is a lot more now. But back then they used to go home. We were in after that. The senate was in most of the year and in most weekdays.

There were only two Senate office buildings then, so space when you were junior was a problem. There were very few hideaway offices for the senators [in the Capitol]. Only the most senior senators had a hideaway. But still there was a very strong tradition that junior senators should be seen but not heard, and you worked your way up through the ranks, kind of like in high school where when you’re a freshman you listen to the seniors on top, and then when you get to be a senior, you’re on top.

When people start talking about civility, there are a number of things that I think have created civility problems. (I’m not one who believes that civility problems are that big, but we can get into that later on, that’s an issue in itself.) But in relation to what the transition was like that, as we moved on into the ’80s and the term limit movement started, you had a situation where senators were elected believing in term limits, which essentially said that the senators were staying too long. When you came in 1972 it was, “Hey, these are the older guys. They’re experienced. They know what’s going on. And that’s the way the system works anyway.” And that’s what you do, just like if you go to work for a law firm or a corporation, you start at the bottom and you listen to those who have more experience. What happened when term limits got started, you got a bunch of people in the Senate, and in the House even more so, who believed in term limits. They thought, “If you’ve been here more than 12 years, you’re the problem. So I’m not going to listen to you, and I’m not going to be deferential to you.” Some of the senior senators really said, “Wait a minute, this is the way I worked my way up.” Now there were a lot of other reasons, too, but I think that was one of the reasons.

Civility really was excellent. People got together to have a drink. People actually stayed in town. A big difference was that families were in Washington. Back then, the Senate didn’t cover a lot of expenses to go back to the state, so it would have been economically impossible for most senators to have done what senators do now. People

say that one of the reasons for the civility was that families were here, and I think that's part of it, but in some ways some of the senators see more of each other now on the nights they're in town because their spouses aren't here, so they go out and do things together at night. Another thing that hurt the family thing was the same thing that made it easier for us to have a Delaware office, and that is communications. You can communicate back home. That's why so many of the senators' families are back in their home states. That was a big change.

The committees—you know, Woodrow Wilson said, “Congress in committees is Congress at work,” and that was true. That was where most of the work went on. Now, it wasn't until '73 or '74 where they passed the government in the sunshine rules that opened up all the committee hearings. Of course, there were major unintended consequences of doing that. Senator Biden had been a big advocate of that and pushed for open committee hearings. We had the first open hearing and all the people were there. Boy, this is really great. Well, three or four weeks later you looked out there [in the hearing room] and all you saw were lobbyists. I think one of the things that increased the power of interest groups was that lobbyists could now get information they could send back home and people would say, “Oh, I'll pay for that.” “Senator X at the committee hearing of Armed Services said we shouldn't have that airplane. Write Senator X today and tell him he shouldn't have said that in the subcommittee hearing.” So there was a downside.

We also had changes in the campaign finance law, *Buckley v. Valeo* was handed down in '74. All of us were spending a lot of time learning about how the new rules worked. We were putting in real gift restrictions and all kinds of ethical changes. I agree with all of this, but the unintended consequence was that people had a lot more information about what senators do and don't do, and they can get more upset about it.

One of the things that was great about the Senate was that there are a lot of women in powerful staff positions and that really grew from '72 and that grew more during the '70s and '80s. We changed the term from administrative assistant to chief of staff. There were a lot more female chiefs of staff. The secretary of the Senate was a woman.

There were new committees. When Senator Biden came they started a new thing called the Budget Committee and he was put on the Budget Committee. They started the

Intelligence Committee, and he was put on the Intelligence Committee. He used to say, "I'm the token young person and tokenism is great if you're the token." Then you had a whole bunch of post-Watergate babies, the Class of '74. The Class of '72 to some extent but even more in '74.

**RITCHIE:** Senator Biden had some advantage in that Mike Mansfield took a liking to him when he arrived, and perhaps because of his wife's death went out of his way to help him adjust to the Senate, and one of them was to give him some fairly attractive committee assignments.

**KAUFMAN:** Back in those days there was a steering committee to make committee assignments. Now the leader really picks who goes on those committees, but back then the steering committee really functioned. You're absolutely right, Mike Mansfield liked Joe Biden and one of the things he did was put Biden on the steering committee. Well, it was unheard of to have a freshman on the steering committee. And once you're on the steering committee, you're sitting around the room and all the requests would come in. As soon as you got elected you sent your requests off to the steering committee for committees you wanted to serve on. He was on the steering committee and he got a blizzard of calls from new senators wanting his help. Then they sat down and actually decided on the committee membership. He was initially assigned to his first 2 committees; Labor and Banking. As soon as the steering committee made the next selections in 1974, he moved onto Foreign Relations and Judiciary, and that's what he wanted. And then, because he was on the steering committee, and because he was young, and because of Mansfield, put him on the two new committee, Budget and Intelligence.

In fact, there's a great story about the Intelligence Committee. Mansfield came to him and said, "Joe, we're starting an Intelligence Committee and I would like to put you on the Intelligence Committee." Joe Biden came back to the office, and Wes and I were there. He said, "Mansfield asked me to do this, what do you think?" Wes and I said, "Well, first you're on a lot of committees, and second your style has been candid, you say what's on your mind, you say what you think. The Intelligence Committee—all of a sudden the whole world is going to change." So he went back and talked to Mansfield, he thought the world of Mansfield, and he said, "Look, Mr. Leader, I just don't think that's my style. I'm already on these other committee and I just don't want to be on Intelligence." Mansfield shook his head, didn't say yes, but said "Okay" and just puffed



on his pipe. The way Senator Biden tells the story, he was in the cloakroom off the floor and Sam Nunn came through the door and said, “Hey, Joe, congratulations!” Senator Biden said, “For what?” And Nunn said, “You’re getting on the Intelligence Committee.” He went out and on the floor and found Mansfield. Mansfield put his arm around him and led him off the floor and said, “Joe, we need some people on that committee who are smart and say what they think, behind closed doors, and will do the right thing. You’ll be fine. I know you’ll be fine. But I really think it’s important that you be on that committee.”

When people start getting nasty about Joe Biden’s gaffes, I say, “You know, he was on the Intelligence Committee for 10 years and there was not a single time that anything he had ever said was open to question by anyone that he had ever done anything.” So when anyone says, “He says those things, he doesn’t know what he’s saying, he’s out of control,” I say, “Well, we can talk about that, case by case, and see what went on, but in terms of Joe Biden not being in control of what he says, he was on the Intelligence Committee for 10 years.”

It turned out to be great, because a number of senators have figured out since then that being on Intelligence and Foreign Relations is a great mix. I was fortunate enough to serve on Foreign Relations and Armed Services, which is a great mix. It gives you a great view. But in some ways Foreign Relations and Intelligence is an even better mix.

**RITCHIE:** They used to complain on Foreign Relations for years that there was so much about foreign policy they didn’t know because of national security issues.

**KAUFMAN:** They say that, but one of the things I miss about being a senator—people say, “Do I miss it?” I say, “No, I don’t miss it, I knew it was a two-year deal, I absolutely had a great experience in so many different ways, had a chance to try to make a difference, but it was two years and I have other things I want to do with my life.” Because most people, when they say, “Do you miss it?” If I say no, they say, “Oh, yeah, because it was such a terrible place, aren’t you glad to be out of there.” I say, “No, the Senate is a wonderful place to work.” But it’s interesting, this is the first time I’ve thought about this, but the one thing I do miss is that when you’ve been dealing with these issues for as long as I have, it’s almost like—I like to read for relaxation crime novels, and it’s almost like a crime novel, where you have a bunch of facts and you’re trying to figure out what happened, who actually did what to whom. If you’re dealing

with healthcare reform, there's a lot of that: What does the public option mean? What really happens here? In those situations, having access to the information you have as a United States senator is just extraordinary. It just makes the hunt for what the truth is and what's right a lot more interesting.

This is especially true in foreign relations. When you get into foreign relations, having the ability, if you read something in the newspapers that I was interested in—it wasn't like I was doing this as a lark, it was only on issues that I was really concerned about and it was something that was central to what we were doing, in Afghanistan or Iraq, Iran, and others. I would just ask my staff person to set up a CIA briefing, or a briefing, and you go over to [the Security Office in] the Capitol, into that room and close the door, and they tell you, "This is exactly what's going on." And before I would take a trip I would get a briefing before I left. Then when you were "in country" you could get a briefing, and I always asked for it, from the local CIA people. So I think any member of the Foreign Relations Committee who wants to keep up on intelligence in order to inform our foreign policy decisions can do it. The intelligence agencies are extremely forthcoming to requests that you make and they are, in my experience, some of the most qualified people I've ever worked with.

**RITCHIE:** Going back to Senator Biden's first committee assignments, you mentioned that he had been on the Labor Committee. We talked about this at lunch, but I wondered if you could tell me that story again about how he was invited to speak so frequently.

**KAUFMAN:** Sure. When he was elected, and after the accident, he was in tough shape for a number of years. But he was a great speaker and he was the token young person, so he was invited to speak at the big Democratic dinner in just about every state. They call it the Jefferson-Jackson Day dinner in the vast majority of states. So he traveled around speaking and he did very well. The chairman of the Labor Committee was Jennings Randolph of West Virginia, and he had been there forever. I believe he was in Congress when [Franklin] Roosevelt was president. He was a big guy from West Virginia, and very plain spoken. He asked Senator Biden to come and speak at some dinner in West Virginia. He said, "Joe, I hear you're a real good speaker. They've asked me to invite you, would you please come?" From a chairman back then, that was like a command performance. I don't know what else was on your schedule, but if it didn't have something to do with your wife or kids, you went. Plus, Joe liked Jennings a lot.

You were saying earlier about people being nice to him, they were *all* nice to him. Fritz Hollings was great to him, Hubert Humphrey was incredible, Ted Kennedy, all of them, and Jennings was one of those guys. So Joe said yes and Jennings told him what the weekend was. Wes Barthelmes and I were wondering because the staff couldn't tell us what the logistics were. They couldn't tell us whether to get airplane tickets or how he was going to get there. We said, "You ask Senator Randolph." Well, Senator Biden was junior and he was reluctant to ask Senator Randolph, but he did, and Randolph said, "Be on the corner right outside the Russell Building at three o'clock and bring whatever stuff you need." So he was down there standing on the corner, and I'll never forget it, with his garment bag over his shoulder, and at three o'clock up comes a car. Driving it is Jennings Randolph. "Hey, Joe, get in." Joe Biden gets in with Jennings Randolph and they drive to Charleston, West Virginia.

Another one was Senator Stennis. A typed letter came in from Senator Stennis, after about a year, a year and a half. I hope they still have that somewhere, it's priceless. There were a couple of typos in it. It was back before we had the machines that automatically correct the typos, so when you made a mistake you could either type it again or you kind of put a white substance called "snowpake" over it, and this had "snowpake". And this was a southern thing, this was the way it went on, this would not be unusual. Stennis essentially said, "I've been watching you on the floor. You've been a real credit to the Senate. I'm proud to be serving with you." It was an incredible letter to get from a very senior senator at that point. Wes showed it to me, and I said, "That's extraordinary. Who do you think wrote it?" Wes said, "Oh, Stennis wrote it. He not only wrote it, he typed it." [Laughs]

One of my favorite Senate stories is that in the vice presidential office in the Dirksen Building, right now there's a great big table. Before that for years the table was in Joe Biden's senate conference room in the Russell Building. The table had been a gift from the Philippines to Harry Truman for U.S. help in the war. I'm sure it was one of many things they sent Truman. Truman gave it to Richard Russell, who was chairman of the Armed Services Committee. If you read Lyndon Johnson's biography, *Master of the Senate*, in the center of the book there's a bunch of pictures, and in one of the pictures are a group of senators in the 1960s sitting around this table. It was called the Southern Caucus. Richard Russell would call it and all the southern senators would come. And that's where they plotted to stop the Civil Rights Act. A lot of the senators there were serving when Senator Biden came: Senator Talmadge, Senator Eastland, Senator Stennis,

and that's where they plotted the filibusters against the Civil Rights Act. So when Russell left he gave it to Stennis. Stennis used it as the desk in his office—it's a gigantic table. When Stennis was leaving, he called Senator Biden and asked if he would come down to see him. He went down and Senator Stennis said, "I've had this table," and he explained the history of the table. He said, "I know when you came here, I know you were big for civil rights, and I can't think of anyone I'd rather have this table than you." He gave Senator Biden that table, which Senator Biden kept in his conference room. Stennis also said something—and I may be butchering the quote but essentially he said, "Civil rights freed us, too."

By the way, the other thing that was different about the Senate was—I remember there was a study done that said that something like 92 percent of all bills favorably reported out of committee were passed by the Senate. That goes back to the idea that it was in the committees where all the work was done. That's what happened. The way the Senate worked back then, they delegated. Just like if you're a good corporate manager, you delegate to two or three different people. What the Senate did, no one could understand all of the foreign relations, and the finance, and the labor, and all these different issues, no one person could understand it all. What they did was they delegated, they put people on committees and then listened to what the committees had to say. Now, there were some bills with problems that you could amend on the Senate floor, but essentially once a bill was passed out of committee, it was pretty much passed by the Senate. Of course, there's been a constant erosion of that as we got entrepreneurial senators—Joe Biden was one of them. Senators more and more said, "I'm not willing to take your word on that." Vietnam and the Foreign Relations Committee? "I'm not willing to listen to William Fulbright on what we should do in Vietnam." So that changed the whole dynamic of how the Senate functioned, where more and more of the decisions were made on the floor, and you saw a constant erosion of the committees over the years. The Clean Air Act bypassed committee and was essentially written by the leadership, so you had a loss of "regular order." Regular order became if not extinct, pretty close to extinct. Regular order was typified by the "how a bill becomes law" explanation of how legislation is passed, and in fact most of that has changed.

The other big difference back then was the amount of money involved in campaigns was very small. I think it was '78 or '80 before we had the first million dollar House race. After that, more and more time had to be spent raising money, and then it had to be raised earlier, and then since you were worried about campaigns, campaign

strategy took more time out of your legislative schedule, as campaigns became more complex. And you had ongoing relationships with your pollster and your media person and everybody else. They would be coming in and give you advice on things for six years.

Since I mentioned pollsters, which have become a dirty word, I believe that one of the functions of a senator (how important it is a long discussion) is to represent your state, and determining how to represent your state requires information. [Benjamin] Disraeli said there are three kinds of lies: lies, damn lies, and statistics, and polling is kind of that third lie. But that being said, it is the best way there is to find out what people are thinking. It's better than anecdotes from individuals. You should talk to people, too, that's part of it too, your own little focus groups. But you also should do the surveys. What I always teach in my course is: polling is to a politician what a compass is to a captain at sea. That is, when you're at sea with a compass, it tells you where north is. That doesn't mean you sail north, but if you don't know where north is, if you want to sail east, you don't know where east is. And if a politician doesn't know where his electorate is, he doesn't know where to sail. I will tell you that from my experience, contrary to being negative impact, but knowing what your constituents think makes for a better government.

I'm absolutely convinced—as I said earlier, we were very close to Jimmy Carter—I'm absolutely convinced the quality of decision-making that came out of the Carter White House improved during the last two years of his presidency when he started to think about reelection. President Carter and his staff came into office very upset in 1976. Let me say a little bit about Carter. Joe Biden had gotten involved early with Carter's campaign and was head of his national steering committee. He was the first elected official outside of Georgia to endorse Carter. I remember when Mondale went down to meet with Carter to talk about being vice president, before he went, he met with Joe. They sat on the floor and talked for a long time, because Joe was the only senator other than the Georgia delegation who knew Carter. The amount of heat that Joe Biden took when he endorsed Carter was absolutely incredible. Lots of people called and said "What are you doing? This guy can't win.", "What is Joe thinking about", "who is Joe listening to," We had a lot more friends supporting [Morris] Udall than supporting Carter. So we were very close to Carter and his people after he got elected. We knew all those guys because we worked with them in the campaign, Hamilton Jordan, Jody Powell, and the rest of them. They came into office really in a get-even mode with a lot

of the constituencies in the Democratic Party that did not support them. The first two years, they were pretty insular and I think made a bunch of bad decisions. By the time they got to the second two years, they were listening more to what people had to say. People went to the White House who they should have listened to from the beginning, and they did a much better job. So I'm not saying that having a pollster work for you for six years is a bad idea. I think it's a damn good idea if you really care about representing your district.

**RITCHIE:** Carter and Biden used the same pollster, Patrick Cadell.

**KAUFMAN:** Exactly.

**RITCHIE:** What was it that attracted Biden to Carter so early on?

**KAUFMAN:** Oh, I think he thought that Carter was on to new ideas that Biden believed in—remember, a lot of the things I talked about, the reasons why I was supporting Biden to begin with, were things Carter supported. He was for fiscal stability. He was for the environment. On his presidency, hindsight is 20/20. Jimmy Carter had been an incredibly successful naval officer. The stuff he did on nuclear submarines, he was really well respected. Then he was governor of Georgia, and by all accounts a very good governor of Georgia, somebody who helped bring Georgia out of segregation. So he had a beautiful resume. The reason people weren't supporting him was because most of the liberals were looking for a more liberal candidate. They were looking for Humphrey to run, they were looking for Udall. I'm trying to think of the others who were running in '76.

**RITCHIE:** Jackson.

**KAUFMAN:** Scoop Jackson, that's right.

**RITCHIE:** Frank Church. Birch Bayh. Half the Senate was running.

**KAUFMAN:** That's right, and all the liberals. You had Birch Bayh, who was a fabulous senator. You had McGovern, who was running again in '76. Church was great. Jerry Brown got into it in the end. Outside of Scoop Jackson, there weren't a lot of non-liberal candidates. Joe Biden, I think you'd have to say, back then was a liberal on civil

rights and civil liberties, although he wasn't liberal on the crime issue, although he did believe in all the protections. He was outside the Beltway. And Carter was talking about how we had to get the country out of its terrible times—what he eventually ended up giving in his “malaise” speech. We've got to come together and we've got to move forward. Everybody has to be involved. So he thought the message was a good one. Carter had a great background in the military. He understood the military side having been in the navy. He thought it was time for a change, and Jimmy Carter was the big change.

**RITCHIE:** Carter was an outsider and I wondered, when Biden came to the Senate, he was the youngest senator. Was he an institution man or was he a little skeptical of the institution? Some of the other senators had been there since before he was born.

**KAUFMAN:** No, no.

**RITCHIE:** Did he fit in right away?

**KAUFMAN:** Right at the beginning it was a nightmare. But the good thing was that a lot of people really cared about him and really went out of their way for him. But no, no, he didn't mind going over and sitting with James O. Eastland. He didn't mind being nice to senior senators. One of the reasons why I didn't think he would have a problem being vice president, even though he had really never worked for anyone else, was that he was very comfortable in a hierarchical organization. He felt very comfortable being nice to the chairmen. If Jennings Randolph is the chairman, I'm going to listen to Jennings Randolph. If James O. Eastland is the chairman, I'm going to listen to him. Now, I'm not going to do anything against my principles but in terms of paying deference, no he was very comfortable there. He was young and he had a lot of energy. He was intelligent. He had a mind like a sponge. He may have taken an economics course at Delaware, but when he got on the Banking Committee he very quickly picked up a lot of the economics.

It's always been popular to run against the Senate, that's okay. But to really believe in it is another thing. When I left his office I was teaching at Duke. Another professor, Chris Schroeder, and I started the Center for the Study of the Congress. At that time the approval ratings were just about what they are now, 12 or 13 percent. It was

coming off the Gingrich attacks that led to the '94 take over, where they just drove down the approval of the Congress. Then people said, "Why do we have Democrats? We hate the Congress, let's replace them." So we started and the basic mantra we had was: It's perfectly okay to be skeptical about the Congress, you should be, that's what the founders wanted, to be skeptical. But it's not right to be cynical. I think that back then there was a healthy skepticism about the Congress, and about power—right then it was more about power and the executive branch because you had Nixon and the Imperial Presidency—but let's not be cynical. He was a Senate guy, and we all were. Wes Barthelmes was, I was, all of us were kind of like, Wow!

**RITCHIE:** I just wondered because in '76 there were all these senators running and he sided with a governor.

**KAUFMAN:** Yes, that's a good point. It was strange. He liked the senators. Birch Bayh especially, but he liked them all. He had gotten Wes Barthelmes from Frank Church, during the campaign he was our Senate liaison guy and then became Joe Biden's chief of staff. We had also gotten our press secretary, Cleve Corlett, from Church, so we were very close to Church.

**RITCHIE:** At least in siding with Carter he didn't have to pick among the senators, which one he was going to endorse.

**KAUFMAN:** Right. I don't want to turn this into just all stories, but there is a very entertaining story about when he was running for the Senate. At the very end of the race, when the numbers had closed, in 1972, there was a fellow who had been an intern in the campaign who went to work for the local newspaper. On the Thursday before the election day Tuesday he wrote an article that appeared on the front page of the paper saying that he had sat in a meeting where Joe Biden said the only reason he was supporting Israel was because it was going to help him politically, that he really didn't care about Israel. Clearly, this was a concern. The governor of Pennsylvania was Milton Shapp. One of the fellows who worked in the campaign, who ended up marrying Valerie, Jack Owens, was close to Shapp. He talked to Shapp, and Shapp agreed to come to Delaware to help this young U.S. Senate candidate. So on Sunday before election day, Milton Shapp agreed to come to Delaware and help this young US Senate candidate. We had a reception in the Hotel DuPont. We had all the leaders of the Jewish community there. Milton Shapp came in and put his arm around Joe and said, "I know Joe Biden, and



that's just not true. Everything he says he believes." Now, remember, the Jewish vote was not a big vote in Delaware, but it was the momentum of the race, plus it was not what Joe believed in. So that all went fine, and the Jewish community disregarded the article.

Fast forward to 1975 and Milton Shapp calls Joe Biden and says, "Hey, Joe, I'd like to ask a favor. Will you come up and see me?" So he went up to see him, and he said, "Joe, I'm getting ready to run for president and I want you to endorse me." Joe Biden liked Shapp, plus Shapp had really been there for him when he needed it. He couldn't say no, so he said yes, he endorsed him. Go forward to the early part of '76 and Joe Biden is getting more and more interested in Carter and tells Carter that he was going to endorse him. I think it was right after the Wisconsin primary. It was about a month away. We sat down and he said, "I've got to call Milt and tell him." Because Milt Shapp was going nowhere. "I've got to call him and tell him I'm endorsing Carter. It's not going to be a fun phone call but I've got to call him." Wes and I said okay, but every time we talked to him about it, he didn't call. This falls into the category of it is better to be lucky than good. So finally there's a day, some short number of days before he's going to go to a press conference with Carter, and Wes and I tell him, "Today, you have to call Shapp." He said, "I tell you what, I've got a hearing and this lunch, so I'll call Shapp at two o'clock." At one o'clock across the tapes comes: Milton Shapp has dropped out the presidential race. [Laughs]

He just thought that Carter was the right person at the right time. I don't think any of us thought that he would end up being as poor a manager. A lot of it went to what happens to a president every time. First off, I think they were way too insular to start with. They weren't insular to us, they let us inside everything. The other thing was, and this happens a lot in campaigns, the more I see about the White House the more this becomes true, and that is as the campaign grows, the people who become involved are less and less committed to the candidate personally and more and more interested in the power that is going to accrue to them. You have presidents that are very anxious to hire people that they know are completely committed to them, for a lot of reasons, not the least of which are leaks and things like that. But they want someone who is committed to them. So they tend to stick with people who they have known before they became president. Carter did this to an extreme. The team that he brought in when he came into office, several of those people at very high levels, several of those people were just totally incompetent, and identified as totally incompetent early in his presidency but he

stayed with them for four years. With everything else they talk about, my personal take on his management flaw was just *way* too much loyalty, and a lack of wanting to fire people.

Of course, I'm always reminded whenever I say that, they did an interview with Jim Baker, who was chief of staff in the White House under [Ronald] Reagan and then secretary of treasury under Reagan and secretary of state after Reagan's presidency. They said to him, "President Reagan always was hesitant to fire people." He stopped them and said, "President Reagan never fired anyone." Like, we had to fire them all. So I think it doesn't come naturally for presidents to fire people to start with, and then you add this kind of loyalty, and then you add how the Carter campaign was a very small—*very small*—corps of people, who worked together every day and who were responsible for that presidency. Look how long he stuck with that fellow who wound up getting in trouble, the banker.

**RITCHIE:** Oh, Bert Lance.

**KAUFMAN:** Yeah, right, that whole Bert Lance thing was a perfect example of sticking with somebody long after you should have pulled the plug. But there were a number of people way up in that administration who were totally way over their heads, and identified as way over their heads early in his presidency, but he stuck with them.

**RITCHIE:** In retrospect, Carter came in with solid majorities in both houses and Democrats who were ready to go, because they had been dealing with Nixon and Ford for eight years. They thought they were going to move together, and instead you got the White House versus the Congress.

**KAUFMAN:** Well, the other thing is, as long as we're talking about Carter, remember that he had run from being "outside the Beltway." Early on there was a rumor that he was going to pick Cy Vance for secretary of state, who he eventually did pick. Hamilton Jordan, his chief of staff, was quoted as saying, "We'll have failed if Cy Vance is our secretary of state." Then they picked Joe Califano to be secretary of HEW. Now, Joe Califano, if you went to the Smithsonian and asked for the perfect replica of an Inside the Beltway DC Liberal, you could not do any better than Joe Califano. If there had been a cardboard cutout of who Jimmy Carter was running against in 1976, it would have been Joe Califano. So he filled the administration up with people who did not agree with him

on substance. I can remember the people who called me upset when Joe Biden endorsed Carter, it was mainly Udall people, and all of them ended up with jobs in the administration, and many of the lower-level Carter people did not. He hired people that weren't on the Carter message, and then allowed them to hire their people. The whole administration was full of people who were not on message. It was very difficult to run. That's why Reagan was so effective. One of the reasons Reagan was so effective was everybody in that administration was a Reaganaut. Everybody understood what the game plan was, and everybody signed on the game plan. That is how you get an administration to roll. And then Reagan had the House and Senate.

**RITCHIE:** He had the Senate, but not the House.

**KAUFMAN:** Not the House, right.

**RITCHIE:** But he manipulated the House. The Carter administration accomplished a lot, there was quite a lot of major legislation that came through, but it often seemed to be Carter versus Congress.

**KAUFMAN:** Well, but the other thing was Carter had a bad economy. If he had been reelected it might have been a different story, which is a really ominous thing for Obama. You just don't win if you have a bad economy. That's what happened to [George] H. W. Bush, too. You can talk about all of these other things, but—and then you had the primaries with [Ted] Kennedy. A lot these things, on where he was, was how much of it was based on his not being a good, competent president, the hostage crisis. Pat Cadell who was Carter's pollster believed, absolutely to the bottom of his being, that if the hostage issue had not been raised going into that last weekend, Carter would have won. It's hard to lose reelection if you're the incumbent president, but it is easy to lose if you have a poor economy. The two recent presidents who had poor economies at the time of their reelection, H W Bush and Carter both lost.

**RITCHIE:** Speaking of Kennedy, I think it was Carter in his memoirs who wrote that Joe Biden was the first person to tell him that Ted Kennedy was going to run against him.

**KAUFMAN:** Yeah, Joe went down and talked to him. It's funny how people don't understand how personal politics is at all levels. As I remember at the time, one of

the big mistakes the Carter White House made was they started going after Kennedy. Like “bring it on.” They had some senior member of the administration get quoted as saying , “We’ll kick his ass.”

**RITCHIE:** Carter said that, actually.

**KAUFMAN:** Yeah? Well, early on, before Carter said it, somebody else said it. One of the things that both Joe Biden and I felt was: Get off that! Ted Kennedy, and the people around Ted Kennedy are the most competitive people in the world. You’re totally barking up the wrong tree by saying something like that. I’m sure that’s not the only reason why Kennedy ran, but in 1980 I went to Iowa and worked for Carter. I always held Kennedy in the highest respect, but I did think that Carter could win the presidency and Kennedy could not. If Kennedy got the nomination, the Republicans would win the presidency. I never thought that if Carter won the nomination the Republicans could win.

**RITCHIE:** And his winning Iowa was very important for him.

**KAUFMAN:** Oh, yeah, it was a juggernaut in Iowa. They used everything a president can bring to bear. I was in Sioux Falls and the economic development people were all over Iowa. Of course, my favorite story on using the presidency to win reelection was when Ronald Reagan ran against Gerald Ford in 1976. Ford was president, and Reagan lost the Florida primary and the next primary was North Carolina. Right after the Florida primary, the next day, Reagan was up and held a press conference at I think the airport at Raleigh-Durham. He said, “By the way, if there is anybody here who’s interested in anything from the federal government, be sure and be here tomorrow when Gerald Ford arrives because you’re going to see Santa Claus coming down the steps.”

**RITCHIE:** When you went to Iowa, what did you do for Carter?

**KAUFMAN:** I just did the straight old blocking and tackling. A group of us went. We all took vacation time, a number of us from Joe Biden’s office. We went to Sioux Falls and worked the last two weeks of the primary, knocking on doors and talking to people, it was really mundane. Oh, my God, you should have seen the people who were out there! The quality of people they had knocking on doors! I had never been involved in a presidential reelection campaign—there haven’t been very many for Democrats—but man, the full power and prestige of the presidency was evident. Plus,

Carter's people knew campaigns, they were good at campaigns. They built loyalty in the Peanut Brigade and they had loads of volunteers in Iowa. The same thing in New Hampshire.

Of course, Kennedy had a pretty awesome machine back then, too. But the thing that really did Kennedy in was Chappaquiddick. When you got out into a lot of the Catholic areas—in Sioux Falls there were a lot of Catholics there—and they were not happy. A lot of people were not happy but they were especially not happy. But that Carter-Kennedy race went back and forth and back and forth. Every primary it seemed as though a different person won. There were so many negative things about Carter, negative things about Kennedy. I remember, they came down the eastern seaboard. Jerry Brown had entered the race, and [Frank] Church got into the race. I think Jerry Brown won every primary he entered. If Kennedy won a race, it was “Oh, my God, Chappaquiddick, we can't vote for him!” so the next primary they'd pick Carter. “Carter, oh my God, he's done a lousy job, we can't pick him!” Then they'd pick Kennedy. And then they moved over and started voting for Church and Brown, both came into the race late.

**RITCHIE:** And the election was right down to the wire in the end, so the voters hadn't made up their minds for most of that year.

**KAUFMAN:** Yes, and it was a bad economic time, too.

**RITCHIE:** Going back to Senator Biden, he was getting some good committee assignments, as you mentioned. You were in his Senate office. What's the relationship between a senator's staff and his committee staff?

**KAUFMAN:** Well, there's a lot different models on how to organize it. I remember that Kennedy's office had a reputation of being like a shark tank. They'd just throw the things in and play one against another. I've heard that Bobby Kennedy used to have three people write a speech and play one against the others. I had pretty much the “we're all on a team” approach, which was designed for a Joe Biden Senate office. It was true in most things: everybody works together, number one. Number two is you can't operate on a corporate model, where all information flows down and back through all the layers and the hierarchy. You had a hierarchy. One of the things I learned in business is everyone has to know who they report to. We had a thing we called the “one-fanny

system,” which is whenever something goes wrong, whose fanny is on the line, we used to use that as a joke. But essentially, everybody in office has to know what their job description is. This is straight business-school stuff that I actually believe whatever you’re doing, running a hot dog stand, you don’t need to be as formal about it but you’ve got to understand: What is your job? Who do you report to? I’ll tell you, in the Senate that’s tough because most of the offices are pretty horizontal as opposed to vertical, with people on an equal level. But you have to know who you report to.

Then the other thing was the information does not flow up to the senator through different layers. So it isn’t like, if it’s a school issue, the legislative assistant who handles schools doesn’t tell the legislative director who tells the chief of staff, who tells the senator. Now, some things flowed like that, but with basic information you want the legislative assistant talking directly to the senator, because the stuff is so complex. You have to be very careful. It’s like “whisper down the lane,” one of these games where you have five people stand in a row and each one whispers to the other until you get to the end and it’s very different from what was said at the beginning. Now, if there’s information the senator wants the staff to know about something, most of these were mechanical, administrative things, you could go down the chain.

The way it worked was there were some senators who had their committee staff report to them separately, some have them report through the chief of staff. In our committees, they reported to me as chief of staff. But that was part of the way the organization chart looked. I very rarely pulled rank on the staff director of a committee. They didn’t hire or fire anybody important without talking to me. We talked about planning for the committees. Senator Biden knew that he could come to me and tell me something. He could say, “Here’s what I want to do. I want to change this or I want to do that.” Or “I want to spend less time on the Foreign Relations Committee and more time on the Judiciary Committee.” He didn’t have to go through them and adjudicate that. I would say, “Look, that’s what we’re going to do.” If there was a Supreme Court nominee, Foreign Relations Committee had to back off. He didn’t have to go around and do that. That’s the way it worked. It really was one big operation.

Some senators keep the staff on committee totally separate. That has the potential to complicate things for the senators, if they have to be worried about conflicts. If the Foreign Relations Committee says they’re going to have a meeting next Tuesday: Well, am I supposed to be in Delaware next Tuesday? Am I supposed to be at the Judiciary

Committee, or the Budget Committee? Or am I supposed to be meeting with the leadership? With the schedule, our approach was: You've got to have one central scheduler. My basic rule was that the only person that can change the senator's schedule is the scheduler. We all work for the scheduler when it comes to scheduling. I had a whole bunch of rules like that. Like I said, it's a very uncorporate-like organization. Outside of a university it's the most uncorporate. At the same time, it's amazing how the few basic principles that apply to corporate management apply to the Senate just as well. Now, to the Senate itself, that's a different story, because no senator works for anybody else. The Senate is unique in all the world.

**RITCHIE:** When you described the Senate as being organized horizontally, I talked to a press secretary once who said the trouble with being a press secretary was that everybody on the senator's staff thought they were the press secretary.

**KAUFMAN:** You know what the rule was on our staff? It worked very well. When it comes to the press, we all work for the press secretary. Anybody can talk to the press, but before they talk to the press they have two requirements. One is, they have to call the press secretary, because many times what happens is a reporter will work the staff. They will have a story and will try it on different people. If someone on the staff is called by the press, talk to the press secretary and find out if there is something going on with that reporter, and then after you finish talking to that reporter, report back to the press secretary. It's just like the one-fanny system. The press secretary is totally the czar of the press operation. He works for me. I give him a raise or tell him or her when he or she can have a vacation. But when it comes to the press, I never talk to the press without calling the press secretary first, and then when it's done I brief the secretary on what happened. The same thing when it came to scheduling. Nobody did any scheduling, even the senator. The only person who could schedule was the scheduler. On the committees, if there's something going on at the Foreign Relations Committee, nobody did anything on the Foreign Relations Committee without checking with the scheduler.

**RITCHIE:** Did you have relatively stability in your office or was yours with a lot of coming and going?

**KAUFMAN:** We had a lot of stability. One of the arguments I make when I'm talking to the press about Joe Biden, I say, "Look at how many people that are around him today have been with him for 20 or 30 years. I mean, the guy wears well." People

will talk to me about the gaffe stories and I say, “This is a caricature, this is not Joe Biden.” It’s interesting the gaffe stories have dropped off and I think the biggest reason is because they now know who Joe Biden is. I point out that so many of the people around him have been with him for 20 or 30 years. For a time, when they started the Congressional Management Foundation, I was one of the early people they talked to. They put together—I don’t know if you ever saw it, I don’t know if they ever do it anymore—but a chart of how long people stay, what’s the average time that someone’s chief of staff stays. Every year they come out with a book about what the pay is, and how long to people stay. I remember at one point, AAs and chiefs of staff, it was like 2.2 years. In my early days we had people who stayed 20, 30, 40 years, right from the first day. We had much, much, much fewer turnovers than any of the Congressional Management Foundations studies that I saw.

There are different positions in a Senate office in terms of turnover. If you hire someone right out of college, they’re hired as a legislative correspondent, which means they’re going to be doing legislative mail. I used to say to them, “If you’re still sitting here two years from now, we’ll all have made a mistake. Everything you can learn you can learn in 18 months to two years.” I used to say, one of the great things about the Senate is that you have such wonderful people to pick from. The quality that you can pick is absolutely extraordinary. That’s the good news. The bad news is they leave. So it depends a lot on what the job is. The list of key positions, the positions where you need to have some stability, is a funny list: There’s the scheduler, the legislative director, the chief of staff, the receptionist, and the press secretary. Those are the people. Also the district director and all of the people back in the state, you want them to stay as long as they can. But in terms of legislative assistants, legislative correspondents, no, with some notable exceptions, they are not going to stay a long time.

My thinking about young people is you stay until you stop learning, and that only takes a year and a half. Our deal was if someone got a better offer, we never stood in their way. The exception was if you made a commitment that you were going to stay for a period of time. Even then, if you made a commitment when you became a legislative correspondent and said, “I’m going to stay for 18 months,” that’s the deal. The big thing you want to do is get on the Senate payroll and then go to the Senate cafeteria and find out where all the jobs are. You sign on as a receptionist or a legislative correspondent and then work your way up. But if someone came as a legislative correspondent and six months after they were in there, someone offered them a better job, no problem. Now,



conversely, if after six or eight months you start looking, that's a different story. But we never had that problem. We never did have people that came and broke their promise to stay for a while.

**RITCHIE:** When you listed the key players, you included the receptionist—

**KAUFMAN:** I was just saying in terms of staying a long time. What happens in the Senate—and I've given this advice to young people for years: Just get a job in the Senate so you're on the payroll and can go to the cafeteria and find out where the better jobs are. As a result, Senate receptionists are the most over-qualified people anywhere in the world. They're all college graduates from the best universities, with wonderful records. They're just there to get started. The receptionist is important because when people come in from the home state, or friends of the senator, or friends of staff. Just making all that work is a very tough job. When we first started we had a string of receptionists. It took them a while to figure out who everybody was, and the process. So I said to the office manager, "I will guarantee you that somewhere on Capitol Hill there is a woman (I'd take a man or a woman so ask everybody) who, based on where our society works now, whose kids are starting school, who is looking for a job, and looking for a job to keep for a long time. Let's go over to the placement office and see if we can find someone who fits that mold." And we did. We had the most absolutely wonderful woman who stayed as a receptionist for 14 years. It made a world of difference. She just knew everything. She knew the people coming in the door. So that's why I mentioned the receptionist as someone you'd want to stay for a long time.

In terms of legislative areas, especially when you get more senior you really do want people to stay. Staff directors, you'd like someone to stay for a while, but that's hard.

**RITCHIE:** It does create an impression for an office, too. You go into some offices and the front office is pretty scattered, some young people working the phones and are preoccupied. You go into other offices and you're welcomed in as a guest.

**KAUFMAN:** That's important, those people in the reception area. I had some problems when we first started—boy, it really caused me problems back home. It's a tough job. You also have people just walk in off the street. You can get in a Senate office building and walk into an office and start giving the receptionist a hard time.

**RITCHIE:** I've spent time sitting in anterooms waiting and having to listen to these poor staff on the phone, clearly having to deal with some very agitated callers but dealing with them as politely as possible.

**KAUFMAN:** Yes, especially back here in the district offices. Back then they didn't like to make long-distance calls.

**RITCHIE:** As Senator Biden was progressing in seniority, did you think that you were going to stay with him for a very long stint or did you think you might take another office?

**KAUFMAN:** No, he's the only elected official I would ever work for. We had just an incredible relationship. Issues are really important to me, and I liked him a lot and we shared so many values. Even that wasn't planning. I went with him in '72 and expected to stay for one year. I stayed through the first election. After the first election he had married Jill, so after he was re-elected in 1978, he and Jill and Lynne and I came down and independently gave our own search with the idea that we would get off the commute and buy a house in Washington. We went around and looked, quite extensively, and found a lot of nice areas, but in the end, for both, when we sat down and actually worked it out: Lynne had a good job in Wilmington working for the Delaware Arts Council. Jill was teaching and going to school at night for her master's degree. The kids were in good schools. They liked their schools, they liked their neighborhoods. For everybody except the two of us in the commute, it was Wilmington 10, Washington nothing. Not that Washington isn't a great place, for us it didn't work out that way. So we all decided we were going to stay. Then, if you read any of the books about Joe Biden, they talk about the fact that even in 1980 there were people who came to him and thought he should get involved in that primary between Kennedy and Carter. So even in 1980 it was clear that at some point he was going to run for president. In 1980 he became ranking member on the Judiciary Committee, so it was kind of like his development was like this [slants hand upwards], it wasn't a plateau. He was a senator for all that time, but the challenge of being ranking member of the Judiciary Committee was a gigantic challenge. We had a wonderful person, Mark Gitenstein, who was chief counsel, he and I got along great. And Biden was on Foreign Relations, and I got along with those folks. It was very challenging and very interesting, and it was fulfilling my one rule, which was you're always still learning. The amount of learning was just like with Joe Biden, we were both learning a lot.

Then 1980 passes and again, in 1984, there's talk of him running in 1984. That goes right down to the limit. He decides he's not going to run, but the decision was made that he's going to consider a run in 1988. He runs but he's out in September of '87. Then I was in a unique position. In February of 1988 he develops two aneurisms and had to have brain surgery twice. For six or seven months, I was in charge. I mean, I wasn't the senator, but when the aneurism hit him, we talked to the doctor and basically the doctor said, "If he doesn't do anything job related, I'm pretty sure he can be back by Labor Day. He can come back before Labor Day, but then he's got to be very careful that he only works two days a week, or he could have a reversal and that would be bad." So we went through the whole thing and the basic decision was made: What he's going to do is he's not going to do anything as senator until Labor day."

An interesting sidelight to that is when he went in the Walter Reed hospital for the operation, a lot of people were calling, including President Reagan. We talked it over, Jill, and Jimmy, and me. We decided to say that "He's not going to return the president's telephone call." It was a beautiful example of how when you talk things through you realize some things you might not have considered. Because when the president of the United States calls, you call the president back. But what we quickly figured out was—and this is the advantage of having been in Washington for a long time—if you call Ronald Reagan back, then if the majority leader calls, you have to call the majority leader back, and if he ends up making more and more telephone calls, we're in deep trouble. So he didn't call anybody back. Ted Kennedy finally got upset about this so he just took the train to Wilmington, got a cab, came out to his house, got out and knocked on the door. [Laughs] He borrowed a pair of swimming trunks and they went swimming. We were just fortunate that nobody else tried that.

He had the aneurism, and we'd come off the [Robert] Bork nomination. Very close after that we had the [Clarence] Thomas nomination. There were all the crime bills from that period, where he completely turned the Democratic caucus around on crime. What happened in the Democratic caucus was back in those days you had the southern Democrats and the northern Democrats and they didn't agree on crime. They didn't agree on capital punishment, to start with. The Republicans had this kind of Nixon approach, really tough on crime. We had this weak position, which Joe Biden never adhered to. He went through this process of convincing the Democratic caucus That the overwhelming victims of crime were our people—I think it was in the mid-'80s. And I'll never forget, I never thought this would happen, he had a press conference and the entire Democratic

caucus endorsed his crime bill. Howell Heflin and Sam Nunn were sitting at the table, and Howard Metzenbaum and Ted Kennedy were sitting there. He got the whole Democratic caucus. Then he sat down with Strom Thurmond and he got all the Republicans to sign on. So he started passing crime bills, topped with the Crime bill of 1994. So that was going on.

Early on, he had forged relationships with just about everybody that's involved in foreign policy, not just in the United States but around the world. He would travel to the NATO Parliamentarians meeting. I had gone with him on a couple of trips. We got involved in the SALT II treaty. So there was a lot of *gravitas* to what he was doing. Then we got to the 1990s and about, oh, I don't know, 1992 or 1993, I started thinking, "I know I want to do something with the rest of my life. I do not want to retire and play golf and tennis. To do that the way I want to do it is going to take a lot of energy, because change is very stressful and change is very difficult, and I've got to build a bridge to what I'm going to be doing next, and it's going to take a lot of work to do that so I've got to start on that"—not young but 55, 56, 57. At the same time Bill Bradley left, John Danforth left, Nunn left, a lot of people reached the same idea. At 54, 55, 56, 57, if you leave then you could have another career. Like George Mitchell. I didn't want a career where I went to work for a corporation or a law firm or something like that. I wanted to have a career where I had four or five different things, where no one else had a string attached. So I started to think about that, and when that would happen.

Then in about '92 or '93 it seemed like the best time to do it would be after the '94 election. Biden was up in '96, so in '95-'96 I would help him in that campaign, it would be one of the five things I was doing. I was already teaching part time at Duke Law School. I had a number of different things. So that's when I decided that it was time to go. Because what I wanted was to do five things, so I sat down and wrote down a list of ultimately 28 things that I could do, like little pieces of a puzzle. I got to eleven before I got the five that I needed. I thought, "Well, I could be lobbying." I went downtown and I found out two things. One was I started talking to former chiefs of staff and they said that people thought they were very friendly with their former senator, the person they worked for, but they weren't friendly, and that's because they had gone into lobbying and the members were very hesitant to help them because it would look like they were passing out favors, and in fact they bent over backwards to not do much of anything for them. Plus, when they sat in meetings with the senator, they were conflicted because of their clients interests. But the biggest thing of all was when I went down I found out that

just about anybody that wanted to pay me the money that would make it worthwhile were people that I totally disagreed with. I couldn't find *any* group that supported my positions that had any money, which is a pretty scary thing. It's gotten worse. Now, for instance, since the Wall Street thing, it's been clear that it's very difficult for any organization that's opposed to Wall Street to generate the funds to be competitive. I'm not talking about campaign financing, I'm talking about just having the staff, and the thinkers, and the think tanks to be able to compete in the intellectual battle and the political battle. So I found out that's not what I was going to do.

But I was teaching. Fortunately, they were just starting the Broadcasting Board of Governors, which was overseeing all U S international broadcasting, which was the result of another Biden-Helms bill, where he had worked with Jesse Helms. They had taken all U.S. international broadcasting and put it under this one organization, and took it out of the U.S. Informational Agency. They had a board with nine members: four Republicans, four Democrats and the secretary of state. They were just starting that up and there was a real problem with who they were going to get on it. Senator Biden said, "Ted, would you like to serve?" And I did, I served for 13 years. That was a nice piece of the puzzle. The Duke teaching was a nice piece of the puzzle. I did some consulting, and I also was working on his campaigns. So it made a very good exit.

**RITCHIE:** Going back to when he came in as the youngest senator. A lot of those senators had been there forever. There had been a long stability of Democratic majorities and people had been chairmen for many years, while others were waiting to move up. And then in 1976, '78, '80 there were huge changes, 20 or so new senators in each Congress, so that he went from being junior to being fairly senior in a very short time.

**KAUFMAN:** Yes. We had kind of doped this out, too. We had looked at the Judiciary Committee member seniority list, when he was picking his committees. He liked to be on Judiciary, but one of the big reasons he got on it was because he looked at the list and the senior senators were Kennedy—so Joe would probably get a subcommittee pretty quickly. Byrd, he'd never stand in the way. Eastland was at the end of his days. So he had been in the Senate for only eight years when he became ranking member of the Judiciary Committee. It was fortunate that Kennedy decided he'd rather go over and do Labor and not take Judiciary, but he would have been number two to Kennedy, which would have been great. Part of it is just the passage of members, but part

of it, too, was the strategy of the committee he selected.

**RITCHIE:** Then the other big thing was the election of 1980, when the Republicans won the majority for the first time in 26 years. How did life change for a Democratic senator who had been in the majority for all that time and was now in the minority?

**KAUFMAN:** First off, where you are in the minority matters. He became the ranking minority member of Judiciary, so in terms of actually influencing things, he was in a good position. Number two is, and it's one of the funny things about the Senate, you are better off, in terms of being able to put your ideas into the game, and be successful, and move where you want to go, when you are ranking minority member of a committee with the president of the United States of the other party, than if you are chairman of the committee with a president of your party. I would hazard a guess that from 1981 through 1991 there was no one on the Sunday talk shows more than Joe Biden. Clearly, during the Reagan and Bush eras, because he was on Foreign Relations and Judiciary, he was asked a whole lot. Now, Joe Biden was chairman of the Foreign Relations Committee during the Bush years and he set a record, I think, for being on the Sunday shows. When Clinton was president, Biden was on a lot, but not as much because the secretary of state was on, the national security advisor goes on, the secretary of defense goes on, you had all these people in the administration who were spokespersons on those shows. And you have to realign whatever it is you're saying—I'm not talking about violating your principles, but you have to realign whatever it is you say to the administration. So I'm sure that John Kerry—I'm not saying that he would change his position or anything, but just watching him I'm sure what he would be saying would have more edge on it, more appeal, and get more headlines, if there was a Republican president right now.

Then Biden was a presidential candidate. We had the Supreme Court wars. We had the crime bill. We had a lot of stuff in Foreign Relations, we had South Africa. He was big, as I said, on SALT II. In 1984 he made the basic decision that he was going to serve on just two committees. It was fascinating that no senator is on two or three committees. Everybody's on four, five or six committees. They start making waivers. You're only supposed to be on a small number of committees but they waive that, which is one of the big problems in the Senate now. They have put in so many waivers that senators are on too many committees. They don't have time to really look into things because their responsibilities are spread so thin. Then they take on a subcommittee and

don't have time to chair the subcommittee because they're over being busy with being chairman of another committee, and that whole area just lies fallow. But he cut back to two committees and really put time into both those committees, hired good staff. So it was really challenging during that period and really gave you a feeling that you were accomplishing a lot being part of that, trying to make a difference. He and I used to say, "What did you do during the war, Daddy?" When the country needed you, what did you do? We felt good about our answer to that question.

**RITCHIE:** Before you mentioned the fact that he had some amendments with Jesse Helms. He also had an interesting relationship with Strom Thurmond. He seems to have been able to make alliances across the aisle, on certain issues at least.

**KAUFMAN:** When he was running for president, as shorthand, I would say to people, "One of the big reasons he should be president is because I've never met anybody who could go into a room full of disparate views, find out what the common ground is, and get everybody to agree to move forward." He's done that time and time again, and without betraying his principles. You know, Strom Thurmond was one of the most conservative members of the Senate *ever*, and he did a number of major issues with Strom Thurmond. The same thing with Jesse Helms, who was called "Senator No," and yet Joe Biden got the Chemical Weapons Treaty, the Broadcasting bill, and loads of other things he passed with Jesse Helms. The thing that's fascinating about it is that both of those senators, when they died, had asked that he be one of the people to eulogized them. He just has an extraordinary ability to bring people of disparate views together and find a common ground.

**RITCHIE:** Senator Helms had devised that process of introducing amendments on emotional issues, on everything from school busing to abortion, to try to put other senators on the spot, force them to take a stand. Those were difficult issues for Senator Biden at the time—

**KAUFMAN:** Not really. That's overdone. Again, Joe Biden's never been one to parse issues. His basic approach is how you deal with issues. It really was the best thing to let people know where you stand and then stand there. He wasn't someone who spent hours sitting around worrying that "Helms has got an amendment, what should I do about it?" It may have been a problem for some other senators. Of course, now it's been raised to an art form. In the two years I was in the Senate, you look around at these amendments

and you just want to laugh. They weren't designed to ever be passed, they were totally designed just to be wrapped up into a 30-second spot. A lot of that started in the '80s. Max Cleland was much later. Bob Morgan was defeated by John East because of a vote that implied he was opposed to the military. It was some phoney-baloney amendment that was not at all what it was about, but it sounded that way. NCPAC, I guess, the National Conservative Political Action Committee, back in the '70s and '80s, they were the ones that got senators to do things like that. But I can remember Joe Biden would sit with Helms for hours on the Chemical Weapons Treaty.

**RITCHIE:** I noticed that in the 1980s you were a member of the Democrats for the '80s and the tactical committee of the DNC. Were you getting more involved in national politics?

**KAUFMAN:** The Democrats for the '80s was a group that was started here in Delaware to win the House and Senate and help bring candidates along. The Democrats for the '80s was a totally Delaware thing. But I was more involved in the DNC. The DNC had a committee to look at different ways to improve—I can't remember what year it was. But I was much more involved with the DNC, and the Senate in terms of working with the sergeant at arms, the secretary of the Senate, and other chiefs of staff, the Congressional Management Foundation, and things like that, because I was a pretty senior guy, and I think because of my Wharton training people thought that maybe I knew more about how to organize the Senate, having been in the Senate for a number of years, not general organization and administration but specifically to the Senate. I used to meet with the different reform committees that were dealing with what we should be doing, yes.

**RITCHIE:** I was wondering if the fact that the Democrats were in the minority from 1980 to '86, there was some rethinking of what the party should be doing.

**KAUFMAN:** On the national level? Not really. It's really amazing. The DNC, in terms of what it's doing in terms of strategy, has become almost irrelevant. Today, the presidential candidates set the tone. If you have an incumbent president, that sets the tone. We didn't have either of those things. Elected officials today, as I said before, are very entrepreneurial. I don't think there was anything that went on during that period where the party made much of a difference. I know Howard Dean put people in the



districts and things like that, and I think that was helpful, and he doesn't get enough credit for that. But the Senate Campaign Committee became just a total money machine. We used to have meetings at least every two years where candidates would sit down and go over what the last election was like. We did it after '78. We did it after '80. Somewhere along the line they just said, "Look, what we need the Democratic Senatorial Campaign Committee to do is raise as much money as it can." So there isn't a lot of Democratic Party strategy—I mean even until this day the DNC doesn't direct things. Let me put it this way: over the years since I've been involved, starting in 1971, there's been a constant erosion of parties having any impact on just about anything. Outside of the organization of the House and senate, parties have become effete.

There are two big reasons for the change from when I was first involved in '70. One is patronage. On the local level, parties used to be a lot more powerful because they had a lot of people involved, and the reason that a lot of people were involved was because if you're lower middle class or middle class, it's a chance to get a job. It was good we did away with patronage, but all of a sudden going into a working class district and trying to get committee people was very difficult. The other problem was we moved to primaries, another good idea, and did away with the caucuses. There were a lot of people at the upper middle class and above who were involved with the party to actually affect ideas. The way you did that was you got to pick who the candidates were. Well, when you did away with the caucuses, and went to primaries, the candidates stopped showing up at the party events. The Republicans have always been more party-centric and more party organized than us. We've just atrophied to the fact where the DNC and Democratic Senatorial Campaign Committee are just about raising money for the candidates. It's funny because you read in the paper that "the Republican Party is putting pressure on so-and-so to run for office." I'm like, "Oh, yeah, really?" Forty years ago the Republican and Democratic Party could tell someone, "Hey, Ted, you want to run for governor some day? Well, we need you to run for the Senate this time." If you turned it down, when it came time to run for governor you have to go by the same party people, and you weren't there when they wanted you. That is totally gone. There is no way any party can put that kind of pressure on someone. Now, when you get into the Congress, the congressional leadership can put pressure on you. But the only place where the parties really function anymore, in my opinion, is—I assume the state legislatures—and the Congress. That's the only place where we've got the aisle with Republicans on one side and Democrats on the other. But outside of there, my personal feeling is the parties are effete.

**RITCHIE:** Mentioning that the parties are stronger inside of Congress, what was your impression of the Democratic Party leadership during the '70s and '80s?

**KAUFMAN:** Good leaders. Mansfield was great. Byrd was great. Mitchell was fabulous. I wasn't around with [Tom] Daschle. I was trying to think when Mitchell left.

**RITCHIE:** He left in '94.

**KAUFMAN:** Yeah, he left with me. I wasn't around with Daschle, but I hear good things about Daschle as leader. I believe to the bottom of my being the selection of Daschle and Reid as majority leader was when we really decided that it was more important to have an inside person, someone who could make the Senate function, although Robert Byrd never went on any of the Sunday shows, and Mansfield wasn't, there wasn't much of that back then.

**RITCHIE:** They always had to have three or four times as many questions for Mansfield when he went on TV because he would always answer "yep" and "nope."

**KAUFMAN:** Exactly, he was great. But I think they had great leadership and I think they had great senators. A friend of mine, Ira Shapiro, is writing a book about how great the '60s and '70s were. I think he is right in most respects, people should not forget about a lot of the misuse of power by committee chairs during that period. I think that a lot of our problems are our move to more and more transparency. People can now see a lot more about what's going on. I do not think it's a coincidence that the institution in Washington held in the highest regard is the Supreme Court. The Supreme Court is the least transparent of the three. I think a lot of the reforms on campaigns and gifts now puts it in the public record, where press, media either responsibly or irresponsibly present data that puts a negative spin on the Congress. But I also think one of the biggest problems with Congress is that neither legislation nor sausage looks good being made. It was counterintuitive to me until I thought about it for a while and that is that most of the people who watch C-SPAN hold the Congress in the least regard. There are so many people who believe that Congress is what's on C-SPAN. Anecdotally it's always, "No one is on the floor," and the rest of it, which is what you hear a million times. You say, "Well, that's not really where the Senate does its work, that's the place of record. Do you watch the committee hearings?" I get that blank look, "Committee hearing? What the hell is a committee hearing?"

So the Congress has been through a difficult time. I think one of the biggest problems has been the fact that we controlled the House—I'm a Democrat but we controlled the House way too long. In the last years of those 40 years we did some things to the minority that just set them off on a long war. Then we're back at them, they're back at us. It's kind of like what went on with the judicial nominations in the Senate. The pendulum swings and the Democrats are in charge and they do this, that, and the other thing. The Republicans are in charge and they're going to do it back and one more. That's part of the problem.

To talk about civility, which we're going to talk about at some point, I think civility was worse in the mid '90s when I left. I think a lot of it was the term limit folks. And a lot of the Republicans came over who had been victims of some of the draconian rules the Democrats put in during their last years in power. They came over with a real chip on their shoulder and there was real dislike between people. I think there are people who are annoyed at what senators do, but I don't detect—although my colleagues believe it—I don't detect a lot of personal animosity being in the way of getting things done. I think what's in the way of getting things done is there's a very distinct difference in the country over how to proceed. If you look at the concentration of people, the red states are becoming redder, the blue states bluer. If you look at the polling data, and look at these issues, and you look where the split is, this is not something that is fabricated in Washington.

One of the things I teach in my course is one of the big things that makes people mad, what they hate more than anything practically, is partisan bickering in Washington. "It's all partisan bickering. It's all politics. If they ever get away from partisan bickering . . . look what happened on 9/11. Everybody worked together." Well, everybody agreed after 9/11 that we should do something. There was total unanimity about what we should do. Find me another issue like that! Cap and trade? Abortion? Guns? Find me another issue that over 50 percent of the people agree on. You've got 40-40-20: 40 percent for, 40 percent against, 20 percent undecided. Debt limit extension, healthcare reform, you name it, this country is split right down the middle. This is my engineering background: Okay, I got it; the people are split; this is a representative democracy; members are supposed to represent what the people think; they're not getting along; *it's them!* I don't get it. It's written so often, and the media is just slavish to this. "John Boehner has never done a single thing in his life that wasn't political. He has no principles. He doesn't care about anything." I mean, they write these stories about the debt limit bill like everything is

about positioning in politics. Now, is some of this positioning in politics? Absolutely right. Are they trying to win the election? Right, they're trying to win the election so that their idea can be conveyed, that's why they're doing it. But they are reflecting the very stark differences between their constituents. There's a difference between that and a lack of civility. Lack of civility is when you just don't like people, and I'll tell you what, in the mid-'90s there were a bunch of senators that lots of senators just didn't like. Again, I think there are some members who got people upset. Members who got me upset. But it wasn't personal. It wasn't "I think they're bad people." That's the problem. There are a number of people, including people in my own caucus, who just hold very different opinions. It isn't about their personality. I don't go out and vote against an amendment they offered because I don't like them. I didn't see much of that in the two years I was there. I saw more in the late '80s and early '90s.

**RITCHIE:** One of the biggest changes was in the nature of the parties themselves. In your caucus, when you were a senator, there really wasn't a huge difference between the furthest to the left and the furthest to the right, and the same thing in the Republican Conference. There's a lot more unanimity in both conferences. Whereas when you came to the Senate in the '70s those two parties were internally split with liberal and conservative wings.

**KAUFMAN:** Yes, I used to have a saying—in fact I wrote an article about this in the *Delaware Lawyer* about this—it had to do with Delaware but it also was a national trend. That was in the '90s when I started saying to people, "The bad news is the Democrats lost the South. The good news is the Democrats lost the South." What was becoming clearer to me was that the Democratic Party had been a split party, and a lot of the problems of the '60s and '70s had been that the southern Democratic Party was very conservative while the northern Democratic Party was very liberal. This was especially true in Delaware. We talked about the canal that goes down through the middle of the state. There's their side of the canal and our side of the canal. Our side of the canal is like New York and Philadelphia and Baltimore and Washington, right down I-95. Below the canal is the Delmarva Peninsula, which culturally and politically is more like Alabama and Mississippi. One of the reasons why when Joe Biden ran for president in 1987 he did very well in the South, and did very well in Mississippi, in fact, even though he was out of the race early, he had the Democratic governor of Mississippi and the Democratic state chairman in Mississippi endorse him for president. People would say, "That's astonishing." I would say, "No, he goes down there and it's just like Sussex County, it's

about family values and things like that.”

My point was, okay we're going to lose the South, but we're going to pick up a lot of these northern states. Starting at the Atlantic Ocean and going Ohio, Indiana, Michigan, straight on out there. For the Democratic Party - guns are impossible in the South. I saw the numbers on [Michael] Dukakis, with his position on guns he couldn't win one of those southern states, not one. What you had was a regional consolidation of the parties. You have people in neighborhoods and communities more and more agreeing with what their neighbors thought. So the Democratic Party caucus moved, as you said, we went from eight congresspersons from Georgia to losing seven of them. But at the same time we were gaining in the North.

What I wrote in my piece about Delaware was that you were going to see more and more Delaware becoming a Democratic state. Up until 2000, for 60 years, if you knew how Delaware did in a presidential race, the percentages, you would know within one or two percent what the percentages were in the United States. It was a perfect microcosm of the United States. Then in 2000 it went with [Al] Gore. But by the time you get to 2004 it went with [John] Kerry by six percent. In 2002 Joe Biden was up. There's a technique in campaigning called targeting, I don't know if you're familiar with it, but what you do is you don't use any polling data, you just look at the voting results, and you begin to find out what districts are Democratic districts, what districts are Republican districts, but more important where the persuadable voters are. There's a computer program you can buy that says, "Look if you can only campaign in one district in the state, this is the one, because these people will split their votes. The Democrats will vote Democratic and the Republicans will split their votes and vote Democratic if they get the right candidate. So that's where you want to be because that's where the persuadable are and you're trying to get the persuadable voters."

We did a targeted analysis, because you make a lot of your decisions on scheduling because you want to be in the persuadable areas. There's a guy that does it for the Democratic Party who's just absolutely wonderful, I've known him for 30 years, a guy by the name of Mark Gersh. So we get the stuff in 2002 and we open it up and I say, "Oh, my God, this is wrong! This is crazy!" The district where I lived, where I told you I was the chair, was a totally Republican district in the early 70s. When we did targeting for the 1972 race, this district was the most Republican in the state. Two thousand and two comes and it's now the most persuadable district in the state. I called Mark Gersh

and I said, “Mark, this data is wrong.” He said, “Tell me about the district, is it suburban?” I said, “Yes.” He asked me a few more questions and he said, “Yeah, you look around. All those districts like that are going Democratic.” The same in Pennsylvania. I think Pennsylvania in 2008, something like 600,000 people left the Republican Party, because the Republican Party by uniting around a southern base had become a party where most of the Republicans in the party back when it was split North and South, the northern ones were fiscal conservatives, but more moderate on the social issues. They were country club Republicans. They were George Herbert Walker Bush Republicans. A lot of them were libertarians. What happened was, they started turning Democratic.

I was talking to a guy I know, a pollster, and I said I really think it was Hurricane Katrina that moved people. A lot of people were moved by Katrina because it goes to competence. The Republicans think they were competent, but in fact they were incompetent on Katrina. He said, “You’re right, but you really know what did it? Terri Shiavo.” He said, “When those moderate, social conservative, libertarian Republicans north of the Mason-Dixon line saw the Republican president of the United States, who never called a special session of Congress, came to DC from his ranch and called a special session and brought the Congress back to Washington to determine whether a tube should be pulled from a woman in Florida, it went against states’ rights, it went against libertarianism, it went against everything.” He said, “That’s the thing where they just decided this ain’t my party anymore.” You could just see it, that’s how it happened. So I don’t think the problem is so much that the Democratic caucus is more Democratic than it was. But I also think there was a lot more party discipline.

Clearly, Sam Nunn was more conservative than Arlen Specter, got it. Arlen Specter is more liberal than Sam Nunn, so you had that split. But right now you look at that Democratic caucus and you look at where it really matters, you’ve got a bunch of people who are more conservative—it’s a little bit like—this is a very good point—I have figured something out that I have been tussling with. The Republicans are more solid and the Democrats are more solid. You don’t have the overlap like Sam Nunn and Arlen Specter. The Republicans, if you look at the spectrum, which used to have the bulk of the people at either end and then the curve went down and right in the middle you had Republicans like Specter who were over in what would normally be Democratic airspace, and Democrats who were over in Republican airspace. I think what’s happened is, and I need to think more about this, is the Republicans have moved further to the right. It’s not

like the two of them have consolidated. So you've got a guy like Ben Nelson, who's a pretty conservative guy. You've got Evan Bayh, who's a pretty conservative guy. You've got Mary Landrieu, Blanche Lincoln. You've got some pretty conservative people, who when Arlen Specter was a Republican there would have been overlap. But what's happened is Olympia Snowe and Susan Collins have moved.

The discipline in the Republican caucus is incredible. You've got a much tighter bunch of the Republicans further to the right. The Democrats really haven't changed that much. By the way, now that I think about it, I don't think that the Democratic makeup has changed. There were southern Democrats, it's changed a lot since Sparkman and Eastland, since 1973, but I think recently it's much more about the Republican Party becoming much more uniformly conservative. But, the Democratic Party hasn't become more uniformly liberal.

**RITCHIE:** I remember that in the late '80s even Barry Goldwater was being described as a moderate because his party was shifting underneath him, even though he hadn't changed his positions.

**KAUFMAN:** Barry Goldwater was more like H. W. Bush. Barry Goldwater was not a social conservative. Barry Goldwater would not vote to restrict abortion or those kinds of issues. Strangely, he was in the Southwest, but his conservatism was not about the social issues, so he was out of step with the social conservatives.

**RITCHIE:** It's an interesting phenomenon on politics that if you stand still, you can appear to be changing.

**KAUFMAN:** I think at certain times that happens, but normally that's not what happens. What's going on now is a real realignment. What's going on now in Montgomery County, Pennsylvania, is not that people are leaving the Republican party, it's the Republican party is leaving them. And I think to a certain extent what's happened in certain districts in Georgia is—although the Democratic Party has not really moved. We did our movement in the '60s and '70s. The Democratic Party did a lot of moving in the '70s. If you look at the Watergate babies, you see a lot of those Eastland, Stennis, Talmadge guys being replaced by Wyche Fowler, Max Cleland, and a lot more moderate Democrats coming out of the South. Dale Bumpers coming in. Of course, he took Fulbright's place, so that's not fair to say, now that I think about it. I'm trying to think

more about Louisiana with Bennett Johnston or Lloyd Bentsen in Texas.

**RITCHIE:** To some degree there was a difference between the personalities there now and those in the 1970s. There's been a shift since then of where people are located politically, which has resulted in the Democratic Conference more and more voting as a whole versus the Republican Conference voting as a whole.

**KAUFMAN:** Yes, but I think one of the mistakes that all of us who are students of the Senate and the House make is we that underrate how much what's happening in the country is driving what's happening in the Congress. And of course, in many issues, what happens in the Congress does drive it, but I always think back to pay raises. We came back one year, I can't remember what year it was, and House Speaker Jim Wright had this strategy for voting to pass the pay raise. You remember what it was, we've got it all doped out, it's the whole deal. I can't remember who was majority leader in the Senate but it was Jim Wright's deal. He was going to get it through the House and everybody was going to get a pay raise. I'm talking to people and they're already spending the money. I was saying, "I don't think that Jim Wright can deliver on this one." One of the issues that I think the American people are most energized by is pay raises. Sure enough, Jim Wright got everybody lined up and somebody in the House or Senate got up and resolved that no money in this bill should be used for pay raise and the whole thing went down the tube. Because the American people were *furious* about it.

I think the Congress is to a large extent a reflection of what's going on in the country, and I think what's going on in the country is a consolidation of Republican positions. One of the things that's going on, that's really fascinating, is everybody now keeps talking about the independents. But the independents are now disproportionately Republican because they're the ones who moved. The Democrats aren't moving. When you move, from talking to pollsters over the years, when you're in a race and you see people move from undecided, they don't move from Republican to Democratic, they move from Republican to undecided, and then to the Democrats. You have this whole movement. For instance, the independents in Pennsylvania, I'm sure are much more heavily Republican. Because you look at the numbers, like in Delaware, Delaware for years was 35 percent Democratic, 33 percent Republican, and the rest independents. Now it's 47 percent Democratic—47 percent! Now I'm sure those independents are a lot more Republican than way back.



The other thing to keep in mind—one of the things I learned from being there—is a lot of Democrats complain about why we can't do anything about guns. It is fascinating to see what kind of gun bills can pass the Senate. This thing about being able to carry guns in a national park. And being able to carry guns on trains. Anything that comes out on guns, people vote for it. What became clear right from the beginning was the reason we had 60 Democratic votes was because of a whole group of very attractive Democratic candidates who were Democratic in every way, shape or form but just said yes on guns—the Udalls, Mark Warner, Jim Webb, I think Mike Bennet—there are a whole bunch of Democrats who if they had not taken the gun position wouldn't be senators today. Some of this is very difficult to broad stroke what's going on.

**RITCHIE:** There's always compromise in politics. Alben Barkley once said that the way to become a great senator was first to get elected to the Senate. You have to compromise just to get elected.

**KAUFMAN:** I think that's right, but one thing I use in my class, and sometimes when I'm speaking now, is if you came from Mars and read the press for a while, you would absolutely believe that as a matter of fact, a hundred percent of the time that all members of Congress care about is reelection. I mean, this goes back to talking about John Boehner and all that, that there's never a thing that's done that's not all about reelection. I say, "There are several contradictory ideas here." I say to the audience, "How many people think senators have big egos?" Every hand goes up and they laugh. I say, "They do have big egos. In order to believe that all they care about is reelection you have to believe the following: that someone with a gigantic ego decides to run for the Senate, go through raising money, kissing babies, and all the things you have to do to get elected, gets elected, comes in and sits down in his office and says, 'Okay, bring me the polling data because the whole time I'm here I'm just going to vote the way my electorate wants me to vote. I'm not going to take into account anything I want to do.' Do you just think they just want to have senator by their name?" That's just totally incomprehensible. They come to the Senate because there are things they want to get done.

Most of the time what they want to get done—this goes back to the whole cultural thing—like the gas tax. In Delaware, many of my friends say, "Why can't we do something about the gas tax? We should raise the gas tax." Go and explain that to the guy from Wyoming. Do you think that he's just selling out by opposing a tax increase, or do

you think the fact that he's from Wyoming means he just doesn't believe that the farmers and ranchers from Wyoming should have to pick up this gigantic burden when they're driving 100 to 150 miles a day. Even members of Congress almost buy into this, but I think that most members of Congress are the kind of people who are going to do very much without getting to do it the way they want to do it. As a group, they just don't strike me as a "I'm going to take my Castor oil" group. They aren't Castor oil guys. The fact of the matter is, most of the time they agree with what their back-home constituents want. I go back to what we talked about earlier: I think if they were elected for life most members would vote the same way as they do now. They've done a number of studies on people who have announced their retirement. Their voting record turns out to be a whole lot similar to the way they voted before. I think that most of this is a manifestation of the change in the position of the electorate, and therefore who the electorate will elect, and what the people they elect believe. Does that make sense?

**RITCHIE:** Mmm-hmm. You mentioned earlier that the voters don't like so much bickering, but then they elect people who don't agree with each other.

**KAUFMAN:** And there have been so many studies that show that people really don't want to compromise. Like, for instance, people say they don't want to cut Medicare and Medicaid. Then they say, "Medicare, oh the seniors are just selfish." No, no, you know what the problem is? Some incredible number of people, over 45 percent of the people think that if they cut foreign aid they could balance the budget. Foreign aid is about 1% of the budget. Well, if you're thinking that cutting foreign aid can balance the budget, why in the hell would you cut Medicare and Medicaid or Social Security? Right now, I don't think there's a whole lot of feeling among the electorate for compromise.

**RITCHIE:** You mentioned earlier the salary issue, which caused a huge political explosion and led to the constitutional amendment. There were in the late '80s efforts to control outside earning by senators and to do away with honoraria, and raise the salary as compensation. Does that put a burden on someone like Joe Biden, who really wasn't wealthy when he came to Congress?

**KAUFMAN:** Oh, yes, there's no doubt. He took honoraria and he did it for years, but he got to the heart of it, which was he didn't take honoraria from anyone who lobbied before the Congress. The problem with honoraria was it started out being like so many things in life, not so bad, and then some senator would get take an honorarium for going

down to the Hyatt Regency and speaking to 10 people and get \$2,000. I'm in the process of writing a piece on the revolving door. There are massive problems with regard to conflict of interest. If you had to say what are the things that have been going on in the 40 years that you've been doing this that most disappoint you, one of them is that nobody recognizes conflict of interest. You see so often potential conflict of interest. There's rarely a potential conflict of interest, there's conflict of interest. There's "potential" because conflict of interest has taken on this kind of "you're calling me a crook" response. No, I'm not calling you a crook, I'm just saying that if your wife is a lobbyist for a company and the company comes to you and asks you for something, you have a conflict of interest. Whether you do something bad or not is a totally different thing.

If you make a ruling, like what happened on the FCC on the Comcast-NBC issue, if you're a member of the FCC and you rule that Comcast should win, and then six months later you go to work for them, that is not a potential conflict of interest, you were involved in a conflict of interest. If you're on the FCC and you're looking for a job, there's maybe five, ten, fifteen, twenty—a lot less than that—companies you can go to work for. For you to make this decision, you know if you vote no, the chance of you getting to work for Comcast is zero. So there's a conflict of interest there. People don't recognize this. I've been in these situations where someone says, "Yeah, there's conflict of interest, now what are we going to do?"

You've got the revolving door, and all kinds of conflicts, and members have conflicts, too. Honorarium can potentially create a conflict and we did away with that. It was really smart to do away with it. You really want to get sick? Go and look at during the healthcare reform, where they have a healthcare forum, and they've got the top newspaper columnists in American coming out there and getting paid \$25,000 to give a speech by someone who has a distinct interest in what's going on in the healthcare bill. That's the kind of thing. I think one of the reasons why the Congress—and I used to be able to say this until we got what's his name? Jack whatever. I like to forget these bums' names.

**RITCHIE:** Abramoff?

**KAUFMAN:** Yes, I like to forget their name, that's a senior right. You have these guys who have the potential—see, I just said it myself, potential conflict of interest with old House Ways and Means Committee chairman, Charlie—

**RITCHIE:** Charlie Rangel.

**KAUFMAN:** That's not a potential conflict of interest when you're writing letters on your committee stationery asking people to contribute, that's just straight out conflict of interest. I used to say it, and I believe it, that when you start talking about how bad the Congress is from a corruption standpoint, you go look at any legislative body in the world. Let's start with the big ones, let's start with England, with all the problems they've had like that expense scandal, which was out of this world. You have Japan, where they seem to have one every week. You've got Germany. France, oh, my God! So we have all those rules and I think in a strange way since there's so much transparency it's easier for people to write their stories being critical and put the Congress in a bad place. The Knesset, you have a hard time finding a legislative body, that is as corruption free as the United States Congress.

**RITCHIE:** The other interesting thing about members of Congress is that some of them leave office when they realize that their former staff are earning more money than they are on the outside as lobbyists. I think of Don Nickles who gave up being chairman of the Budget Committee. He had a safe seat but decided to leave to earn some money.

**KAUFMAN:** I'll tell you what, I'll be very interested to see how many of these guys who left are happy. Don Nickles used to show up at the senate prayer breakfasts every Wednesday morning, I do not know, but I felt he really missed being a senator. A lot of the people who left, John Danforth didn't need the money, Bill Bradley didn't need the money. Here's my analysis on money, in the contrast between Jim Wright and George Mitchell. Jim Wright and George Mitchell were extreme examples, one was Speaker of the House and the other majority leader of the Senate, very powerful people. Some of his Jim Wright's friends gave the rationale for what he did as: he has these friends who have their own plane, they have their own island, they have all these things, and he's more powerful than all of them. Why shouldn't he be able to have these things? Jim Wright had to resign because of the scandal.

This was why George Mitchell was so great. He said that when you're in a position in government, or any position, and you have to make a decision between what's unethical or even worse illegal, you have to make that decision, and George Mitchell looked at exactly that same situation when he was majority leader. He couldn't travel and

do all these other things these other guys were doing, so he left the Senate. That's what Jim Wright should have done. He should have left the House. Don't cry for me Argentina, the people I feel bad for are those senate members and staff whose kids get to college age and they have to leave the senate to pay for their kid's college. But, I tell you what, the great thing about the federal government is it's like a moveable feast, you can come back. I just think this is a standard decision that everyone has to make, and that is what is important to you.

I have a thing I say to young people—it doesn't apply to others—but I say to people who come and talk to me about trying to do public service or not, and whether they can afford it because they've got college loans, a lot of my students. I say, "Everyone is on a continuum with Mother Teresa on one end and Gordon Gekko of *Wall Street* on the other. Gordon Gekko would do anything for money. Mother Teresa didn't care about money a bit. You're on that continuum somewhere, and I believe where you are is hardwired into you. I believe that most of it us are born with, with maybe a little is an acquired nature, but when you reach maturity you're hardwired on that and your happiness is going to relate to where you are on that continuum. Some people can work, not make a dime their whole lives, scrimp and save, and die happy. Other people can make a zillion dollars and be unhappy. It depends on what you are.

I think a guy like George Mitchell sat there and said here's where I am on this continuum, I've been doing this for a long time and it's time to leave. Of course, George Mitchell is my idol, I used to watch the Senate, especially the last few years when I was working staff. It would be evening and they couldn't get an agreement on something. I'd see Mitchell on the floor. The camera panned to him and I swear to God you could read his mind. You just looked at his face and it was like, "Why did I ever take this job? George, what were you thinking about when you took this job." I don't think George left for money. I think he thought, I've done a lot, I've given a lot, it's time for me to kick back and live a little. I think it's the same way about federal judges. It's one of the most personal decisions of all time, not how much money do you have but how much do you need. How much money do you need and then how much money do you want. By the way George Mitchell gave up a lifetime appointment as a federal judge to take Ed Muskie's seat in the senate. He and I are, I think, the only Senate chiefs of staff in history who were appointed to their senator's seat.

I always tell young people, who say that they want to do public service but have

student loans and especially law students who can go to work for law firms for two or three years and pay them off. I say, “Here’s one test: it isn’t how much you make, it’s how much you spend. If you allow your needs and wants to grow to your salary, as opposed to maintaining your needs and banking the difference, then you don’t have a future in public service. I’ve seen all kinds of good people who had to turn down really good jobs in the federal government. They were almost crying when they said they couldn’t do it. But they had two homes, they had a country club membership, they had kids that they were sending to private school. I’m talking about the necessary things. They had a lifestyle, they had a monthly nut that they just couldn’t go below. There are more and more people like this because of the disparity between public and private pay. Back in my day, when I came to the Senate I got a slight increase in pay, but there really wasn’t a whole lot of difference. If you’re a vice president for some company you can be paid two, five, seven million dollars a year. To go back and be paid \$170,000 or slightly more, you just can’t afford to do that. So I think it’s a continuing kind of problem, probably exacerbated by the tax breaks that have allowed such a small number of people to have such a disproportionate amount of wealth.

**RITCHIE:** The irony is that senators are raising millions of dollars to run for an office whose salary is less than \$200,000. It seems out of whack.

**KAUFMAN:** Well, with all these things, it’s only out of whack to the extent that money determines things. One of the problems we have in society today is that money, money, money is the most important thing in the world. You know, I’m 72 years old. I have financial wherewithal and all the rest of that stuff, but most of the things for me, the way I’m hot-wired, and what I’m happiest about what I did, were not related to money. I’m not ready to say that it’s unusual for someone to raise two million dollars to get a \$176,000 job, because it’s not the two million dollars or the \$176,000, it’s, I want to make a difference. This is the job that makes a difference, and this is what I have to do to get there. Because I don’t give a damn about the money—not that I don’t care, but the money’s not driving me.

I’ll tell you, when you go up to New York and Wall Street, so much of it is, “You’re making \$200,000 and he’s making \$400,000, he’s twice as good as you are.” I remember a reporter told me, “How could a Securities and Exchange lawyer ever win a case making \$400,000 a year working against one of these white collar crime guys up in New York making three million dollars?” I said, “Well, there isn’t anybody at the SEC

making \$400,000 a year, just to start there.” It was so out of touch with what’s going on. I always say to people that I enjoy going to Mass on Sunday morning and one of the reasons why I enjoy going it is because it’s still a place where you can say “do unto others as others do unto you” and people believe it. “Be my brother’s keeper” and all those kinds of things. I do think that when I sit down with people who say, “I want to be a federal judge but I can’t afford to take it,” when a federal judge is guaranteed a salary for the rest of their life, of like \$184,000 a year, I’m not going to feel sorry for you if you’re not taking a federal judgeship. I don’t believe the quality of our judges is suffering. I believe that anybody who says its all about money, that they wouldn’t take a federal judgeship because \$184,000 for life isn’t enough—that’s the best deal. Now, does it compare to being a partner at Skadden and making five millions dollars? No. Although I’ll tell you what, if you’re about 60 or 65, it’s damn close. One of the interesting things—what time do you have to go?

**RITCHIE:** My train is 4:26 and it’s 20 minutes to 4 now. You know the route.

**KAUFMAN:** Yes, we’re pretty close, but I hate running for trains, so I’d say 10 more minutes.

**RITCHIE:** Tomorrow I’d like to talk about your service in the Senate.

**KAUFMAN:** Yes, this will be great, I’ll give it to Joe Biden. Senator Biden here’s your life.

**RITCHIE:** Well, this was lead-up to your service.

**KAUFMAN:** No, let me say that when you’re chief of staff to a United States senator, you are inextricably tied to that senator. That’s just the way it is. So this is my story. My memoirs for those 22 years, extracting my personal life, it was Joe Biden every day, all day.

**RITCHIE:** I was interested in something you said earlier about there being a period when you were in a sense acting as the senator because he was ill. But there was also a long period when he was running for president. What’s the role of a chief of staff in an office when the senator is going to be absent either for political reasons or health reasons?

**KAUFMAN:** Well, I was not even close to being a senator and would like to strike that. There was no senator. The right way to say it was I had to run a Senate office without a senator, because I ran the office. We had our legislative director answer the mail. I was in communication with him all the time about what we did. I couldn't vote or do anything that a senator did. I was just using shorthand.

But what happens in a presidential campaign is in fact you just walk away from your Senate office. It would be interesting to follow Obama's record in terms of measurables. Here are committees he was on, how many meetings did he attend? Here's how many votes there were, things that you could measure, not anything substantive. Daffy Duck could have managed the office during that period. [Laughs] Now, he's out in Illinois, which is a big state, and Delaware is a small state. But once you commit to running for president—I spent a lot of time thinking about this, because you spend a lot of time on airplanes and doing things in the campaign thinking, “What am I going through this for?” My mother had a saying that nothing in life that's worthwhile comes easy, which I totally ascribe to. I rearrange that to say if it's really important, it's really hard. When you look at what the most worthwhile thing you can be it's got to be president of the United States, therefore it's got to be the hardest thing to do. And it is the hardest thing to do. It's incredibly stressful. It's the toughest thing there is to do. That's the reason people are attracted to it and want to get involved in a campaign. It's like six-dimension chess, because everything is perception and reality, and perception, perception, perception. The mechanics begin to dominate the whole thing, so it's very hard. When you're flying somewhere in the middle of a campaign, and it's very stressful—I'm sure everybody does this, I know I did in the '87 campaign—you ask yourself, “What is this all about? What's going on here?” And you say, “By its basic nature it's worthwhile.” If you think that you can play in the finals at Wimbledon and at the same time work your BlackBerry, then you've got a little bit of the flavor of a presidential candidate.

I remember Marcia Aronoff, who was Bradley's chief of staff, when he ran for president she said, “Tell me what it's like.” I said, “Well, I'm at a point of where I don't believe we're ever in control of things. The AA thing: give yourself to a superior being. I'm Catholic, I give myself up to God. If you think you're controlling your life, you're smoking dope. But presidential campaigns take that to a whole new level. Here's the analogy. You're standing on the banks of a creek that is in flood. And you have to get across to the other side of that creek. That's the job. So you jump in the water, and all of



a sudden there's all these rocks in the water. You're dodging the rocks, trying to get to the other side. And then they throw telephone poles in the water, so you're dodging the telephone poles and the rocks. The idea that you can get to the other side is totally illusory. You're just trying to keep yourself from getting hit by a telephone pole or hit by a rock or drowning. You are a success if at some point you get to the other side" I said, "That's the way a presidential campaign is." God, when I got back after the presidential campaign, the reason I have curly hair is because some of the things the staff people did while I was away, there was a gigantic vacuum and people moved into it and were doing things they shouldn't have been asked to do. So running a Senate office when the senator is running for president is the easiest job in the world. It's like the Maytag repairman. You're never going to hear from the senator. Every once in a while there will be a vote on the floor that he'll want to know about, and you have to keep track of things to make sure that nothing happens that embarrasses you, but you can usually find a good person to do it. Alan Hoffman did it on our last race. He had formerly been chief of staff to the senator. He was very good and very special. We'd better go.

**RITCHIE:** Okay. I was just thinking that there are a lot of senators who run, but it's only the ones who say, "I'm going to spend my time campaigning" who get there. The senators who try to be a senator and run for president—

**KAUFMAN:** It's like: Okay, I'm going to play at Wimbledon but in addition to that I'm going to do my BlackBerry. It ain't going to happen.

**End of the Second Interview**



## **BIDEN FOR PRESIDENT**

### **Interview #3**

**Thursday Morning, August 18, 2011**

**KAUFMAN:** Is the Senate a much more civil place because we've had turnover? I remember Joe Biden and Dick Lugar on the European Affairs subcommittee. Lugar was chair from '80 to '86, then Biden was chair from '87 to '94, then Lugar took it back. The same thing happened on the Judiciary Committee criminal affairs subcommittee, where Joe Biden and Mac Mathias went back and forth as chairman. What it meant was, Okay, if I don't give them staff, when he or she is in charge they do not have to give me staff. So what we ought to do is come up with the best solution regardless of whether I'm the chair or the ranking member. What happened in the House was the Democrats were in control for 40 years. There was one committee over there, a big committee, where I think the Democrats controlled 85 percent of the staff and they gave the Republicans 15 percent. So one of the things that has made the Senate a more civil place in recent years, contrary to what everyone else says, is "There but for the grace of God go I." The idea that two years from now I may be in the majority or the minority, and I think that effects a more rational and thoughtful approach to Senate rules.

**RITCHIE:** From the outside, people look on rules questions as a Republican or Democratic position, but it seems to be really a majority party and a minority party position. And the world looks different depending on what that status is.

**KAUFMAN:** Yes, and we've also talked about how being in the majority can be a negative thing in terms of if you're in the majority and you have the presidency. Joe Biden always used to say, and I believe to the bottom of my being, I didn't work for the president of the United States when I was a senator. It's a separate and equal branch of government. But in fact, when you've got an administration, one of the responsibilities—which I think John Kerry did a wonderful job of parsing the differences, I'm incredibly impressed with the job he did as chairman of the Foreign Relations Committee, where all these foreign relations issues came up, where maybe he didn't agree with where the Obama administration was going, but he was always able to deal with being a senator and being independent, but at the same time realize that the 300-pound gorilla in the room on foreign policy is the executive branch.

**RITCHIE:** Well, today, I thought we might go back because I was looking at

where we left off yesterday in the '80s and we touched on a number of occasions relating to the presidential campaign in 1987-'88 but really didn't talk about it per se. I wondered what your role was in that campaign. It must have started well before '87.

**KAUFMAN:** In 1984. Basically after the '84 election we started preparing for a presidential election. Essentially what was done was there was a decision made. The first decision always was personal and family with Joe Biden, and by the way I think it's underrated in terms of all politicians, there's a number of misperceptions out there with the public, just like I'm sure it is in trying to understand baseball players or understand academics, but when you're inside you realize that what drives most politicians' decision is personal. How does it affect my family? If my family's not going to be onboard for this campaign, I'm not running. We just saw that with Mitch Daniels. Here's a guy who is incredibly qualified to run for president of the United States, positioned properly, governor of a good state, but in the end it was clear that his family didn't want him to do it. It's a practical and a personal problem. You will probably fail, if you run without having your family squared away—we can go back through history and look at people who had done that, or tried to do that. So the first decision was: was the family ready to do this.

I think after the '84 experience, I don't know if it's documented, there have been a number of books written about him, but the basic decision was we're going to go out there, we're going to do what needs to be done, but we know that in the end he can always pull the plug. They had not decided to run for president in 1984 (and when I say "they" I mean the family) but they decided to put themselves in the position that if we decide to run, we can run. Again, he was on the inside of the '76 campaign, we'd been through the '84 campaign, and I think we knew better than most people what was required. We knew that for this incredibly complex enterprise, getting started early was essential. You could run at the end, like Gore ran at the end in '88 and did very well, so you don't have to but it really was better to do it over the long pull. So we started in '84 in terms of national scheduling.

In '84 we decided that he was going to get off all his committees except two, Foreign Relations and Judiciary, which was a decision that started out partly because of running for president, but after we looked at it, it became a decision we made whether he was running for president or not, because one of the problems with the Senate is that senators are on too many committees. This was really on steroids when I went to the

Senate, because the senators are spread so thinly that they can't spend time drilling down into things. If you're on four major committees there's no way you can get in depth into these issues. So the decision moved forward on that, and the decision to start building a network and start thinking about fund raising people.

My title in the '88 campaign was chief of staff and treasurer. I had two functions, one was there was to be on a committee of people, family and others, who sat down on a regular basis and talked about what we should be doing, like an executive committee, and I was on that. It wasn't called an executive committee, but I was involved in all the meetings to figure out what we'd do next. The second thing was raising money. Essentially what I did was I spent a lot of time putting together the network to raise money. I'm very proud of the fact that in the first quarter of '87, when the other candidates were in, we raised more money than anyone else. We raised more money during that period than any presidential candidate had, except for Walter Mondale, a former vice president. And we raised more money outside of our state than all of the other presidential candidates combined. It was really incredible. So I was involved in the management of the campaign and raising money.

**RITCHIE:** His campaigns had been almost family operations until then—

**KAUFMAN:** Exactly.

**RITCHIE:** In a small state. So how do you go from that to running a national campaign?

**KAUFMAN:** Remember that the campaign chair was his sister Valerie. She continued to run things. Jim Biden was very involved in the fundraising. But, what happened was we had developed a number of relationships over the years. First off, we had Pat Caddell and John Martilla, who were involved in the '72 campaign. One thing you can say for Joe Biden is that he doesn't burn bridges and he wears very well. If you look around at most senators—now that I say that, I'm not sure, but it seems to me that most elected officials don't have one consultant for their entire career, and doesn't have good relationships with consultants through their entire career. But Joe Biden just had a very good relationship with a number of consultants. One of the problems they said our campaign had was that sometimes our campaign looked like this gigantic head on little spindly legs. John Martilla was involved in it, Pat Caddell was involved in it. Tom

Donilon who is national security adviser was involved in it. Bill Daley, who is now chief of staff to the president, was involved in it. David Doak, was involved in the beginning. The campaign manager was Tim Ridley. These were also seasoned, very successful, hot consultants. Bob Squier did the media . I'm just doing this from memory so it's not in order of who was the most important. In fact, Pat Caddell turned out to be probably the biggest problem in the campaign, brilliant, but it's been pretty well documented in a number of books that whole Pat Caddell thing, so there's no sense getting into that, but we had the best line-up of consultants and advisors. Valerie was the campaign chair, and she was still numero uno in the list. Jimmy Biden was involved, helping to raise money, so it was still a family affair. And Jill was fabulous. We had real fire power. And we did very well until we didn't do very well. [Laughs]

**RITCHIE:** The way that campaigns get started, they're retail politics. You have to be on the street in Iowa and New Hampshire, and Delaware would have been a great experience for doing that kind of early campaign. It's not great for running in California and New York, perhaps, but in Iowa and New Hampshire it fit.

**KAUFMAN:** See, we had an advantage there because Philadelphia is the nation's fourth largest media market, so we knew how to do media. We had good people helping us with the media. So we also had the advantage of understanding how big state media worked. But you're right, in Iowa and New Hampshire Joe Biden was a great candidate because, as it's been documented over and over again in the profiles that have been written since he became vice president, he's just the kind of person that people think is genuine and he gets their support. He understands retail politics, which is what Iowa and New Hampshire, which are key, were all about. If you look at where we were when the campaign ended, the campaign was very strong in both Iowa and New Hampshire.

**RITCHIE:** One of the handicaps that senators have when they run for president is that they have to vote on every controversial issue that comes down the pike. Was that a problem for Biden?

**KAUFMAN:** I'm sure it was. I had a whole discussion that I used to go through on why senators hadn't been selected, because the only two senators elected president, up until Obama, were [Warren] Harding and Kennedy. I'd ask people, "Do you know the two senators?" And practically no one got Harding. Then I'd say, one of the big reasons is that governors pretty much get to set their own agenda and their own schedule, and

people who aren't governors or senators really get to set their own agenda. When governors decide they're going to do something, they call a press conference. We'll have the press conference next Tuesday, and if Tuesday doesn't work we'll do it on Thursday. If that doesn't work we'll do it a week from Tuesday. Senators are much more controlled by what goes on in the Senate because you never know what's going to come up in the Senate. One of the great truisms about the Senate, which you learn very early as a chief of staff, is that the Senate is like a war. You have to be ready for a great opportunity or an enemy attack at any time.

The best example I've found to explain this is the play by Tom Stoppard, *Rosencrantz and Guildenstern Are Dead*. In that play, as you know, Rosencrantz and Guildenstern are bit players in Hamlet, and what Stoppard did was say: Okay, let's do a play about Rosencrantz and Guildenstern. For most of the play they're playing cards or dice or something like that, and then every once in a while Hamlet comes onto the scene and the klieg lights go on, and they are on the air and they say their lines and move on to other things. That is basically the Senate. As I learned early on, you can be working on an issue for years and then something would happen and bang, the klieg lights would go on. For a one-week, two-week, one-month, two-day period, everybody in America is interested in this. The Senate is interested. This is what's going to happen [snaps fingers]. What you have to do at that point is you have to have a staff than can continue to do the basic operations. Just like the military you have to have people to protect the whole line, but the attack is coming over here and you have to move as many forces as you can to deal with that attack when it happens, because you don't control when the attack starts and when it ends. It just comes on and then it's gone, and when it's gone, nobody's interested in that.

The perfect example of that is the Biden crime bill, because he started that in 1984, and in fact crime increased in the late '80s and then peaked and started down in the early '90s, actual. But what happened was the public's perception was that crime was highest in the early 90s. There are a lot of different reasons for this but the one I give is that somehow it became the interest of local TV and people began seeing more and more television shows about crime. You can look at the data. The data shows that people's reactions to crime was much more driven by the perception of crime than it was by the actual crime. What happened was that in 1993 or '94 we came from a recess and Senator Biden came back from the first caucus and said, "Ted, you won't believe it. Everybody in the caucus is talking about what we are going to do about crime." By God, all of a sudden

it was the issue, the '94 crime bill. You've been working on it and working on it. Senator Byrd at the caucus said "Where are you going to get two billion dollars to fight crime?" All of a sudden it was, "Why is it only two billion? Why don't we do three billion?" So it hit us like that.

When you're running for president, the first thing you decide when you get way down the road (not 1984 but somewhere in 1986), you say, "I'm not a senator anymore," and you leave. What happened with John Kerry, "I was for it before I was against it," it happened to Hillary [Clinton] and Obama on appropriations bills coming up. You put your finger right on it, one of the problems for running as a senator as opposed to running as a governor is that all of a sudden you're in Iowa and they want to vote on ethanol. [Laughs] Or you're in Iowa and a gun vote comes up. Clearly, one of the big disadvantages of a senator is having to vote. I don't know what most senators' voting records are in terms of absenteeism, but those running for President are pretty much all absent for all of the election year. But they do have to come back and vote on certain things. That's a real problem with being a senator. Senator Biden, I don't think I'm saying anything out of school, but Senator Biden met with former president [Bill] Clinton before this last run and former president Clinton thought one problem senators have, which is a big deal, is that they have "Beltway speak." You've been a senior senator and you just start talking about programs. I think there's a lot of truth to that. Fortunately for Joe Biden, one of the advantages of coming home every night was that he couldn't get too far into "Beltway speak."

Now, what turns out to be the big issue, which I did not put high up on my chart in 1987, but which I would put at the top of the chart now, is very simple: it depends on whether the issues are domestic issues or foreign policy issues. Clearly, in 2008 the senators were all drawn to the race because of the foreign policy concerns, the war on terrorism and all that. I think the reason why governors weren't running in 2008 was because the electorate was very concerned about foreign policy. For instance, take Mark Warner, who is very attractive. I consider him a friend, and I hold him in the highest regard. He was governor of Virginia. In a normal year, like this year, in this campaign he'd be an ideal candidate for president. But he found that wherever he went he was getting very detailed questions on foreign policy. I think that—he even said at the time he dropped out that he felt that national security was an area that he did not have enough expertise on. So I think that's really what happened. But the other part of the problem is, and the best example I can give of this is about Bob Dole, if you want to understand why



it's difficult for senators to run for president. When Bob Dole ran against H. W. Bush in '88 he was the majority leader of the Senate. That's right, isn't it?

**RITCHIE:** In '88 he was the minority leader.

**KAUFMAN:** That's right. So in '88, this was after our campaign was over, there was a debate in Chicago with Vice President H. W. Bush, Pete DuPont was in it from Delaware, and Dole. I think Dole was the only senior senator. The days leading up to the debate, what you normally did in a presidential debate was spend all your time preparing—we had this problem, too. I can remember, just to put it in context and go back to the Biden campaign. Our first big debate was in Texas. We had set it up to spend two days in Chicago on debate prep, then fly to Texas, I think to spend a day and a half or two days there getting acclimated for the debate. So we started to have the debate prep in Chicago and after a day and a half Justice [Lewis] Powell stepped down, and the President of the United States, Reagan, wanted to talk to Joe Biden, who was the top Democrat on the Judiciary Committee, about who he should pick for a Supreme Court justice. We shortened the stay in Chicago, spent what time we had in Chicago not talking about debate prep but talking about Supreme Court justices (we had a kind of brain trust there). Then rather than fly to Texas, he flew to Washington, met with the president. I think [Ed] Meese was there, George Mitchell, [Strom] Thurmond. They talked about the whole [Robert] Bork nomination, which is in a number of books that have been written about, because it was some pretty complex discussion. Then he got on a plane and flew to Texas, arrives, and has a press conference with the entire national press corps, not about the debate but about Bork. Then he went in and was in the debate. The governors didn't have to worry about that, in fact the senators who weren't involved in it didn't have to worry about that.

To get back to the Dole story, because in my mind it's such a good example of that, Dole was in the Senate the entire day of the debate, working on the floor much of the time. I forget what bill was up, but he was working it. Then he jumps on a plane, flies to Chicago, and walks into the debate. The other candidates did what we had been planning to do. They were in Chicago three days in advance, totally thinking about the debate. I'm sure that Dole's debate prep was flying out in the plane, if in fact it was that, because I'm sure flying out in the plane there was some "What are we going to do tomorrow in the Senate, what's coming up?" talk, and all the rest of that. So Dole, who should have been a great candidate for president of the United States—didn't turn out to

be a great candidate for president but potentially was a great candidate—did not do well in the debate. Of course, H. W. Bush was vice president of the United States, so he was going to be tough. But Dole had a very bad performance.

As long as we're on Dole, I use Dole as an example when people would say to me in a presidential campaign—like they're saying about the Republican candidates, I don't agree with a lot of Republican candidates and I don't think this is an especially distinguished field of Republicans, but you have to put in context that whoever runs for president is going to be destroyed by the media. I can remember Bill Bradley calling Joe Biden when his name was being mentioned for president, this was while he was still in the Senate. He said to Joe Biden, "Joe, I don't know what's going on. No one has ever questioned my integrity before, and here I am, my name has been mentioned and they're questioning my integrity." Joe said, "Welcome to the club. This is it." The example I always use is Bob Dole, because Bob Dole had an incredible sense of humor, a very funny man, but more important, Bob Dole had more character in his little finger than most people have in their whole body. Bob Dole, if you read Richard Ben Cramer's book, *What It Takes*, he went through Dole's being wounded, almost dying in Italy, the incredible rehab he had to go through.<sup>1</sup> This is a guy who has demonstrated character. I put Joe Biden in this class, but Dole had so much character, and integrity, and humor, and the rest of it, but by the end of the campaign he was a laughing stock. People joked about Bob Dole as a presidential candidate (of course, afterwards he did the Viagra ads, and that didn't help). But I said if you can take someone like Bob Dole and turn him into someone who is a buffoon and a joke, it just shows you where presidential politics are. But that's what they're looking for in presidential politics. In terms of this long answer to your question about what it like being a senator running, it was very difficult being a senator running, but I'll tell you this: it wasn't half as bad as a senator running who is a majority or minority leader of the United States Senate.

**RITCHIE:** Yes, it seems to me that in '84, '85, and '86, Biden had the advantage of being in the minority, but after 1987 he was not only in the majority but chairman of a major committee, dealing with Supreme Court nominations. Did that throw a monkey wrench into his campaign?

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<sup>1</sup>Richard Ben Cramer, *What It Takes: The Way to the White House* (New York: Random House, 1992).

**KAUFMAN:** Yes, in the end it did. We thought the Bork nomination was going to be an incredible positive experience, which is one of the reasons why in my opinion what happened, happened. We were doing very well. There were surveys in Iowa that were showing that he was breaking out. That was the reason why this all happened. First of all, our basic game plan went like this: breaking out in Iowa, doing well in New Hampshire. The Bork nomination was going to be the opportunities for Americans to see Joe Biden for the first time really thinking about him as a president. It was a Supreme Court nomination and he was very experienced in Supreme Court nominations. He had done a number of them before. He was very comfortable on the Judiciary Committee, very comfortable being chairman, and very articulate. They had an picture in the *New York Times* of Biden and Bork nose-to-nose, and said, “This is the first primary.”

What we were thinking is, we’re in great shape! We’re doing great in Iowa. He’s going to do the Supreme Court nomination, an area where he is comfortable. Our position on the Bork nomination was we felt that Bork was a flawed candidate for the Supreme Court. A wonderful person, smart, but the arguments that could be made against him were valid arguments. Our argument was that President Reagan in 1986 congressional campaigns said, “I’m going to put on the court people who can change things. I’ve been president for six years and I really haven’t moved a social agenda. I’m going to appoint ideological judges who can move the social agenda.” Our basic approach was: We don’t want to be ideological, but if the president of the United States decides he’s going to appoint somebody for political reasons, in order to advance an ideology, then clearly we have a responsibility and an opportunity to deal with this when that person is selected. Bork was clearly an ideological candidate. Our point was we could then deal with all these political and ideological issues because Bork was up to be a Supreme Court justice—not a circuit court judge, not a district judge, but when you’re talking about a Supreme Court justice you’re talking about somebody that can do exactly what Reagan said. If you fill the Supreme Court with nominees of a certain ideology, they can actually make decisions and change the social direction of the country. So we felt very comfortable on that part of the nomination fight.

Senator Biden had good relations with Strom Thurmond, who was ranking member. He had good relations with all the Judiciary members. In fact, if you read the accounts of what went on with all his colleagues while this was under attack, it really was very nice. Members of the committee, I remember Alan Simpson and Arlen Specter, while all this was going on, talking about Joe Biden’s integrity. Ted Kennedy. So a lot of

people weren't buying what was being said out there.

But what happened was, and this is one of the things I learned from this in terms of politics, again it should be simple, and everybody should understand it. If you believe—I'm sure it's in Sun Tzu's *The Art of War*, and I'm sure it's in Von Clausewitz's discussions on war—is that when you think that you're in a position to make great gains, your opponent probably has figured out that you're in a position to make great gains, and your opponent is not going to let that happen. What essentially happened was the eyes on high in the [Michael] Dukakis campaign, the [Richard] Gephardt campaign, they could see what was happening. They could see exactly what we could see. That's why Dukakis did what he did. He would not have done this if he didn't think Joe Biden was about to break ahead, and the same with Gephardt. We had not thought about that. We didn't put this in context when these things started happening. Then the worst thing that happened was the White House looked at this and said, "Look, this is the first primary and it's between Biden and Bork. If we want to build Bork up, we sure as hell have to drive Biden down." The White House really did a lot of damage. They were the ones that got the Syracuse story started after the [Neil] Kinnock story. So we were kind of caught between two firing squads. Howard Baker was White House chief of staff, who liked Joe Biden, and Joe Biden liked him. I don't think any of them thought—I *know* none of them thought that this was the program to knock Joe Biden out of the race. But nobody else knew what the other person was doing. Gephardt didn't know what Dukakis was doing. Dukakis didn't know what the White House was doing. So all of a sudden you end up with all of these attacks.

When the story broke on Kinnock in the *New York Times*, *nothing* really happened. But then these other charges were fired out, that's when things got bad. In the end, as has been documented in a number of books, the decision, from my standpoint, the decision to leave the presidential race was an incredibly obvious decision. The reason was that here he was the chairman of the Judiciary Committee involved in an important nomination. He was faced with an avalanche of charges, the vast majority of them had no substance. But once this was started by the White House and the Democratic candidates, every investigative reporter in America was out there trying to find something. The stuff that was said was so ridiculous. But every charge had to be met, and they were all personal charges against him. So it wasn't like you could have a war room off to the side generating the data. If they alleged that something happened at his high school graduation, he was the only one who could say, "Well, these are the three people to talk

to.” It began to submerge the Bork nomination. He was spending all his time in the campaign mode, and the press was all about him and his campaign. The answer in normal circumstances if you’re under attack like this is to move to Iowa and spend 100 percent of your time dealing with the attack, which would have meant resigning from the Senate or walking away from the Bork nomination, go to Iowa and defend yourself, and fight this out. His was not like what happened to Gary Hart. This was not something that we could not deal with. With Gary Hart there were pictures, and history, and the rest of that stuff. But all these charges were something we could deal with if we had the time to do it, but meanwhile, he’s dealing with the Bork nomination.

So the decision to get out was clear. What kind of a person would you be if you were running for president and you decided that the most important thing was to keep your political career going? Leaving the Bork nomination was never really an option. When you talked about it for a while it became clear that if you’re going to keep working on the Bork nomination, this is going to keep up, and it’s not only going to hinder your chance to be president, it’s going to hinder the Bork nomination.

We had a meeting in Wilmington of the family and a few advisors. I compared his position to that of Winston Churchill who had to resign after the incredible losses in the Dardanelles, and then he came back to be Prime Minister, and suggested it was best to get out now and Biden was young enough to come back later.

In the end, the decision was unanimous to end the campaign. You can read about the books on the ’88 campaign by Richard Ben Cramer, Jules Witcover , and others and Biden’s book *Promises to Keep*. It was a horrible experience, but the truth did come out and he did return to have a great life and career.

I have said many times, if you ask me, who is the luckiest person I have ever known? I would say Joe Biden. If you ask me, who is the unluckiest I have known? I would say Joe Biden.

He was unlucky in the confluence of events that ended his campaign, but he was lucky that he was not in the campaign the following February when he went to the Doctor with a headache and through emergency surgery avoided dying from a brain aneurism.

He was lucky to have been elected senator at the almost unprecedented age of 29,

but then shortly afterwards had his wonderful wife and daughter killed in an auto accident and his two boys put in the hospital.

But, he was extraordinarily lucky to have convinced Jill Biden to marry him, and then have their daughter Ashley. And I mean lucky because of two things; one Jill was not a bit interested in marrying a senator and it was only through the intervention on Beau and Hunter that she was convinced. Second, Jill is one of the most extraordinary people I have ever met. She has an impressive education with two masters' degree and a doctorate in education, and an accomplished career as a teacher; and a wonderful wife, mother, daughter, daughter-in-law, mother and grandmother. She has been a great second lady. She has been a rock through all the ups and downs.

**RITCHIE:** You see this in a lot of campaigns, where the media struggles to figure out: Who is this person? They did this with Dan Quayle and to a degree with Sarah Palin.

**KAUFMAN:** They do it with everyone. There's a wonderful book, by someone I think is one of the best experts on media and politics, Kathleen Hall Jamieson of the Annenberg School at the University of Pennsylvania. She did a book on the 2000 campaign. If you ever want to read this, it's ten times better than I can explain, but she goes through the fact that now this is just standard procedure. One of the reasons for it is that it's a lot easier to write about presidential campaigns. First off, people are interested in it, just like they're interested in reality shows. It doesn't really have to do with whether you're qualified to be president, in my opinion. It has to do with what the media writes about—and, boy, writing about healthcare reform is just so incredibly boring and uninteresting. One of the great things that comes out of these studies is that the media does cover these issues, but they cover the issues early in the campaign. When it gets to the time when people are finally focused on the campaign, then they move to the scandal issues and the personality issues. The *New York Times* may have a fabulous series on healthcare reform, but by the time you get to the Iowa caucuses they're not talking about healthcare reform any more. And when they talk about healthcare early on, nobody's interested, only the people that study the issue year-round are following it. It's been pretty well documented, and Kathleen Hall Jamieson has done a great job of documenting that the vast majority of coverage of campaigns is about strategies, scandals, and personalities.

The best example of it is she did a wonderful study on the race when Ed Rendell was running for mayor. He ran against a fellow I knew, who was a really great guy.

**RITCHIE:** It wasn't Bill Green, was it?

**KAUFMAN:** No, Bill Green earlier. This guy used to head up the Philadelphia Industrial Development Corporation. It was Joe Egan. Polls had shown that 13 percent of the press coverage of the mayoralty race was about the issues and 67 percent was about appearances and scandal, and who's ahead and who's behind. She put together two different kinds of media histories. One was what was out there, which was only 13 percent about substance. The other was all about substance which they cobbled together TV, and print ads, and radio ads, where they took everything else out and just had substance. They went to somewhere in the Midwest, away from Philadelphia, and they gave group A the standard coverage of the campaign and they gave group B the special coverage just on substance. Then they ran the actual debates between the two, and asked people for their opinions. What came out was Group A who had seen the actual footage of who's ahead, who's behind, and who fired their campaign manager – when they talked about the debate they talked a lot about how the candidates looked, how the candidates dealt with each other, whether they were good people or not, a lot about the personality of the candidates, but they didn't know these candidates. The Group B people who got the special coverage that dwelled on substance, actually listened to what the candidates said. Rendell had a proposal to privatize the garbage workers, and they were interested in the substance of the debate.

Sometimes observers of the media will say, "Well, it's really important to know about this because it has to do with their character and that's what it's all about." That's okay, let's do that, but it's like Gresham's Law, that the bad money drives out the good. If you're in a system where people print money that doesn't mean anything, you're not going to see any gold coins on the street. Gold coins are going into the bank or buried in your backyard. So with all this coverage on the personality of candidates, there's a price to be paid. It crowds out the discussion on the substantive part of the campaign. That's what Kathleen Hall Jamieson demonstrated. The problem with these presidential campaigns goes back to what it was like with President [Andrew] Jackson, where most of the campaign was about personality. But as these presidential campaigns become more and more about personality and background, it crowds out the ideas that candidates have about the issues. So, it is like Gresham's Law, the more the superficial bad money is out

there, the more the gold disappears. Who is the best person to deal with our major issues?

**RITCHIE:** It's a little like watching the Olympics, where they spend more time talking about the back stories of the athletes, some tragedy in their family, than they do about the events they're supposedly covering.

**KAUFMAN:** And the reality shows are a perfect example of the fact that this is what people are interested in. I can understand that. It's not complicated. If I was a reporter and just got out of college, I can write the story about whether the campaign manager is doing a good job, or what the polling data is. You can just walk right out of school and write that. Writing a story about what we should be doing about the deficit is a very difficult story to write. This used to be a real problem back in the '87 campaign, when people would ask "What does Biden think?" And "How does Biden compare with the rest?" We would send them our brochures so they would have our point of view. This is the big difference with the 2008 election. People would say, "What's Biden's position on the Middle East?" I'd say, "I'll tell you what, go to your home, go on Google and type in 'Biden Middle East,' and just read. What's great is you're going to get not just what we're telling you about Biden. You're going to get people who say 'Biden is the worst thing that's happened to the Middle East in history,' and other people who say, 'Biden is great on the Middle East.' Then you have an opportunity to sit and read this and you can come to an opinion about it." No one can complain, "Oh, the media doesn't give us any facts, we don't know what's going on!" If you want to find out the positions of candidates on issues, you can go on the Internet. Now, some of the stuff on the Internet is just flat-out lies, but I think most Americans are in a much better position to evaluate the substantive positions of candidates today than they were when Senator Biden ran for president in 1987.

**RITCHIE:** The information is there, if you want to look for it.

**KAUFMAN:** Exactly. But you've got to be interested in looking for it. I remember the '87 campaign, we had been in the campaign for a while and a reporter for the *Atlanta Constitution* was doing a profile on Joe Biden. At that point, the reports in the national press were not good. I said, "Are you going to be the last person to write the 'Joe Biden's Campaign is in Trouble' story or are you going to be the first one to write 'Joe Biden's Campaign is Great.'" The example I gave was this incredible experience we had when Joe Biden was in New Hampshire and the "boys in the bus," the men and women



who follow the presidential race in pack journalism—they absolutely do move in packs, so if David Broder writes a good story about you, then there's a good story in the *LA Times*, and a good story in the Dallas paper, and the whole pack goes one way. In fact, right before he got out they were writing great stories about him. But we were in a particular lull, and they were writing, "Joe Biden's irrelevant. He's not going to be a factor in this race. He's from a small state."

Biden took a trip to New Hampshire and we did a house party. The national press was covering it, but the *Boston Globe* was covering it not with a pack journalist, not with somebody who was on the bus, but with a political reporter from the *Globe* who went up to New Hampshire and watched the vote. And it was great, because you read the reporter in the *New York Times* who wrote, "Well, there weren't too many people there, he wasn't very good, and he spoke too much." It was another example of the fact that Biden's not going to be a factor. The *Boston Globe* ran a story that said, "The place was packed. He connected with the people and the people really liked him." I was there and that's what happened, but the *New York Times* reporter got off the bus with the attitude of, "Oh, my God, why do we have to sit through this? He's going to talk too much. He's dead in New Hampshire." So she wrote that kind of a story. I'm not picking on the *New York Times* reporter, it happens with all of them, and it happens with all of the campaigns and all the ups and downs.

You see that right now with the Republican campaigns. When [Rick] Perry announces, Perry's now way ahead of [Mitt] Romney. Two weeks ago it was [Michelle] Bachmann who was way ahead of Romney. Candidates come, shoot like a superstar, and after they die Romney is still rolling. He's 18 percent when Perry's 26 percent He'll be 18 percent when Perry's 14 percent. He was 18 percent when Bachmann was 23 percent. He's 18 percent now that Bachmann is 16 percent. So there are the ebbs and flows of the campaign and a lot of it is driven by conventional wisdom. I really do understand it. If you're working with your colleagues, if every day you're getting up and going to work with your colleagues, and your colleagues decide that ice cream is a bad thing today, you don't want to be the one person there at lunch eating an ice cream. If you're in a newsroom, and the newsroom is basically of the opinion that you are very good, or very bad, it's very difficult to be the contrarian.

My favorite example of that was when Dan Quayle was vice president and couldn't spell "potato." Dan Quayle, I can remember when we had a meeting of our

supporters here in Delaware with Chris Dodd and a bunch of Democrats, Quayle had been vice president for a while and somebody in the audience started denigrating Quayle. Dodd said, “Dan Quayle was a damn good senator. He’s a quality person, and I’m not going to listen to people putting him down.” It was classic Chris Dodd, saying what he thought. The conventional wisdom was: Quayle’s nothing. Then I read in the *Post* that there’s going to be a series by David Broder and Bob Woodward on Dan Quayle. I knew that story was going to be that Dan Quayle is a lot better than people think he is, because another story that says Dan Quayle’s a bum is not news, and the secret to news is news is new. All the *Washington Post* had to do was say there was going to be this piece. Before I had even read the piece I knew it was going to say: “Everybody thinks Dan Quayle’s no good, but the news is he’s not been that bad, so let’s go back and look at Dan Quayle.” Remember, Dan Quayle beat one of my all-time favorite Senators, Birch Bayh to get to the United States Senate.

Birch Bayh was an incredibly difficult candidate to run against. He ran for president and I think was one of the truly quality people I’ve ever met. He knew Indiana, I remember he used to go down to southern Indiana, which is a lot like southern Delaware, and be in the turkey shoots. Beating Birch Bayh was not easy, even though 1980 was a big year for the Republicans. Dan Quayle was relatively new in the Senate, I think he was in his second term when he ran for vice president, but he had been there for eight years and did a lot of good things. But that was a good example of this kind of conventional wisdom. If you want to write the story that everybody will read, then it’s not going to be a story that reinforces the conventional wisdom. It’s got to be something that’s new and has news. Therefore in a presidential race you’re going to go through cycles. I’m not blaming the reporters on the bus, the pack journalism. I just think that’s the way the human mind works and human experience works.

Again read Kathleen Hall Jamieson’s book on the 2000 presidential campaign.

**RITCHIE:** It’s very hard for a reporter sometimes to run stories by the editor, if it goes against conventional wisdom.

**KAUFMAN:** Let me make a point out of that. One of the things about teaching a course is you get to read a lot of interesting books, and Elaine Povich, who is with the

*Chicago Tribune*, wrote a wonderful book on the Senate.<sup>1</sup> I don't know if you ever read it.

**RITCHIE:** Yes.

**KAUFMAN:** It may be in her book, or in another book by [Doris] Graber, but they did a very simple study. They asked reporters who covered the Congress what they thought about members of Congress, and by and large it was pretty complimentary. Then they asked them what their editors thought, and the editors were very uncomplimentary. What came out of the survey information analysis was, and I found this to be the case, that the reporters covering Congress were constantly being badgered by the editors back home saying, "Why do you keep writing these stories about our member of Congress? He's a scallywag, or she's a scallywag, just like the rest of them. What's he doing on this or that?" I think that is the conventional wisdom around the country, and newspaper editors aren't any different. They have a very negative opinion of Washington. Right now it's very negative, but it was pretty negative during the impeachment trial of Clinton, and Gingrich really drove down the approval rating of the Congress in 1994, and the Congress hurt with the bank scandal. So it's interesting that the reporters thought highly of them and were ready to write favorable stories, but the editors were saying write a negative story because out here nobody thinks Congress is worth something.

Congress is not held in high regard now—Congress has not been held in high regard for a long, long time. I think we had a good upturn after September 11, but over the years people have been skeptical. As I've said before, people should be skeptical of the Congress. They should be skeptical of the president, skeptical of the Supreme Court, and skeptical of all the power brokers in the country. The problem is when skepticism turns to cynicism.

**RITCHIE:** Nicholas Longworth said it was the God-given right of every American to look down on his member of Congress.

**KAUFMAN:** Exactly.

**RITCHIE:** Well, when Senator Biden left the race he came back to face the Bork

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<sup>1</sup>Elaine S. Povich, *Partners & Adversaries: The Contentious Connection Between Congress & the Media* (Arlington, Virginia: Freedom Forum, 1996).

nomination. Could you tell me about the Bork nomination from your perspective?

**KAUFMAN:** I talked earlier about Bob Dole and his character, and a number of people who have put themselves in the public eye—but I was there, and Joe Biden had thought about being president for a long time. But for Joe Biden the most important thing for him was his integrity. It showed real character for him to come down to Washington, hold a press conference and say that he's leaving the presidential race, with a lot of feeling that it was over for him, he'd never be president. I did not agree that it was over for him. I told him this was like Churchill and the Dardanelles. This was a bad experience but you can come back, which was another reason why it was an easy decision to get out. And I'm telling you, if this had been me, I would have been curled up in the fetal position crying. If I had undergone a barrage like that on myself and my personal integrity, and all the things I believe about myself, and unfairly attacked, and then come down and announce I was leaving and take questions and answers, if I wasn't in a fetal position crying before, after it was over I would have gone someplace—I'm not a drinking person, but I would have seriously considered drinking.

You know what he did? After that press conference was over, he went down to the Judiciary Committee and he questioned Warren Burger, the former chief justice of the United States, on the Constitution. Do you know what character that takes to do that? Obviously, I'm biased about him. He's my friend and I hold him in very high regard. I jokingly say I gave him the best years of my life. But it was incredible. He and Jill just held up. I don't know personally, and I wasn't there when other major political figures faced crises. I don't know what Andrew Jackson was going through, or Nixon was going through, others who had these incredibly bad things happen to them in politics, and personally even worse. What happened to Joe Biden was overkill. But the ability to be able to do your job under incredible pressure and incredible adversity, it was really extraordinary.

Now, the one good thing for him was that people in Delaware didn't question his integrity. This was Joe Biden. What happened was not some character flaw. They had all these psychologists on television, I didn't like it at the time and I still don't, they did this to Mike Dukakis: "I don't know Mike Dukakis and I've never met him, but I'm a trained psychologist and clearly he's—" Or "Bill Clinton, I don't know him and I haven't talked to him, but I'm a trained psychologist and clearly his father was such and such, and his mother was so and so," this kind of psychobabble, instant analysis that went on. It was

very offensive. But the people in Delaware never doubted him.

There was a great story, and also a funny story. We did a survey afterwards and our pollster, Mike Donilon, called and said to him—I was in the room at the time—and said, “The good news is that 74 percent of the people of Delaware think you ought to run for president again.” That was extraordinary. He said, “The bad news is that 43 percent of the people in Delaware think you’re too arrogant.” He said [shouts], “Find those people!” He started laughing, it was a joke. “Find those people! Who are those people? I’m not too arrogant!” And I can remember, there’s a restaurant called Atillio’s here in Wilmington. I rode back with Jill and him on the train to Wilmington and that night they went to dinner at Atillio’s. He walked into the restaurant and people gave him a standing ovation. The good thing is he came home.

I really believe that a lot of the early criticism of him, about gaffes and the rest of it, it isn’t that he stopped having gaffes. I think people when they get to know who he is and what he is, they put in perspective what it is that he’s saying. And they listen a little more carefully to what he’s saying, as opposed to just hitting the top line. I think that’s what’s happened to him nationally, and it’s why people have a favorable opinion of him.

He came back to the Senate, and after that, the following February he had the aneurism. I think many people got it right. If he had been in the presidential campaign he would never have acted on the headaches—if you understand what an aneurism is, most aneurisms are diagnosed on the autopsy table. Most people who have an aneurism don’t live to tell about it. But the people who really don’t live to tell about it are the ones who don’t go to a doctor as soon as they start having headaches. If he had been in a presidential campaign there was no way he would have gone to a doctor because he was having these terrible headaches. But he did here, and they were able to save his life.

Dr. [Eugene] George who did the operation, was telling us what the operation was going to be like. He said, “It’s essential to move as quickly as possible, because it can go like that [snaps fingers], and once it goes there’s nothing you can do.” So he went to Walter Reed and had the operation, and then it turned out that aneurisms are such that it’s like your left hand and your right hand. If you have something in your right hand, you might have something in the same place on your left hand. It turned out that on one side of his brain he had a congenital fault that caused the aneurism, and he had the same thing on the other side. So they took the top off his head and put a clip on the first one, that was

in February, and then I think that was in May they had to go back and do the same thing on the other side.

**RITCHIE:** Did a serious illness like that and an enforced period of rest have any impact on him? Did it change him in any way, or was he just itching to go?

**KAUFMAN:** I'm laughing, because first of all we totally followed the doctor's orders. I've talked about this already, but he just didn't contact anybody and did nothing in the Senate until the day he came back. We have this wonderful event every August in Sussex County, the southern county, it's called Beach Jamboree, and all the Democrats in Delaware are there. He came back for that. I'm laughing because there were all these pieces written afterwards, and it was very much in our interest to have all these pieces written about how he had changed and the rest of that, but you know what? I didn't really see any change at all in Joe Biden after he came back. What's so remarkable is when Dr. George before the operation said what the results could be, I don't remember the percentages, but it was pretty scary. But without the operation there was zero chance, because they knew he had the aneurism, and the aneurism had actually broken. Just by pure happenstance it had been forced up against the inside of his head, so it didn't bust wide open. But the doctor said it could bust open at any second.

But the thing that was one of life's ironies—I'm half Irish, he's half Irish, kind of the black Irish comes out every once in a while. Here he was, his integrity was his single greatest asset and he was knocked out of the presidential race because of integrity. The most probable bad result of the operation, if he didn't die, was that it would affect the section of the brain that would have affected his speaking ability. The irony of something hitting his speaking ability, if you're anybody if you're Irish, oh, my God. But you know what? I never saw a single physical change in him or a change that affected any of his abilities. My father had always said that most of all the advances in medicine were because of pharmacology, and it was, but I'll tell you what, this microsurgery they were able to do, it was just miraculous. It was miraculous that they could go in and do this twice and not affect his brain or his faculties and abilities at all. I've never seen anything that indicated a change in his abilities.

**RITCHIE:** Could we go back to the Bork nomination again? Tom Korologos was the White House handler who walked Bork through the nomination, and he always said that he told Bork, "If you're doing the talking, you're losing. If the senators are

doing the talking, you're okay." But he could never get Bork to see that. Is there truth to that?

**KAUFMAN:** First of all, I'm prejudiced in favor of Tom Korologos. I served on the Broadcasting Board of Governors with him and he's really extraordinarily competent. It became Korologos' rule. He told nominees, "If you're speaking 20 percent of the time and the Senators are speaking 80 percent of the time, you're doing fine. If you're speaking 50 percent of the time and they're speaking 50 percent of the time, you're in trouble. If you're speaking 80 percent of the time and they're speaking 20 percent of the time, you're dead." Korologos was absolutely right, Bork was speaking too much. But Bork's problem wasn't that he was speaking too much. The problem was what he was saying. Just go back and read what he said, about the whole privacy issues. I can remember that Kennedy went to the floor and talked about "Bork's America" and all these issues, and it really hurt our effort. Because what we were trying to do was convince moderates like Howell Heflin to come over. Our basic problem with Bork was not that he was too conservative in general, we thought that he was, but he had such an unusual point of view. We just wanted to talk about privacy, and that's eventually how we won, we beat Bork on the privacy issue. So it was really what he said.

When I became a senator and was placed on the Judiciary Committee and I was questioning these nominees, I learned that everybody had been indoctrinated with the Korologos Rule. If you go back and look at my questioning, I then decided, "Okay, this is what I am going to do. I am going to put together many more questions than anybody has asked a Supreme Court justice in recent times. I'm just going to ask short questions and if I don't speak, they'll have to." Because the vast majority of time—Joe Biden was criticized for the [John] Roberts and [Samuel] Alito nominations because he spoke too much—but he is no different from all the senators. It isn't because the nominees are so smart and they understand Korologos' Rule. It's just because the senators talk too much, in my opinion, because that's what every senator does.

So what I did, for both the [Sonia] Sotomayor and [Elena] Kagan nominations, I sat down and said, "Okay, these are the things I'd like to know. I'm going to ask questions and let them speak." By the way, I did this on *all* my nominations and all my issues. The staff would come back to me with these long questions, and I would say to them, "I don't want to demonstrate at all that I'm a genius on this issue. I just want to ask questions that get to the facts." One of my favorite quotes in politics is from Lawton

Chiles, a former senator from Florida. He said, “It’s a truly beautiful thing in politics when conscience and convenience cross paths.” If I was running for office next week, I would do exactly the same thing. People are so tired of senators getting up and talking about how much they know. So politically it’s a good idea to have short questions, but practically it’s good because you actually get some good answers. It was very difficult for my staff—and I had a great staff—because everybody does it. I would say, “If your question is more than a sentence, just strike it. I’m not going to do it.” So that is what I did when it came to Supreme Court nominations. I asked Sotomayor, I think I set the record of anybody who was sitting on the Judiciary Committee at the time, I asked 19 questions in my half hour. And when we got to Kagan I asked 21 or 22 questions. And they spent 80 percent of the time talking.

The other thing I learned, and it wasn’t just Supreme Court justices but everybody when they come up for hearings. I remember asking a deputy attorney general: “What are the main objectives that you would be fulfilling if you got to be deputy attorney general.” In the old days they would think, “Well, Kaufman’s only got ten minutes to ask questions, this is one I can filibuster on.” Senators are always worried about witnesses filibustering, but they don’t filibuster anymore. He said, “It’s this, this, and this,” and then he shut up. So you asked another question, and another question, and another question. So Korologos’ Rule became such a powerful part of the process. Anybody who is ever helping on nominations quotes Korologos’ Rule. Now, if you’re a questioner, in my opinion, you should use that rule to find out what’s going on with a candidate instead of filibustering yourself. The main thing you want to do is get the candidates to make commitments in the hearing as to what they’re going to do. So anyway, that’s a long answer that covers a lot of ground, but I think Korologos’s Rule is essential for most candidates because the senators will talk 80 percent of the time if they just shut up and give them a chance.

**RITCHIE:** Do you think the Bork nomination changed things or were things already moving in that direction?

**KAUFMAN:** Oh, I think there is pre-Bork nomination and post-Bork nomination. No, it really changed things. The Republicans blame it on the committee and the way it treated Bork. I put the blame on the midterm elections in 1986, when Ronald Reagan decided as a point of strategy of: Give me senators so I can reach my social agenda by appointing very conservative and socially ideological judges. If you follow the



discussion since then, the “Hammer” in the House, from Texas—

**RITCHIE:** Oh, Tom DeLay.

**KAUFMAN:** Yeah, Tom DeLay, recently just came out and said: “We’re going to change things by the judges.” That philosophy was key to the Bork nomination. “We are going to put younger judges on who will serve longer.” It just changed it. Then it didn’t take long for us to go from having these contentious fights for the Supreme Court nominees to have it break down to the circuit court. Well, it’s not nearly as applicable on the circuit court because they have to follow the positions of the Supreme Court. One of the things that happened, and this happened before the Bork nomination, I’ve said many times, we didn’t keep our eye on the ball. We got so involved in this ideological thing, appointing judges for ideological backgrounds, we now have a Supreme Court that about has no diversity in terms of life experience. I think five of them now went to the Harvard Law School, and four of them had taken administrative law from the same professor. Out of the whole country, out of nine Supreme Court justices, we can’t find one justice that didn’t go to Yale or Harvard Law School? It’s just not diverse. And the idea that to be a Supreme Court justice you need all this technical knowledge is just not true. The circuit court judge needs all this technical knowledge, but Supreme Court justices have to have a grasp of life. You need somebody like Sandra Day O’Connor, that brings life to the court. Like [William] Douglas. Now we have these nine technocrats.

Even some of the Democratic appointees, when it comes to campaign finance reform, have had strange discussions. If you read [Stephen] Breyer, who worked in the Senate and was chief counsel of the Judiciary Committee for Kennedy, who I knew, his discussion of the Republicans versus Colorado [*FEC v. Colorado Republican Campaign Committee*], where you could have a party making independent expenditures. The argument was “Well, labor unions make independent expenditures, why can’t parties?” I found that totally impossible to explain to a group of students. No one believes that parties can have independent expenditures from candidates. Parties pick the candidates. Parties meet with candidates. The last eight weeks of the campaign, in every precinct and district in this country, the Democratic party and the Republican party are sitting down and working with their candidates to coordinate what’s going on in their campaign. The idea that in any way they could be independent is absurd. But the fact is, these guys have never been involved in a campaign. They don’t know what a campaign is all about. Again, you have the *Citizens United* decision where they say corporations are people!

The idea that you are going to allow corporations to just pour money into campaigns!

So we lost the Supreme Court, not just Democratic-Republican division, we lost it when we peopled it with circuit court judges. When Clinton asked then Senator Biden about potential supreme court nominees, Biden pushed hard for going back to appointing elected officials and people who stood for office, and get on the Supreme Court some people in there who could deal with what we should be doing—campaign finance reform is just one, but what we should be doing about the Constitution, and all the different decisions. Whether Democratic elected officials or Republican elected officials, get some people in there who better reflected society and had some life experiences that would give them a better position to decide what the law of the land should be on these cases. That is what I said to President Obama when he asked my advice on what turned out to be the Sotomayor and Kagan nominations. Neither of us were successful.

**RITCHIE:** There used to be governors and senators who served on the Court.

**KAUFMAN:** And by the way, we've had some great justices who came up from being judges. And you should have judges. But when you have a court where mostly everyone has gone to two law schools and all have been judges, and have spent their whole lives being judges, it's like the criticism of career politicians, career senators and career congressmen. I think it's much more relevant, because politicians actually live out in the community, and they are involved in and have to deal with policy issues. When you get to the circuit court of appeals you're locked up in an office.

One of the most interesting experiences I had in the Senate, and in my life, was when [William] Rehnquist was nominated for chief justice up from being a justice. Joe Biden at that point was ranking on Judiciary. Rehnquist was scheduled to come by for his courtesy meeting, which was a lot different back then. Now, when Kagan came by to see me, it was like a circus, loads of people and press. But back then, Rehnquist came with someone from the Justice Department who was the person shepherding his nomination, much like what happens now if a district court judge comes to see you for a nomination, or an ambassador. If it's an ambassador they'll show up with a staff person from the State Department; if it's a nominee for judge or a U.S. attorney, they come with a congressional liaison person from Justice.

Rehnquist and someone from the Justice Department showed up, and Marianne

Baker, our scheduler, had been told by the senator that he was over meeting with Thurmond and the majority and minority leaders of the Senate. They were trying to figure out when to have the hearings. So Marianne said to Rehnquist, “The senator is over there. He doesn’t know how long he’s going to be, so we can reschedule.” Rehnquist said, “Well, I’d really like to find out when the hearing is going to be, so if you don’t mind can I just sit here? When he comes back, he can tell me when the hearing will be on.” She said fine, and then she called me. She said, “Ted, we’ve got a problem.” I said, “What’s up?” She said, “Rehnquist is here and he’s sitting in the senator’s office.” I said okay, and I went in and I sat with Rehnquist for an hour and a half. It was fascinating. The two really big things that I learned, that have stood me in good stead—one of them stood me in good stead for everything, the other one helped for judicial nominations.

The first one was we got to talking about what it’s like to be on the Supreme Court. He said, “You know, it’s very lonely.” He said, “When you get to be like me, most of your friends are lawyers and judges.” There had been a number of articles about people meeting with Supreme Court Justices, I don’t remember what year it was. But he said, “They’re kind of worried about going to lunch with me or anything like that.” I used to notice at the federal court building in Wilmington, the circuit court and district court judges usually went to lunch with their law clerks. So it’s just an incredibly lonely job. I hadn’t thought about it that way, but it really gave me insight. But then the thing that gave me bigger insight—and by the way, he was a very nice man. Obviously, I didn’t agree with him on a lot of things, but a very nice man. I don’t know how we got on it, maybe he was just feeling contemplative, but I was asking what it’s like to be a Supreme Court justice and he said, “You really wonder whether you’re making a difference or not.” I was like what? He said, “No, really, I’m just one of nine votes, and you just wonder if you’re going to make a difference.” Boy, I’ll tell you what, it completely turned around for me for the rest of my life, when someone who was making a difference, someone who was doing something that they couldn’t determine what was going on, all kinds of people that I ran into in the intervening years who said to me, “Am I going to make a difference?” If I believed they were making a difference, I would tell them the Rehnquist story. You know, if you said to me, “Who has the best potential to make a difference, outside of the president of the United States or the majority leader?” Supreme Court justice would be right up there at the top of the list. And he didn’t think he was making a difference. So it kind of puts it into perspective when you say you don’t make a difference, because a lot of people do get discouraged. It really does affect their

view of themselves. I'm sure some of the senators we talked about, I think part of the reason why Bill Bradley left the Senate was, "Am I really making that much of a difference?" I think if you asked him now—I don't know because I never asked him—but I think he would say, "Yeah, I didn't understand how much of a difference you can make as a United States senator".

**RITCHIE:** There's a difference between one out of nine and one out of a hundred.

**KAUFMAN:** Exactly, one out of a hundred. All the conflicts we talked about as a senator, you want to make a difference but you've got all these conflicts. You've got to be with the party. You've got to be with the president. You've got to be with your district back home. You've got the national interest. You've got all of these things that may lead you to do things that are not in your interest, not what you want to do. But as a Supreme Court justice you can do whatever you want to do.

**RITCHIE:** You've talked about the different level of justices. Could you tell that story that you mentioned earlier about Senator [Jeff] Sessions and the district court judges, because we didn't get that in the record.

**KAUFMAN:** Well, we were talking about the problems that started with Supreme Court justices after Bork. Every nomination became a battle, and just about every battle was like World War III. The two battles I was in as a senator were Kagan and Sotomayor and both were big deals. But Senator Sessions, who I have a great deal of respect for—I think he's a very smart man although I don't agree with him on a lot of things. Whether it was Democrats when H. W. Bush was president, or Republicans when Clinton was president, we started the tong wars over the judges. Sessions was especially upset about a Hispanic American judge [Miguel Estrada] who was nominated for the circuit court, who everyone acknowledged had super qualifications. Sessions and a lot of Republicans felt he had been treated badly, and he eventually withdrew. When I was there we had a wonderful young man named [Goodwin] Liu from California who had an incredible record and would have made a great circuit court judge, and Republicans just said "We're not accepting him." Anyway, we were in a hearing and historically what has happened was that district court judges were usually picked by the senators. The senator of the party of the president says, "I want Joe Smith or Mary Brown," and they are nominated. What happened in the Judiciary Committee for years was they have a "blue

slip.” Whenever a district court judge is nominated by the president, they send a blue slip to both of the senators from that state and say, “Do you sign off on this person?” They will not move that district court [nominee] until they get the signed blue slip back, and that’s the way it’s been for years and years. We had some problems. There were individual senators that held up district court judges for ideological reasons, but by and large the vast majority of senators just sent the blue slips back and the hearings were perfunctory. They go on and get to be district judges.

Sessions had raised in the committee the issue that there were some district court judges that he just thought were ideologically wrong, and wouldn’t agree with them. He wanted to start holding those judges and making it more difficult for them to get confirmed. After the hearing, I went up to him. He and I had a number of discussions on these kinds of issues. Earlier in the meeting that he raised this, he had been talking about how Estrada had been mistreated, and he was very emotional about. Every time he talked about the battles for the circuit court judges and the Supreme Court justices, he was emotional about it. He really believed that Republican judges had been mistreated by the Democrats, and on every case he got emotional. After talking about that he said, “Now we ought to talk about district judges.” After it was over, I pulled him aside and I said, “Jeff, you are very articulate and very emotional about the circuit court judges and what’s gone on. I wasn’t here then, but clearly what’s going on, starting with Bork”—Sessions himself had been defeated. Sessions had been nominated to be a judge and had to withdraw. I said, “But Jeff, don’t do this to the district court judges. They’ve got to be competent and all that, but let’s not start the same tong wars for the district court judges as we have for the circuit court judges. Because I’ll tell you, Jeff, and you know, because you’re upset about what the Democrats did to Bush nominations on the circuit court judges, I will guarantee you that if you start in on the district court judges, when a Republican becomes president—and unfortunately a Republican will become president again—the Democrats will do it back to you. We can’t break the logjam, we can’t get beyond this, even though everybody knows it’s bad.” You didn’t want this contagion to grow.

**RITCHIE:** It’s somewhat ironic that when George W. Bush was president, Republicans in the Senate were really upset about the logjam on his nominations. They kept demanding an “up or down vote,” and talked about the “nuclear option.” But when Obama became president they adopted exactly the same practices they had objected to. It’s a majority perspective versus a minority perspective.

**KAUFMAN:** Yes, although there have been some senators—all generalizations are false including this one—like Lindsay Graham who said “Elections have consequences.” And then even though it was very unpopular in his state, he voted to confirm Sotomayor and Kagan. Orrin Hatch kind of went back and forth. But one of the great joys of spending so many years in Washington is the irony, watching people have to twist their position around to deal with changing circumstances. That’s one thing about Joe Biden, and what I tried to do, and that is to be process senator. To be a senator who is consistent and tries to deal with the process. I just believe it’s the right thing to do, to not use the process one way if you’re in the majority if you’re not willing to live with it when you’re in the minority. On the filibuster, my basic approach was that the filibuster should only be used in extraordinary circumstances, and if I had served when the Republicans were in the majority I would have had the same position. That doesn’t mean you forego the use of the filibuster. But on motions to proceed and things like that, that’s not the place to filibuster.

Another thing that we caucused about when I was in the Senate was the question of what is the responsibility of members to support a cloture vote. There were a number of members who used the fact that their votes were needed to achieve cloture—Ben Nelson, Joe Lieberman, Evan Bayh, the moderates would not go along with cloture. I argued in the caucus all the time, and a number of other people did too—someone in the caucus stood up and said this was a rule of the House Democrats when Tip O’Neill was the Speaker that the caucus should vote together on procedural issues. If the caucus decides something, it isn’t up to each member to make up his mind. This was a responsibility of being in the caucus. When you’re in the caucus you get to be chairman of a committee. You get all kinds of things for being in the caucus. Therefore I wanted to institute—Harry [Reid] never bought into it, but I know any number of people who will be leaders in the future—again, we may be in the minority the next time—but I think a majority of members of the caucus would have voted to require members as a price of membership in the caucus to vote with the caucus on procedural motions. But unfortunately, we never did that.

**RITCHIE:** There was one time in Senate history when the Democrats had a “binding caucus” rule, from 1913 to 1920. It was very effective—Woodrow Wilson used it effectively.

**KAUFMAN:** That was on everything, right?

**RITCHIE:** On everything, but they especially invoked it on the tariff, which could have been a very divisive issue. We have the records from that caucus and it's quite remarkable. But in 1933 Joe Robinson tried to reinstate it and it was rejected.

**KAUFMAN:** Even today. You couldn't go home to your state and say, "I voted on this bill because I was required by my caucus." The independence of members is paramount. You could never go home and explain, "I voted this way. I really believe the opposite would be good for my state, but the caucus said we should vote that way, so I voted with the caucus." No, what I'm talking about would be procedural motions. If there was a vote on cloture and a majority of the caucus wanted to vote for cloture, then everybody would vote for cloture.

**RITCHIE:** After the Bork nomination, the next big, controversial nomination was the Clarence Thomas nomination. How different was that?

**KAUFMAN:** Oh, my God! As the kids say, that was a real "OH My God". We had some fussing back and forth after Bork, but we ended up getting [Anthony] Kennedy and there wasn't too much of a fight about that. So this was kind of new and I don't think that any of us appreciated the fact that Bork had changed things so much. It's very difficult to—I do a lot of investing and it's very difficult to figure out when a stock has turned. It's very difficult right now to figure out whether the housing market is going to turn up or down until after it's turned up or down. This is a classic example. So when Thomas was nominated, I don't think that right off the bat the senators who had been around for Scalia and other nominations that went right through expected anything else. I remember a press secretary came in at some point early in the process and said there had just been an announcement on NBC that they were moving to "Desert Storm Footing." I had this mental picture of these correspondents down in the bowels of the press gallery putting on camouflage and boots. That was an indication right out of the box that this was going to be a fight.

A lot of big things happened with Bork. The biggest was that people had learned that the klieg lights were on, so if you were interested in an issue, and it was involved in a Supreme Court nomination, you would get a lot of attention if you talked about that issue. You would have a welcome audience. You could build memberships. You could raise money. So what happened was the extremes of the far left and right on the spectrum had raised a lot of money off the Bork nomination. In fact, cottage industries began to

grow up. We didn't know it at the time, but it was clear after Thomas that people had said, "Ah, Supreme Court nomination coming up? Get the printing press out, set everything out, we're going to war!"

A venial story that came out of the Bork nomination was Ralph Nader's testimony. We wanted to have a discussion about privacy. We asked a lot of the more liberal groups not to come and testify against Bork, but Nader *demand*ed to get to testify. I don't know whether we ever let him testify or not, but he was just totally: "I've got to testify. I've got to testify." It looked clear to me—I never said it publicly, but I think in the interim, watching Nader's behavior, it rings true—is that the main reason he wanted to testify was so he could do direct mailing and increase his base. So you had these cottage industries that grew up, and people who really cared on the left and right.

One of the things I had learned from the Bork nomination, but was really driven home on the Thomas nomination, is that when you get to the edge of the political spectrum, the ends really do justify the means. People will make outrageous arguments, even people I agree with. I'm to the left of the spectrum on a lot of issues. I'm pretty liberal on non-social issues, some of them I'm not. But it's incredible the kind of process arguments that came up, and obviously a more sensitive one this year. But I can remember during the Thomas nomination when it got down to he said/she said, a number of very liberal groups, people who were involved in the process, whose membership had been totally committed to outlawing lie detectors in the courtroom, came in and argued with the chairman that Thomas should take a lie detector test, but it wasn't a problem because this wasn't a court of law. This was going to be the greatest vindication of lie detector tests since the beginning of time, and it was going to advance everybody who wants to do lie detector tests in the courts, but you should do it because it's very important who gets on the Supreme Court. Watching this thing unfold, the behavior of people on both sides was just outrageous.

It got incredibly venial and small. I can talk at length about what went on with the supporters of Thomas and the things they said about the chairman, and the committee, and the process, including Thomas. That was just, "I can say anything I want because that's going to help me get through the process." But it was also some friends, or good acquaintances, who were opposed to Thomas. I can remember the staff director on the Judiciary Committee was a wonderful guy named Jeff Peck. When Anita Hill came to testify, the other side—and I'm certain they did this on purpose—but when Jeff asked



them how many chairs they would need, they said six or eight. When they showed up they had fourteen or eighteen people, and made a big deal about the fact that they had been disrespected because the committee had not had chairs for them and they had to stand around. Clearly, it was a ploy to make the committee look bad, and make the chairman look bad. And Peck worked with these people all the time. It was just a example of what went on.

It was one of those things of where you stand is where you sit in terms of viewing what happened, just to go through the high points of what happened, and you can read the books, but from where I stood, I was contacted by people on [Pat] Leahy's staff. Leahy was on the committee. They wanted to sit down and talk about something really unusual that had happened. Several people from Judiciary and I sat down with Leahy's staff, and they said that there were two people who were alleging that—one person was alleging that they had been sexually harassed by Clarence Thomas, but they would not come forward. I said to them, "This is pretty simple. This is not a star chamber proceeding. People write letters and allege all kinds of things. We can't move forward with this. Just tell the person that we will protect them." All the things you go through in an abuse case. It was really a standard case of domestic abuse or sexual harassment. "We will protect you. We will not say who you are at this point. But the first step has to be an affidavit where you say 'This is what happened and I'm willing to talk to committee staff and members or somebody about what went on.'" They wouldn't do it. It was right when Thomas was being reported out. Senator Biden and the committee met, and he told them about this. It was simple, what can you do? Of course, there were books written afterwards that said they should have done this or they should have done that. They should put pressure on her to come forward. Wait a minute, pressure her to come forward? I said, "If you're in a police station and somebody who comes in who's been raped, you put pressure on them to bring a case? That's sexist and that's not going to happen." So we met and we said, "Can we have an affidavit or something? Will she do that?" They said no. So right when they were ready to report Thomas out, what's her name who covers the Supreme Court [for National Public Radio]—

**RITCHIE:** Nina Totenberg.

**KAUFMAN:** Nina Totenberg and someone at *Newsday* [Timothy Phelps] broke the story. Then we got affidavits and we went through the process of asking the questions and holding the hearings and the rest of it. But it was really extraordinarily interesting

that in my experience, this he said/she said, I never talked to a single person whose opinion on who lied was different from their opinion on who should be on the Supreme Court. Every single person I knew who thought that Clarence Thomas should be on the Supreme Court said that she was lying. Every single person I talked to who said that Thomas shouldn't be a Supreme Court justice said he lied. This was 100 percent sample. So we went through all this and nobody really changed what their position was. Afterwards, people wrote these incredible books, again people who came forward but wouldn't say who they were, people who had information and then talked about it afterwards and said they would come forward, but at the time would not come forward and would not testify. Then we had the whole leak issue.

The special prosecutor they hired was a guy named [Peter] Fleming. When I heard about him, I said, "He's going to do a leak investigation? He's going to not just talk about the leak but everything that went on?" I mean, just think if Kenneth Starr had the leak investigation. (By the way, Kenneth Starr graduated from Duke Law School. As I say the two most famous graduates of Duke Law School, where I teach, are Kenneth Starr and Richard Nixon.) Funny, when he asked all the questions and did the whole study, he came out and said there was really no way to determine what happened. I think that guy is one of my heroes, because there aren't many people who wouldn't have done some grandstanding on this thing. It was a very difficult experience.

**RITCHIE:** It got incredible media attention. I was at a history conference. I can remember coming back to my hotel room and finding a half dozen people sitting on the edge of the bed watching the Clarence Thomas hearings.

**KAUFMAN:** It was like Watergate. It may even have been bigger than Watergate because it goes back to what we said earlier about campaigns. Watergate was incredibly complex, but everybody can understand he said/she said. It was just, listen to the people and see what you believe.

We had a real bad experience, to add to that, in terms of the people to the left of the spectrum. We had these groups that were opposed to Bork—let's go back to Bork—who met with Senator Biden. After the meeting, they went public and talked about what went on in the meeting, how they were putting pressure on Biden. Biden made a rule after that, that once someone was nominated he would not sit down with any group to talk to them about the nomination. He would not go on television. He was asked

to be on all the shows. He wouldn't do the take-outs after the hearings. He wouldn't do anything. He just said, "This is what I'm not doing." I can remember one group came to the staff, with stories that Bork had rented pornography. There were books written afterwards that just excoriated Senator Biden for not bringing the whole pornography thing into public. Wait a minute, you're the civil liberties groups. Because the guy takes out pornography, somehow we should tell that, that he legally rented pornography, we should tell that as part of the public hearing? No.

**RITCHIE:** Senator Biden came out of both of those hearings with his reputation as chairman intact. I can't remember any complaints from the minority party that the hearings weren't run fairly.

**KAUFMAN:** Oh, no, his colleagues in the Senate always said nice things about him. It was really one of those many examples we can get into, where Washington interest groups had an opinion. Both the far right and far left interest groups were furious. Many of them wrote books and excoriated the chairman, especially on Anita Hill. These books fell into the old [Daniel Patrick] Moynihan saying that "you have a right to your own opinion but not to your own facts." But there was a survey done after that by Gallup. The one thing that Senator Biden said before those hearings that he wanted people to think that he was fair. Some incredible percentage of the American people felt that he had been fair as chairman.

So I think there were two different views, the insiders and the public—which brings me to this point, this is something that has shaped my opinion of the Senate, and that I've used in my course, and that is there was a series done by Hedrick Smith, it was done on PBS in the early '90s about media and lobbyists and their impact on the government. The one piece that had to do with the difference between what the Washington insiders thought about Senator Biden's performance and what the public thought about Senator Biden's performance. They had this piece that Smith put together about Clinton's first State of the Union speech, which went about 80 minutes. They showed on the film the different Washington commentators on each one of the networks saying, "Oh, he spoke way too long. It was a washout as a speech. It was just awful." But one of the networks had focus groups, and the focus groups all said it was a great speech. One of the cable companies had gathered 30 people, who said, "I thought it was very interesting what he said about jobs." "I thought it was good that he talked about that." "He's talking about things I really care about." It was about issues, which the pundits

didn't talk about. After that, the networks started putting on more of these shows afterwards and cutting the pundits out. When you look at what goes on with the punditocracy, especially now, they have a totally different view on many things than from the public, which is one of the things that builds this public hate of Washington.

One of the best examples of that is I was teaching down at Duke when the Monica Lewinsky story broke. They went on and on and on and the local paper, the *Durham Morning Herald*, went for a whole week, late in the process, when the Washington media was totally focused on this thing (and really what it was about was the media and the Washington insiders said, "He didn't resign! He should resign! By God, we know what's going on here and he should resign!"). That was ludicrous and builds this kind of antipathy about Washington. But the Durham Morning herald went for a whole week when the Lewinsky story was not covered on its front pages. To the extent that it was covered, it was covered in the back. For a whole week. And then Sunday, on all the Sunday morning shows they had somebody talking about Monica Lewinsky. Somebody made a good point then, which I think turned out to be true. They said, what they did was they were getting a lot of listeners to Monica Lewinsky on these Sunday shows, but they were also driving away a lot of people who didn't come back. I think that's what happened. The Sunday shows suffered despite a short-term rating boost. Also, most of the anchors for those shows really were upset with the fact that the president hadn't resigned as they said he should. Want to take a break?

**RITCHIE:** Yes, great.

**KAUFMAN:** What time is it?

**RITCHIE:** Just about noon.

### **End of the Third Interview**

*Photos from top to bottom:*

Vice President Dick Cheney reenacting the swearing in ceremony.

The Kaufman family in the Old Senate Chamber with Vice President Cheney and Vice President-elect Biden.

The signed drawer from Senator Kaufman's Senate desk.



## TEACHING ABOUT CONGRESS

### Interview #4

Thursday Afternoon, August 18, 2011

**RITCHIE:** We were talking this morning about the Clarence Thomas nomination and all of its ramifications.

**KAUFMAN:** Yes, there are a couple of things about Thomas I've just have to say. First, is that we were very fortunate to have had a number of extraordinary individuals on our Judiciary Committee staff over the years. This was the case during the Thomas nomination. The staff was led by Ron Klain who was the Chief Counsel and Jeff Peck who was the Staff Director. They were both exceptional individuals who did an amazing job for us and have gone on to have great success.

After Bork, people learned a lot of lessons, Korologos' rule and things like that. It's extraordinary that politicians get the reputation for saying whatever they need to say to get elected, and not sticking with their positions. I have not found that to be the case. Most politicians I know are super careful about keeping track of their promises and meeting their promises. But Supreme Court justices are quite to the contrary. Since Bork we've had very few Supreme Court nominees who have been candid during the hearings. Thomas testimony was probably the most egregious. One of the most moving parts of the hearings was when he said, "At the circuit court my office overlooks where they bring in the prisoners to court. I've sat at my desk and looked out the window at those prisoners in their handcuffs and I think there but for the grace of God go I." Then he got on the Supreme Court and he and Scalia voted on a case of a prisoner in the federal system who was shackled hand and foot and beaten—the description of his injuries while he was chained were just awful—and he voted that this was not cruel and unusual punishment. I just think that there so many things that he's done since he's been on the court that are just so different from who he claimed he was.

**RITCHIE:** Well, we had talked about this yesterday, but we're approaching the time when you decided to leave the Senate in 1994. Senator Biden was moving into Foreign Relations by then.

**KAUFMAN:** No, he hadn't yet, he was still chairing Judiciary.



**RITCHIE:** But he had a significant position in the Senate, very well established. Why was it at that plateau you decided to step out of the Senate?

**KAUFMAN:** It was a very personal decision. I had decided that I fell into a category of people who wanted to be doing some work until I died, and I realized that in order to do that, to keep working, and because I didn't want to work at the level I was working at, I didn't want to continue to work 65 hours a week for the rest of my life, with all the stress of being a chief of staff. So I decided that while I still had the energy—because change is very stressful and it was going to take a lot of effort for me to put together the right combination of things to do, I should leave. I didn't want to go to work for anyone. Two rules I made when I left was: one, I didn't want to do anything administrative. I was totally burned out on doing things administrative. Two, I didn't want to do anything where I worked for anyone else. So what I did was put together five different pieces to this puzzle and do those, so I'd have some variability. Then I looked at the rest of my life as kind of rolling those five things as it suited itself, maybe as time went on reducing it to two or three. That was really what it was all about. I knew it was going to take a lot of energy, so I didn't want to stay around too long.

This happened to a lot of people. It happened to a lot of senators. You had Bill Bradley, John Danforth, and Sam Nunn, they all left in their 50s. I think some of the older senators, when they left, they were just too late to really do anything else. So they just retired. I didn't want to be in that position. So that's why I left then.

**RITCHIE:** Then you went down to Duke?

**KAUFMAN:** What I always tell people who are getting ready to retire: start planning three or four years in advance, especially for teaching. The way academic institutions work, they need somebody to do a certain thing, at a certain time. There's a whole bunch of discussion about how do we fit it in. But once you get in and you're teaching a course, as long as you're doing a good job and you're keeping the students interested in it, you can just go on forever. During Supreme Court nominations, what we would do was we would bring in two lawyers who didn't work for the Senate, one usually was a constitutional law scholar and the other who was working for a law firm. For Bork we brought in Chris Schroeder, who is a professor of law at Duke, and a constitutional scholar. And we brought in Jeff Peck, who was a lawyer in Washington. Both of whom have been very successful and involved with us ever since. After the Bork

nomination was over, about 1990, Chris Schroeder came to me and said, "I want to teach a course at Duke on the Congress. Would you teach it with me?" I said, "I'm chief of staff to a senior senator, and I'm working 65 hours a week. I don't think I can do it, but let me think about it." I went home and I talked to Lynne. I said, "You know, I'm going to be leaving the senate in two or three or five years, somewhere in there and this would be a perfect piece to a puzzle." It's a little like when you're building a shopping center and you need an anchor store. I thought, this would be a great anchor store because I'd really like to teach at Duke. So I worked it out with Chris so that I could travel back and forth to Durham to teach the course. Since I taught it with Chris it did not require a whole lot of heavy lifting by either of us. I got all the enjoyment of teaching the course, plus Chris is a very good teacher, I learned a lot from him. I did that, and then when I got ready to retire I knew that one of the things I wanted to do was to teach at Duke.

What I did then, I was teaching one course with Chris on "The Congress". This was all in the law school for law students and public policy students from Sanford [School of Public Policy] came over and took the course, too. Usually it was half law students and half public policy students. Then I added a course for law students and MBAs on the relationship between government and business. I started teaching that in '95. So Lynne and I started moving to Durham for the spring, for January and February every year, while I taught those two courses. Why January and February? Because of the basketball season. We did that for a number of years.

Then, fortunately for me, Senator Biden and Senator Helms decided to reorganize the foreign policy establishment and decided to split up the U S Information Agency. Basically, half the people in USIA were in broadcasting, and half the people were public diplomacy, exchange programs and things like that. Biden and Helms set up a Broadcasting Board of Governors (BBG) so that broadcasting would be independent, and they set up the BBG as a firewall between the broadcasters and the rest of the government, so that government officials couldn't interfere in what the broadcasters were saying. The broadcasters were the Voice of America and Radio Free Europe, Radio Liberty, Radio and TV Marti. The Board had four Democrats, four Republicans, and the secretary of state. Senator Biden fixed it so that I was nominated by President Clinton and confirmed by the Senate. I went on to serve four terms. I was nominated and confirmed twice by George Bush. So that was a big deal. That was an important part of the puzzle. I did some consulting. After '94 a portion of my week was spent preparing for Senator Biden's 1996 campaign. So it was a good life. The big advantage was that I



wasn't doing any administrative work anymore. And even more important I could control my own schedule.

I worked for Senator Biden for 22 years, and after the first three years I don't think he ever ordered me or even asked me to do anything. I was driven much more by what he would *want* me to do, not what he was going to ask me to do. Occasionally, I would find myself in places where I didn't want to be, doing things I didn't want to do. So I enjoyed being in control of my schedule. But he was a great person to work for. If I was never going to retire, I would probably have stayed his chief of staff forever. And I still stayed very much involved with him.

One of the things I didn't do—it's like the old Sherlock Holmes story, *The Hounds of the Baskervilles*, the dog that did not bark in the night—I did not go into lobbying. When I started my search, I thought, "Well, I'm doing five things and one of them could be lobbying, I could make a lot of money. And I don't need a lot of clients." So I went down and started talking to former chiefs of staff who were now running lobbying firms. One of the things I found out very quickly was that a lot of the former chief of staffs had not maintained warm relations with the senators they worked for, even though many people in town thought they had good relations. What turned out was they said that most of the senators did not want to look like they were giving favorable treatment to their former chiefs of staff. In fact, the senators were bending over backwards not to help them, and that led to some bad feelings.

The second thing I learned was that none of the issues that I supported and would be willing to work for had the money to hire me. You really found out who has the lobbying business in Washington, and it was on the other side of just about all of the issues I favored. Then I also figured out, based on talking to the former chiefs of staff, that it would really limit my ability to continue to help Senator Biden, and I wanted to do that. I was committed to him and wanted to continue to do so. So I worked this out without lobbying and it worked out very well.

**RITCHIE:** When you started to teach about the Senate and the Congress, did that make you rethink the Senate once you were trying to explain it to students? How did the Congress appear from the outside?

**KAUFMAN:** Oh, really, I'm a Senate guy. I think the Senate is great. That

doesn't mean it doesn't have its failings. But the students were very good. It was very helpful to my job working with students. You know, so much of when you're working in any job, but especially in this kind of a job, is tactical. You're carrying around a pad with 40 things on it and you check them off at the end of the day. Then you have another list of 40 things, tactical things, and a lot of undergrowth of ideas. When you're talking to students, they don't know the undergrowth. They're very smart, so they look over it and connect the dots. I can remember one time I was giving my first class on campaign finance reform. It was a two and a half hour class and an hour into it they had figured it all out. That was the big thing where the students helped me while I was still working. I was still working for three years after I started teaching.

Also, you make a good point, having to explain it to the students, again smart people, sharpens what your views are. All those years teaching about the congress was a very big advantage when I became a senator—there were a number of big advantages, but one was I knew a lot of people. Two was, I said this for two years that the biggest advantage I had coming to the Senate, especially over the other freshmen, was I really understood that the Senate was a go-with-the-flow place. Governors especially have a hard time when they come to the senate. This is true of all governors, every one of them. As we said earlier, as governor they could set their own agendas, they could do what they wanted. Now they were stuck with the vicissitudes of a body designed for delay. So one of the big advantages I had when I came back to the Senate was, I understood what was important, but you go with the flow. That was really helpful. But also that I knew so many of the members, and especially the senior senators.

When I was preparing for the press conference to announce that I had been selected by Governor [Ruth Ann] Minner, I was thinking, she's going to stress the fact that I have all this experience, and that I know people and all that. Then I started thinking of the list of senators and between '94 and 2008 there was a lot of turnover among the senators. I looked down the list of senators and boy, there were a lot of senators I didn't know. I was puzzling over this, but I looked at the list again and all of a sudden it came to me. I said, if I was asked this question—because it's daunting to go before a press conference where they can ask you anything about anything, as Caroline Kennedy, when she thought about running for the Senate, found out, and as Sarah Palin found out, when you get up there, people can ask you anything. And the federal government can produce a lot of complicated, arcane and esoteric questions. One of the things I thought about was: Was the basic thing that Ruth Ann would say about me when she introduced me true? I came up with this, and it turned out to be

absolutely true. My answer, if I had been asked, would have been, “There’s been a lot of turnover, but I know Senator [Daniel] Inouye who is chairman of the Appropriations Committee. I know Senator [John] Kerry who is chairman of the Foreign Relations Committee. I know Senator Leahy, who is chairman of the Judiciary Committee. I know Senator [Max] Baucus, who is chairman of the Finance Committee. I know Harry Reid, the majority leader.” I never was asked the question, but that’s what it turned out to be, the senior senators, especially Senator Leahy, Kerry, Levin and Lieberman, my committee chairs were great to me.

Right from the beginning I was on Judiciary and Foreign Relations. We can get into it later why I picked them, but Senator Kerry and Senator Leahy were just super to me. I also knew it wasn’t just personal because I understood what they needed and what they wanted. I went to both of them on the first day and said, “Let me tell you something, Mr. Chairman, you call and the answer is yes.” [Laughs] Then when I got on Armed Services, Carl Levin was fantastic, and Joe Lieberman on Homeland Security, so it was great. Harry Reid was wonderful to me. Inouye was great. That was important. I knew my way around, I knew the staff, and I knew the way the place worked.

But one of the things that really helped me, especially with the media, was having taught. There’s two perspectives on things. I used the engineering analysis, which is if you have trouble with the water system in your house, you can go to a plumber. The plumber will come in and say, “Well, I can see what’s happening over there, that’s like a house I did two years ago. And I can see what’s happening over here, that’s like a house I did this year.” They will use their experience to tell you, “What you need is this, that, and the other thing.” That’s very helpful. If you bring in a mechanical engineer to look at the system, they will want to go in and measure the flows and use the Bernoulli Principle, the Venturi effect, and do all these things scientifically. One’s not right and one’s not wrong. John Gardner who started Common Cause said that a society which values its philosophers and devalues its plumbers will be a society where neither its plumbing nor its ideas will work.<sup>1</sup> One is not better than the other, but when I came back after I had been chief of staff to a senator and had been teaching, I could explain things very easily. I

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<sup>1</sup>“The society which scorns excellence in plumbing as a humble activity and tolerates shoddiness in philosophy because it is an exalted activity will have neither good plumbing nor good philosophy: neither its pipes nor its theories will hold water.” John Gardner, *Excellence: Can We Be Equal and Excellent Too?* (1961)

could put things in perspective, and I'm not just talking about how the Senate works but also the issues. If the press came to me ask why is this happening—kind of like you get asked historical questions—there were a lot of press that wanted to talk to me about the issues, but they also wanted to talk about what did I think was going to happen, and why did I think it was going to happen, especially in the 111th Senate because there was so much process going on.

**RITCHIE:** It's true that it's hard to predict the future, but there are certain patterns that you can see.

**KAUFMAN:** You are right, there are patterns. Recently, I told people that I had a pretty good idea about what was going to happen with debt limit. I wrote two op-eds on it and I pretty much laid out that this was going to be a lot more difficult than a lot of people were saying. Most members of the House and Senate really wanted to pass the debt limit because they were concerned about what it was, but the people in America did not want to pass the debt limit. Therefore, you could have the president, and Harry Reid, and John Boehner, and Nancy Pelosi, and Mitch McConnell sit down in a room and make a decision, but when it went back to the members, the members were going to take into account what their constituents thought, and their constituents did not want them to do that. And they didn't usually do things their constituents didn't want them to do—and I think that's right, they do represent their constituencies.

I said, "This is not going to be something where you can sit five people in a room and decide." And that's really what happened. It was clear to me that there would have been agreement on some of President Obama's proposals, but when Boehner went back to the Republican caucus he found out they weren't buying that at all. So I was pretty good at predicting what was going to happen. We got to the last three days and reporters kept calling me up and asking "Do you think it's going to happen?" I said, "We are totally in uncharted waters. We've never been in a situation like this before." Many journalists who were trying to report on it, they wanted to know that too, as I'm sure you know, because you do this all the time. "Well, no, there is no history on this. We've never been there before." One of the reporters asked me, "What are we going to do?" I said to him, "I don't know what's going to happen, but I can tell you what to write. Just write that the Congress of the United States is in uncharted waters and no one knows what's going to happen in the next three days. Anyone who says they know what's happening in the next three days doesn't understand the Congress."

**RITCHIE:** What did you find was the biggest difficulty in teaching about Congress? What was the hardest thing to get across to students?

**KAUFMAN:** The hardest thing to do recently in teaching about the Congress is a big change since 1991 when I started teaching. It's been absolutely ingrained in Americans as an article of faith that all elected officials care about is reelection. When you're trying to have a discussion about an issue, what Chris Schroeder and I have tried to do is use the course to give people the information so they could tell, going forward, why things are happening and the way things are happening. It isn't just a historical study. It's like, "What's going to happen with the debt limit bill? What's going to happen with healthcare reform?" So that as a viewer—a lot of my students end up in Washington, or in state legislatures, or in government at different levels—just how does government work? So you have a better idea of what is going to happen.

One of the things I've always stressed is we don't want you coming into class—especially the law students, but also the public policy students and the MBAs—where you are sitting off to the side watching as a spectator in the gallery watching the Congress. You're never really going to understand the place that way. You'll understand some of it, because a lot of journalists do that. But to really understand it you have to put yourself in a position as a member of Congress, and that's very difficult for people to do. Even back when we started the class, the students believed that the biggest problem in Washington was partisan bickering, and that interest groups have inordinate power. But they also believe that members only care about is their reelection. I'd tell them, when I met with students, and lots of other groups when I was a senator, "There's a contradiction here when you say that you think all senators only care about reelection." I say, "How many people in this room think that senators have big egos?" Every hand in the room goes up and they laugh because they know I was a senator. I say, "Then what you have to believe is that someone, not too different from you, decides they are going to be a senator. They go out through the process of a campaign, putting themselves and their families on the line, raising the money, kissing babies and all that stuff. And then when they get elected they come into office and tell their staffs, 'Okay, bring me the polling data so I know how to vote on this next issue, because I want to get reelected.' I said, "That just isn't the way people think." They do it because they want to make a difference. They don't do it just so they can be called senator.

My favorite story is about Fritz Hollings. They asked him when he was running for president, “What about vice president?” He said, “Oh, no, I’ve already ridden in a limousine.” They don’t do it so they can ride in limousines, because they don’t get limousines. They do it because they want to make a difference. If they want to make a difference, that means they’re not going to be slaves to whatever is going to get them reelected. Then I tell the Henry Hyde story, which is one of my favorites. Henry Hyde was famous for his anti-abortion positions and the fact that he chaired the impeachment proceedings against Clinton. But he did a great thing. They have an orientation program for new members in the House, and every Congress he would come to the orientation program and say, “The most important thing to think of as a freshman member of Congress, the most important thing if you want to be a success at this, is to decide an issue on which you are willing to lose the election.” I think that is the best advice. If you could give just one piece of advice to an elected official, it would be that. Because if you don’t, you can just fall into that category where reelection does drive everything.

I can remember that after Senator Biden was elected in 1972, in 1978, for a lot of reasons which I won’t go into but which you can read about in any of the books, we had the largest desegregation case in history in terms of the number of people involved, and it became clear that Senator Biden could lose his reelection race. I remember riding in on the train together one time and the two of us were talking that the worst of all worlds would have been if he had come in in ’73 and then done everything so he could get reelected in ’78, and then lost in ’78. It would be bad because you would lose, but what would be even worse about it is that all you would have demonstrated is that you could win a race. Really, the reelection is the vindication of the fact that at least on prima facie evidence you’re a pretty good senator. Anyway, it’s not been my experience that senators are like that—far from it.

But here’s the problem, when this is an article of faith—and by the way, it’s totally driven by the media. If you pick up a newspaper, like on the debt limit bill, you’ll never read a piece that says, “John Boehner took this position because he really does think that we should not be raising taxes.” Everything is put in the context of the motivation being politics and reelection. One of the other advantages of the course was one of the students as part of a project went back and looked at coverage of the State of the Union address by *Newsweek* or *Time* and documented the evolution of the coverage of it. I think it was *Newsweek* that on one of Eisenhower’s State of the Union address, the only coverage they gave was they printed what he said. Over the years, the coverage

became less and less what the president said and more and more about analysis of his motivation for what he was doing.

There's another great anecdote on the same thing and that is when Ed Muskie was running for president and was in New Hampshire—not the time he cried, but another time—he was speaking to a group and he had a heckler. He called the heckler up on the stage and he allowed the heckler to say what he wanted to say into the microphone. We didn't have all the things we do now, like You Tube. I think the heckler spoke for two or three minutes. That night, CBS News ran it on the national news. That heckler received more time for what he actually said than any presidential candidate has received on national television since 1972. You have more and more analysis and less and less coverage. There's been this erosion. Now, when I teach the course, it's a constant battle throughout the whole course, because everything you talk about, the students want to put in the context of political strategy. Last semester, when we had health reform, it was very difficult to get the students to think that maybe the Republican senators really *cared* about this, maybe the Democratic senators really *cared* about this. Especially the healthcare reform, senators really had strong opinions on certain, not on everything, but I guarantee you that there was something in the healthcare bill that every senator had a strong personal visceral reaction to. It may have been that his mom was in an institution, or they had a kid that was involved in healthcare, or someone close to them had a preexisting condition, or got their healthcare cut off, or couldn't afford insurance. I guarantee you, there was something every senator would have voted on, it didn't matter about reelection, regardless.

Really, the hardest thing to teach, and by the way, to go back to sports and celebrities, people believe none of them are real, too. People don't think that movie actors, or baseball players, or senators are real people. Many have a superficial, cardboard opinion, and I think a lot of it is driven by the incredible growth in celebrity of performers of all kind. The two years that I was a senator, when I talked to people, and I'm not talking about people in Delaware because I talk to them all the time, but when I'm traveling and seeing people (and I saw this for years with Vice President Biden, when he was a senator), the response would be, "Well, you're not at all like what I thought you would be."

There's this wonderful study they did, I think it was [Mark S. ] Mellman, the pollster, this was a number of years ago but I'm sure it's even truer today, they asked

about what people think about senators. They asked where they thought they lived. “Oh, they live in big homes with lots of servants.” That’s totally untrue. I mean, it’s true for Jay Rockefeller and John Kerry, but it’s not true for most senators. They asked, if you went to dinner at a senator’s house what would it be like. “Well, there would be a big table with lots of food, and everybody would be very nice to you, and the staff and the senator would be very nice to you.” And what would the senator be thinking? “The senator would be thinking, I can’t wait for this thing to be over and have these people out of here.” That’s what makes it hard.

If you’re trying to teach a course, especially law students but policy too, they’re taught to do research and look at things from the outside and report what’s happening, not as the protagonist, not the person on the field, or the Teddy Roosevelt quote about the person in the arena, suffering the slings and arrows, fighting for what they believe in, but more the person sitting in the stands watching. It’s very difficult for them to do that. You almost have to stop every discussion and say, “Do you really think Harry Reid is thinking that right now?” You’ve been in Washington now,” because the students have been in Washington and we encourage them to read *Roll Call*, and *The Hill*, and the rest of that. “If you read that,” I say, “and see all the votes that Harry Reid has taken that are going to kill him in Nevada, and you still think he’s doing totally everything to get reelected?” If you look at what Harry Reid did in our Congress, compared to what he needed to do in order to get reelected—I’m not saying that there was nothing he did that did not help his reelection, but my God there were loads of tough votes he took—and he could determine whether we voted or not! He was the guy sitting there saying, “Well, we’re going to vote on this or vote on that.” He would set the agenda, I said, “You don’t have to like Harry Reid. You don’t have to like any of these men or women, but if you’re going to understand what’s going on, you’ve got to be a lot more realistic. They’re a lot more like you, and they are driven a lot more like you in terms of what you would do.” I would say to the student, “How many of you in this room would go to the Senate and just do what was needed to get reelected? I wouldn’t.”

The second thing with students, the big change between ’91 and now is, there always used to be a number of very ideologically driven conservative and liberal students in the class. There used to be some student that whenever I asked for comments was going to take one position or the other. And boy, they’ve just dwindled off to practically none. I’m not saying that the students don’t have opinions, they do. But you don’t have the: “I’m going to go out to make Michele Bachmann president of the United States, and



I'm leaving in 15 minutes." Or "I read *The Spectator* or *The New Republic* every week and I really believe everything they say." You don't have as many students like that. They care, but you don't have students at the extremes.

**RITCHIE:** When you were describing the problems of senators having to make decisions based on what they need to do versus what would get them reelected, it reminded me of the first chapter of John Kennedy's *Profiles in Courage*, which is all about what do you do when your conscience or your rational examination of the issues clearly runs contrary to the mood of your constituents. Kennedy doesn't have an answer for that, but he suggests it's a continual problem for those in public office. I wondered, when you were teaching, did you find some authors more reliable than others that you would recommend? Were you teaching from experience or from books?

**KAUFMAN:** Oh, no, I could send you the syllabus, which would be helpful. No, we used [Roger] Davidson and [Walter] Olszek, we used their book [*Congress and Its Members*]. That's the text. Then we have Kathleen Hall Jamieson, a book she wrote with Joseph Cappella. Doris Graber. You can just go down the list of who's who. David Price. It's very much of an institutional course where you learn what the different theories are, most of them by academics.

**RITCHIE:** Do you find yourself arguing with the sources, or do you find the sources are pretty good?

**KAUFMAN:** Well, we pick sources we think are pretty good. We did put *The Broken Branch* in, by Tom Mann and Norm Ornstein, who I like a whole lot although I don't agree with some of *The Broken Branch*. We put that in because it's such a good book. But when we talk about the conflicts that members face, one of the big ones we talk about is *Profiles in Courage*. I would argue with Kennedy a little bit, and I think the world of him and I use the book and I encourage my students to read the book. That's a perfect example of what it really is, as opposed to what you read in the press, because there are lots of profiles in courage, people who cast votes that make you go, "My God, why?" But I don't think reading history would make it easier for you to cast a profiles in courage vote. I think a profiles in courage vote is the same kind of decision making it takes as if you were in someone's home and there was a five dollar bill lying there. You pick it up or you don't pick it up. The kind of decisions that everybody faces about what's right and what's wrong.

This isn't a bad time to go into one of the key things about the Senate. It's an insight that really is not mine, it came from Senator Biden, and that is one of the keys to success in the Senate, if not in life, is not to question people's motivations. Senator Mark Pryor got the freshman senators together, right after I came, and started talking about civility. As I've said before, I don't think civility is nearly the problem it's been in the past. The problem is the basic real differences that people in the country have. But I told him that if anybody wants to read about civility, they should read Senator Biden's speech when he left the Senate to become vice president. One of the things he talked about there, and has talked about a lot over the years, is never question a colleague's motivation. There's two reasons not to question motivations. One is, you don't *know* what their motivation is. Let's say that 50 percent of the time you get the motivation absolutely right, but when you don't get it right—and people will get upset if you question their motivation under any circumstances—but the 50 percent when you question their motivation and you're wrong, you have got yourself a real buzz saw. You don't know what their motivation is. That's the reason we have trials, you don't know.

Take my own personal example. Something happened that taught me how really important it was to have the kind of criminal justice system that we have, and to make sure that we honor it every step of the way, because we really don't know who's guilty. My personal example was from the '70s. I was home one night and we had been having some trouble. One of the kids on the street who was like 10 was having a tong war with one of our daughters, who was 10. They didn't like each other. It was Saint Patrick's day or something like that. About eleven o'clock that night and we were in bed when all of a sudden, "Bang!" Somebody had put a cherry bomb or a firecracker inside of our door. It blew the whole screen door off. Not the main door, the door outside. The next morning, somebody said they'd seen this 10 year old and he had some firecrackers. We were absolutely convinced that this 10-year-old kid had set off the firecracker. About three days later—no, no, it was much later—there was a family next door that we were very close to. Their oldest son was away at college. He was home and I was talking to him, and he said, "Boy that was really something on Saint Patrick's day." I said, "What's that?" He said, "The firecracker that blew the front door off your house. I said, "Oh, yeah, that was really something. I think we know who did it." He said, "Oh, really? Because I just happened to be standing by the window. I looked out and this car came down the street. Somebody got out of the car and went over and put the firecracker in your door. The firecracker went off, and they jumped in the car and went down the street."

**RITCHIE:** It was not a 10-year-old kid.

**KAUFMAN:** It was not a 10-year-old kid that had done it. Some things just bring it home to you. When you start questioning somebody's motivation, it's like that, it's like figuring out the 10-year-old kid. I used to tell the freshmen, "I think the single biggest thing to do to help civility"—although I don't think civility is the problem—"is just encourage all senators to stop questioning another Senator's motivation." I said there was another time there was a member—this was really very nice—a senator who came to me and said, "Can we go to breakfast sometime?" I said yes and we went to breakfast. He said, "I'm really having a problem. There's this one issue and I really, really care about it, but I think I'm alienating some of my colleagues." I said, "The answer is, you are." He said, "What do I do about it." I said, "Don't stop arguing your issue, but just look at your colleagues and listen to them. There's a reason why they say 'My friend from Indiana' and 'My friend from Illinois,' and they don't use pejoratives. Truer words were never spoken that in the Senate, votes make strange bedfellows. The senator that you may be totally opposed to, 15 minutes later may be your number one supporter." (Mark Warner who I worked with, it was really funny, we were working on this one issue, we worked on and we went down on the floor to have a colloquy about it. I think the same day he was down on the floor just ripping me on the substance of another issue. On the same day! You can't take this personally.)

So what I said to him—this was about the time of the healthcare debate, after the bill had passed. I said, "Did you see what Senator [Charles] Schumer did on the meeting we had after the healthcare bill was over?" I said, "If you notice what he did was, when we came into the caucus, clearly he was going to have the leadership take over managing the healthcare bill from that moment on." Max Baucus had been leading the fight as chairman of the Finance Committee, but clearly Schumer and the leadership wanted to take it back. So I said, "Did you see what Schumer did? He got up there and he praised Max Baucus at length, said positive things about him and called for rounds of applause, and then essentially said, 'Okay, but from now on the leadership is going to take it over. Max, thank you for what you've done.'" I said, "Now, he could have done it a totally different way. He could have gotten up and said, 'Max, you've really made a mess of this thing. The healthcare bill has taken way too long to pass,' and been honest about it. But he was honest about it, too. He didn't say anything that wasn't true." But I said, "I think that's the model for how you get along in this place. People make fun of 'My good friend' and all the rest of that, but there's a reason why people do that, and it goes mainly

to the fact that today's opponent may be tomorrow's ally, and you do not want to burn bridges with colleagues.”

Just don't question your colleague's motivations. You don't know. Now, you can question their judgment. You can even question his or her intellect. You can question a lot of things about people, and you can be critical of a lot of things about people, you don't want to make it personal, but you can. But the one thing that's never questioned, is “The reason you're doing this is because so-and-so gave you campaign contributions.” Oh, my God! If you know for a fact that's why they did it, if you've got it down in black and white that's why they did it, but many times, you know, as I said earlier, they believe something and that's an alliance with the people who contribute to them.

**RITCHIE:** I can remember talking to some of the people who were famous “head counters” in the Senate, and they said never take a vote for granted because there can be all sorts of personal reasons behind why a senator votes for something.

**KAUFMAN:** Exactly, and that's why I said I learned so much from that New Castle county executive primary in 1971, where I didn't count the votes right and my candidate lost . It is difficult when you've got a list of 50 people, and you sit down and try to predict what they're going to do. And the other thing, one of the things we use in the course is a book by Wolpe and Levine called [*Lobbying Congress: How the System Works*]. In it they say to be successful you have to listen carefully to what you are told because people sometimes want you to believe they have made a commitment when in fact they haven't.

It's great because it's really, really true. These men and women are experts at saying something and people walk away thinking “Well, he's for me.” But he never said he was for you. He said, “It's a good idea.” He said lots of things, but unless you've got somebody who looks you in the eye and says, “I'm voting yes on this bill,” you can't be sure.

**RITCHIE:** That's like the secret ballots that are taken on leadership races. Members walk into the caucus convinced that they have the votes, and they come in third or fourth in the balloting.

**KAUFMAN:** Kennedy and Byrd race was famous. For me it all goes back to

what I learned in that first New Castle county race. Once you go through that—I mean, counting is a lost art, it's very difficult, but knowing how to do it is incredibly important.

**RITCHIE:** Moving on to the other things you were doing during this period, you brought up the fact that you were on the boards of directors of the government broadcasting operations, for Voice of America and other radio operations. What exactly did a member of the board have to do?

**KAUFMAN:** Yes, this is always difficult. It was the Broadcasting Board of Governors; four Republicans, four Democrats, and the secretary of state. They oversee broadcasters, one is the Voice of America. The VOA is the broadcasting arm we've used for over 50 years to broadcast around the world about America and our view of the world. It's much like the BBC. In many countries the BBC is more popular, and in others the VOA is more popular than the BBC. We've done that since the Second World War. What we determined as a country is that there was another whole different function of broadcasting, and that is broadcasting what's actually happening in the country. It's a little like when you turn on the 6:30 network evening news, you find out what's going on in the world, but if you turn on a half hour earlier you get what's going on in your city. So it was determined during the Cold War that in Eastern Europe in addition to VOA we needed to do "surrogate broadcasting." That is, broadcasting into those countries what a free press would be broadcasting about what's going on in those countries if a free press was allowed. We started Radio Free Europe and Radio Liberty, so that if there was a demonstration going on in Kiev, nobody would know about it because the Soviet media wouldn't report it, so we'd report it and sent it in shortwave. Or what was happening during the Prague Spring [in 1968], letting everyone in the old Soviet Union know that the Russians were sending tanks into Prague. Then we decided to have a radio and television station into Cuba after [Fidel] Castro.

When I came on board, we had just started the Broadcasting Board of Governors. It used to be that the broadcasters were part of the U.S. Information Agency and was part of our whole public diplomacy effort. But it was determined by Biden and Helms that really, broadcasting should be done separately, because for broadcasting to be credible it should be run by journalists. You didn't want government employees interfering with what the broadcasts were. Because there were many countries that the U.S. government wants to keep a good relationship with, but if you're going to report the news, the news is not good. Uzbekistan is a perfect example. In Uzbekistan we used their airbases to fly

into Afghanistan, the U.S. government had contracts with them, but Radio Free Europe/Radio Liberty would report on the fact that journalists were getting locked up there, and that there were demonstrations and the rest of it. So one of the Board's biggest functions there was to provide a firewall. We also decided, in the same bill, to start Radio Free Asia, which was the surrogate broadcasting into Asia. And then later on we started the Middle East Broadcasting Network.

Being a board member was like you were on a board of directors that actually ran the organization. You were the firewall. You made all the budget decisions. You made all the decisions. It was like a super board. I said many times I've had jobs that were more fun. I had jobs that were more technically challenging and interesting. And I had jobs that made a difference. But I never had a job where the three of them combined. It was just fascinating working with what kind of media mix do you need in each of these countries, how you deliver the media, what the programs should be about, all those kinds of things, and at the same time deal with how you get the things done, like transmission sites. We have shortwave transmission sites all around the world, all of them having problems with being in a foreign country.

I made a number of trips to Africa—not like trips like my friends take where you're on safari. When you're in Mali, in Bamako, or when you're in Niger, out in the countryside, or in certain parts of Botswana, or South Africa. I went to Kenya, Ethiopia, Nigeria, Ruanda, Eretria, Angola, and others because that's where we broadcast from. I used to say it was really great because when you went on a trip like that, and because Africa is in such bad shape, and people have so many problems, but the good news is that people listen to VOA in Africa. A lot of people listen to VOA. You'd come home and you'd have all these ideas about what to do. Not just about programing necessarily, but about how to make it better and expand listenership. There was just such a great feeling to be able to come home from a trip like that and feel like there was something you could do to make things better. It was true wherever you traveled. U.S. international broadcasting really can make a difference. But it was hard, and the traveling wasn't fun. We don't broadcast to France or Germany or any of the places you'd like to go.

**RITCHIE:** I had a Voice of America reporter come to interview me recently and she does Mandarin Chinese. They're very much afraid that their budget will be cut by Congress. It seems very shortsighted, but I'm sure there are political pressures from China—

**KAUFMAN:** No, no, the reason why they want to cut Mandarin—and there are people on the present board who want to do that—is because the Chinese jam everything we broadcast, very little of the broadcasting gets through. They’re basically saying why should we spend so much money on China when it’s not getting through. It would be better to spend it in the Middle East, or spend it someplace in Africa where it’s not being jammed. It’s not straight up pressure from China. I don’t think pressure from China—China is really totally completely infuriating. I don’t even like to think about it. Here China is with China TV (CCTV), and China Radio International, both being broadcast all over the United States, but they will not only not allow VOA in China, they jam it. We’re just dumb, fat and happy. No reciprocity at all. But when you look at what China is doing—yes, that’s the reason why they want to cut Mandarin, primarily because they say, “We can cut the budget in half and not reduce the number of people listening.” The problem is it rewards bad behavior and encourages other dictatorships to jam our broadcasts

**RITCHIE:** When you were a senator you were active in lifting Internet restrictions. Was that an outgrowth of your work on these boards?

**KAUFMAN:** Absolutely, I started the International Internet Freedom Caucus. One of the big challenges for China is that the Internet is growing, and with it they lose control of all the information.. They do a lot of work to jam it, but it’s very hard to jam it. For U.S. international broadcasting, this is a kind of Catch-22 because the countries you want to broadcast to are the most unfree and repressive and are the ones that are the hardest to broadcast into. So you’ve got this kind of Catch-22 that China and Russia are two of the places you most want to broadcast to, but they’re the hardest to get your broadcasts through. But the Internet is an incredible tool for getting information to people who want to get it. In China, the Voice of America—without saying anything that’s confidential—spent a lot of time and effort over the years to make sure that people in China get their programs on the Internet through the government blocking. There’s a war—it’s much like the battle that went on with the Soviet Union during the cold war, where they would try to jam our radio broadcasts and we’d come up with ways to get around it, back and forth. So what’s going on in China is a constant battle between us and the Chinese government. They’re blocking the Internet. Of course, the attempt to censor Google dust-up is just another public battle, but there’s another very private battle going on. But the Internet is just incredible because—there’s so many things in broadcasting that you would never think of, it’s so fascinating but it makes everything so difficult.

You want to broadcast into a foreign country like Iran. You want to influence what's going on in Iran, you want people to know what's really going on in Iran, with the demonstrations and things like that. But you also want to communicate with the diaspora. You want to communicate with all the Iranians outside of Iran. Well, before the Internet you just broadcast into Teheran, and you couldn't get to the Iranians who were in Syria or the Iranian who were in Egypt. Now with the Internet, anyone in the world who wants to hear, in Farsi, what's going on in Iran, whether they're in Beijing or anywhere except the United States (and even in the United States they can do it) is go on the Internet and they've got it in their own language. It's the same way with all the different languages. If you are born and raised in Nigeria, you can get up every morning and go on the Internet and find out what's happening in Nigeria.

**RITCHIE:** Every once in a while when I'm interviewed on NPR, the first person who responds is my nephew in Tokyo.

**KAUFMAN:** Yeah, it used to be shortwave. People used to be able to pick up a lot of this stuff on shortwave, but now not many people do shortwave.

**RITCHIE:** You mentioned that the board of governors was equally divided between the parties. Was their general unanimity in thinking or were the meetings contentious?

**KAUFMAN:** One of the reasons why I took it is that international broadcasting is not partisan. It was the Biden-Helms bill that created the board. There really wasn't any division on the first board, there was turnover and everything was fine, and then we got a chair, Ken Tomlinson [2003-2005], who basically believed that the party in power should be able to dictate everything. There was some ideology in it, he was very conservative, but most of it was he wanted to name all of the heads of the broadcasters and everything else. By happenstance, he was also the head of the Corporation for Public Broadcasting. That was an elected position and he was essentially fired from that position for essentially the same approach. He used to say, "To the winners belong the spoils. A Republican is president and I get to say and the board members should go along with me." We ran on consensus until Ken got to be chair. Even then we didn't have that many votes, we had a few, and then Ken saw that he was going to lose so we stopped having votes. Then we got into this other thing and it was very unfortunate. I don't think the broadcasting suffered that much, but it was unpleasant. It was a perfect example of



personalities, people getting along and not getting along.

The secretary of state usually didn't come. The undersecretary for public affairs would come. What they did, after a number of years I was on, I think it was in '98 or '99, they decided, that was again Helms-Biden, to take the USIA and move it into the State Department. We convinced them that they shouldn't put broadcasting in the State Department, because that we would lose credibility and would make our position untenable, so they separated it out. And then after that, the undersecretary for public affairs would come, representing the secretary, which led to one of my great experiences. For a number of years Karen Hughes held that post. As you know, Karen Hughes was very close to George Bush and communications director at the White House. Somebody, again, who on most issues we wouldn't agree but on broadcasting we totally agreed, but, then again, just about everybody on the Broadcasting Board of Governors totally agreed. She's a very, very qualified person. I could see why George Bush wanted her in the White House. One of my great experiences was when she left as undersecretary she had a going away party at the State Department. I think there were five speakers. The first three speakers were, in this order, President George Bush, Secretary of State Condoleezza Rice, and Ted Kaufman.

Tom Korologos, who was in the Reagan White House, again someone outside of broadcasting I don't agree a lot with, he was on the board. David Burke, who was Ted Kennedy's chief of staff and went on to be head of CBS News, was on the board. Alberto Mora was general counsel in the navy and was one of the people who had spoken out against the Bush administration position on torture. Bette Bao Lord, Jim Glassman was a chair. Cheryl Halpern was a very prominent Republican, Norm Pattiz who started Westwood One, Jeff Hirschberg a very knowledgeable person, Joaquin Blaya who ran Univision at one time. It was a super-qualified board and a wonderful experience.

**RITCHIE:** I noticed that you were also on the board of directors of WHY Y here in Wilmington.

**KAUFMAN:** That's really Philadelphia, but you've got a good point, the license is in Wilmington. Wilmington, Delaware, does not have a commercial broadcasting station. WHY Y was, even though it's licensed in Wilmington, is headquartered in Philadelphia and run out of Philadelphia. They always have Delaware board members on it. So I was on that.

**RITCHIE:** Was there any connection between being on the board of—

**KAUFMAN:** No, it's totally separate. Under the rules, none of the broadcasting on U.S. international broadcasting can be broadcast in the United States. But what was good, the reason why I took it was because at that point I knew a lot about how broadcasting worked, about programing, how you made decisions. I think that's the reason why they picked me, because I understood the business and also knew Delaware.

**RITCHIE:** It's interesting that there are certain states that are in between broadcasting markets. New Jersey, for instance, is in between Philadelphia and New York, and Delaware is another one that doesn't have a station for itself. That must be a real detriment for a political campaign.

**KAUFMAN:** Oh, yes it is. It's much like New Jersey. The northern part of Delaware is out of Philadelphia and the southern part is out of Baltimore. At least in New Jersey there are some stations that broadcast out of New Jersey. The big ones are Philadelphia and New York. What has happened is as the cost of broadcasting has gone up and up and up in Philadelphia, it's made it very difficult for a challenger to win in Delaware, unless they were independently wealthy, because 94 cents out of every dollar they spend goes to New Jersey and Pennsylvania. It's like you said, if you are running for a congressional seat in southern New Jersey and you have to buy Philadelphia TV, they're faced with almost as bad a situation as ours. Even worse if you're in northern New Jersey and have to buy TV time in New York. It's another reason why Delaware is so much retail politics. The cost of television, frankly, even radio is very expensive.

**RITCHIE:** I noticed that you kept your hand in politics in Delaware. You were on the transition team for the governor in 2000 and you were on Beau Biden's campaign for attorney general. Was that ongoing?

**KAUFMAN:** Yes, I had known Ruth Ann Minner for years. Ruth Ann is a great story. The first time I met her was when I went to work for Joe Biden and was in the state. The governor was Sherman Tribbitt, whom I've said we helped to get the nomination. The governor's office used to be in legislative hall. The legislature was on the first floor and the governor's office was on the second floor. They had these wide steps. You'd walk up the steps and before you got to his office there was a receptionist

there. The receptionist was Ruth Ann Minner! That was the first time I met her. She went on to get elected to the state senate. Then she asked me to be on her advisory committee when she ran for governor. I was on that, and then afterwards I was on her transition team. So it was really more a labor of love. Ruth Ann, I really wanted to help her. Little did I think she'd ever be in a position to appoint me to something.

Then Beau Biden—I've known Beau since he was two or three. I'm just a big fan of him, so when he was running, I just cut back on some other things—that's the advantage of my model of having five things to do. I could say, "Okay, for the next year and a half, part of what I'm doing every week is helping Beau Biden get elected attorney general."

**RITCHIE:** I was going to ask if given the fact that your first campaign for Joe Biden was in 1972, and now you were helping the next generation, have campaigns changed much over that time?

**KAUFMAN:** Well, the big difference was Joe Biden was running for the Senate and Beau Biden was running for attorney general. Big, big, big difference. The Senate race is just bigger, with a lot more media attention and other attention. The attorney general race is—I could use the term "below the radar." It's not below the radar but it's a lot lower down on the radar than the Senate. By the way, the basic campaign is identical. And the budget for Beau Biden for attorney general was bigger than the original budget for Biden for the Senate. You still are doing the same things.

This is a good point to make about how visibility impacts on the substance of campaigns. It is a substantial difference if you're running for attorney general or for the Senate, only because there's a lot more press coverage, a lot more interest in the Senate, so it affects everything that you do. The classic example is Christine O'Donnell. When Christine O'Donnell ran against Chris Coons, it was a totally different race. It was the number one race in the country. It was a totally different Senate race in Delaware than if Chris Coons had run against Mike Castle. So when you get this kind of visibility, or lack of visibility, it changes things. It's easier to get volunteers when you've got the visibility, but you have to spend more time worrying about the media. It's harder to get volunteers when you don't have the visibility, but you don't have to worry as much about the media, just to use two examples. It's easier to raise money, but you've got to spend a lot more money. But the basic building blocks of the campaigns are more similar than dissimilar.

**RITCHIE:** Over time there was a lot more filing of public records on campaign finances. Has that complicated things?

**KAUFMAN:** No, it hasn't complicated campaigning. It means you're a lot more concerned about who your treasurer is. The public disclosure, and the ease of disclosure, you know the Center for Responsive Politics and the fact that anybody can go on for a Senate race and see who gave to you, and put together lists of bankers who gave to your campaign, and things like that. Clearly, the biggest changes have been not the mechanics but the raising money.

**RITCHIE:** When they were doing the remodeling in the Dirksen Senate Office Building, there was a question of why there was a safe in every senator's office. Bob Bennett stood up and said that he had been his father's administrative assistant, and back then when they built the building in the '50s, so many campaign contributions were made in cash that every senator's office had a large stack of cash on hand so they needed a safe to lock it. Now all of that's illegal.

**KAUFMAN:** Yes, that's exactly right, although the numbers now are just so much greater. If you went back and saw how much was spent on campaigns then, it wasn't a lot of money, even correcting for inflation and the rest of it. If you look at expenditures in real dollars, the growth has been exponential. Now, also one of the interesting experiences in my life was in 1980, when Joe Biden became ranking member on Judiciary. Judiciary Chairman James O. Eastland had retired and he used to be chairman of the Senate equivalent of the House Un-American Affairs Committee. It was called the Senate—

**RITCHIE:** Internal Security Subcommittee.

**KAUFMAN:** —Internal Security Subcommittee, yes. Mark Gitenstein was our chief counsel on Judiciary and one of the things we did right away was to go around and pick office space. We had to negotiate with Thurmond over who gets what offices. We went around and started looking at all the different office space, and we came to the space that was the Security Subcommittee. They had all these shredding machines working, and they had this great big safe down in the basement, and they were just taking files out and shredding them, because they had been in there since the heyday of the McCarthy anti-Communist hearings.

**RITCHIE:** Well, there are a lot of records of that subcommittee in the National Archives, but I'm sure there were more that never got there.

**KAUFMAN:** Oh, I can tell you—you may have suspected that but Mark Gitenstein and I can tell you there are a lot of records that got shredded. Because we watched them. They were shredding just as fast as those little shredding machines worked.

**RITCHIE:** That's one of the jobs of the Senate Historical Office, to protect and preserve those records, but a lot of it disappears before we can get it.

**KAUFMAN:** Well, Eastland was—when we passed the government in the sunshine rule where committee hearings had to be open, do you know what Eastland did? Eastland found a room over in the Capitol where you could only fit the committee and a few staff people. Every once in a while when something was not going his way, he would adjourn the committee and reconvene in this other office so that there would only be senators and staff.

**RITCHIE:** For all of his reputation, I hear stories about the fact that he could sit down over a glass of Scotch with a liberal senator—

**KAUFMAN:** Over a Bourbon and branch.

**RITCHIE:** With a Gaylord Nelson or a Birch Bayh and cut the deal, approve the judge.

**KAUFMAN:** Right. Joe Biden used to go over to his office. Joe Biden doesn't drink—he's never had a drink in his life—but he used to go over and sit with Eastland. Right now in Joe Biden's home he's got some pictures from the Senate. One of them is a picture of James O. Eastland with some farmer with a long beard and bib overalls, everything short of a stick of wheat in his mouth. They're just standing there. They're not looking at each other. They're standing together looking in the distance. He tells the story that he saw the picture in Eastland's office and Eastland said he's the Democratic chair in some county and "there isn't a vote that comes out of there that Clem doesn't send to James O." Joe asked him for a copy of the picture.

There's two famous stories with Biden and Eastland. One was when freshman senators were seen and not heard. Joe Biden had a strong feeling about campaign finance reform, and they had a caucus meeting on campaign finance reform, and very uncharacteristically for a freshman, Biden got up and told his story about the people out in Greenville who asked him about taxes—the story I told earlier—and when he got finished the room was totally silent. Eastland said, “Senator Biden, I understand that you are the youngest man ever to serve in the United States Senate.” He was actually the second or third youngest. He said, “Well, you give many more speeches like that and you're going to be the youngest one-term United States senator to have ever served in the senate.”

The other thing was the old Senate dining room across the hall that is for senators only—when I was a senator I found that very few people use it anymore because we have all the caucus lunches and so many other meetings at lunch—but back in the '70s the senators used to use it a lot. They have a number of tables, but they have one big table like they have in a lot of clubs where you just get your food and sit down at the table and any other senator may sit down at the same table. Senator Biden's reelection race in '78 was a tough race because of busing—people were opposed to busing and Biden was perceived as a liberal and therefore they thought he would be in favor of it. He was not in favor of busing. One of the things that I thought he was right on when I worked on his campaign was busing, because I really felt that busing was counterproductive. But the story goes that he came into the dining room one day and Eastland said, “Joe Boy”—he called him “Joe Boy”—“You're flunking the slope of the shoulders test.” All the years that I was in the Senate, Senator Biden and I used to talk about people up for reelection. You didn't have to see their polling data, you could check the slope of their shoulders. I think that was the story, but he said, “You don't look good, Joe, what's wrong?” He said, “Well, Mr. Chairman, I'm in a very tough race and I really think I could lose over this busing issue.” Eastland said “is there anything James O. can do for you”. Joe said “Mr Chairman, there are places where you would help and others where you would hurt”. Eastland said “Joe I will come in and campaign for you or against you whichever will help you the most.”

[Interview interrupted by a lengthy phone call]

**RITCHIE:** I was building up to the fact that Senator Biden decided to run for president again, and here after some many years you went into another presidential

campaign, and I wondered if you could tell me some of the back story to that, about how he came to that decision. He was chairman of the Foreign Relations Committee and he had so much going for him in the Senate, why did he throw himself back into the presidential pool?

**KAUFMAN:** It's really interesting. I guess a year or so before that the *New Yorker* was doing a profile of him, and the thrust of it was: He's on all these Sunday talk shows, and he always sounds so authoritative, and so confident, why is that? I told the reporter that he's confident because he knows the issues. You get on one of these shows and you get asked a question, he knows enough to know what it is. A lot of the people who are on these shows, they know a lot about one area, but they don't know nearly as much as he does. Coming out of that, the reporter asked me, "Why is he still in the Senate?" There are a number of senators who retired, Bradley and Nunn, "Doesn't he think about retiring?" I said to him, "Senator Biden and I are about the same age (he's a little younger than I am) and when you talk to people our age, many people (and this is especially true about him and me) and you say, 'What do you want to do at this point in your life?' One of the things you'd like to do is you think at this point in your life you've learned something, hopefully, and it's the old give-back: take what you've learned and try to help people and help the situation." I said, "Senator Biden knows more about foreign policy than anybody in the country, maybe in the world, right now. He's been doing it for a long time. He's smarter than your average bear about it." I said, "The idea to be on the Senate Foreign Relations Committee and be able to use what you've learned, not just in foreign relations but in everything else, in order to help the world, that's a pretty compelling reason to stay involved in what you're doing."

I said, "He'd like to spend more time with his grandchildren and he'd like to do some other things, but I think his potential for being able to do good with what he learned is really high." He didn't run for president in 2008 because he wanted to hear "Hail to the Chief" and live in the White House. As a matter of fact, we had discussions about that as time went on. He went from someone who enjoyed going down to the White House in the Carter administration to someone who just didn't like to go down to the White House. He said, "It's just power, and that's not something that's attractive to me." But I think what happened was he decided not to run in 2004, and I think after that he pretty much decided that he didn't want to run for president in that he had a pretty good life. As you said, you hit a couple of the high spots, he was chief of the Foreign Relations Committee, he has some wonderful grandchildren, who lived close by so he could spend quality time

with them. Jill is wonderful and they have a great relationship. They haven't done a lot of things that they'd like to do because they've both been very busy in their lives. He's not a person that has made a lot of money. He could get out and make a lot of money.

But I think it's a little like how do you look yourself in the mirror? What did you do during the war, Daddy? Am I the kind of person that because it would be more fun or more interesting to not run for president—he knew there was an easier life if he didn't run for president. Jill agreed, but both of them were of the opinion that he had really a responsibility to try to do it. I think one of the most interesting things for me in the last 15 or 20 years of my life has been that more and more I've been able to internalize this “try” idea. What you're able to accomplish—I said to a lot of people in interviews when I first got appointed and people would say, “What are you going to accomplish?” I would say, “I'm going to accomplish everything I set out to do.” Because I said, “I'm past the stage where passing bills or getting my names on bills matters. I'm old enough to realize that as long as I can go home every day and look inside of myself and say, ‘Have I tried the hardest I can to do what I want to do?’ That's all it takes. It's an incredible blessing.”

Growing old is not a whole lot of fun, but one of the advantages of my age is you really can try. Joe Biden is the same way. What would he think of himself if he didn't even try to be president? But I'm not all sure that when the campaign was over—I mean, he's a very competitive guy, but when the campaign was over people would call me up like the next week or so and ask, “How's he doing?” I'd say, “He's doing great. He's out playing golf.” [Laughs] I said, “He doesn't like losing, but the big blessing was we got crushed. It wasn't like we were sitting around thinking if we had done this or done that. We got crushed. In terms of not being president, that is not all bad. Being able to do the things he wants to do, and being chairman of the Foreign Relations Committee, is a pretty good gig. I think most of these people run—that's another example of the cardboard cut-out view people have of politicians, all they care about is reelection—they run because they want to be president. Who would want to be president of the United States today? Who would want it? Look at the pictures of Obama and the graying of his hair. Who wants to be president for personal aggrandizement? You want to be president because you have some ideas and some things you want to do and you do it. I think a lot of it comes out of an obligation to serve. It's the same reason why Barack Obama didn't go to work on Wall Street when he got out of Harvard and went to work as a community organizer. It's an extension of that. It's all about how you are hardwired about how important service is to you. And with Joe Biden, service is his life. It's an incredibly



important part, so that's why he ran.

**RITCHIE:** So there's 20 years in between those two campaigns in 1988 and 2008. How different was it running a campaign in 2008 as opposed to '88?

**KAUFMAN:** Oh, in a lot of ways it was much, much, much easier. It's never easy. But he was a lot older, a lot more experienced, and a lot more grounded. It was just the difference between running in your 40s and your 60s. He was very mature obviously to get elected to the Senate when he was 29, so he had been through a lot. So it was a very different campaign. Also he had his two sons, Beau and Hunter who were incredibly helpful. As I said, running for president is impossible, but he didn't have so many advisors, which was good in that first campaign but made decision-making hard, because you had so many smart people sitting around the table. I'm not talking about turf wars, but just trying to come to a decision about something. So decision-making was a lot more centralized and a lot easier. We had been through it all before and we knew what was coming. It hadn't changed much in terms of how you deal with the media, and campaign strategy in Iowa and New Hampshire, and how you campaigned in those states, how you raised money. Everything was pretty much the same.

**RITCHIE:** The Gallup Poll organization published a large book on the 2008 election [*Winning the White House*, 2008]. They started polling right after the congressional election of 2006, and the leading candidate for president then was "don't know."

**KAUFMAN:** Yes.

**RITCHIE:** It was about as wide-open a race as possible. But as it shaped up, the veteran senators in the race, like Christopher Dodd and Senator Biden, who had all this experience, didn't get the kind of traction that the freshman senator Obama and the relatively junior senator Hillary Clinton had from the start. The race pretty quickly got down to the two of them. What was it about 2008, that experience wasn't a major criteria?

**KAUFMAN:** Well, let's go down them one at a time. The thing was in '87, the candidates were called the seven dwarfs—and look what's going on with the Republican field right now. There's another accepted theory that says anybody that's been known for

more than 13 months in modern society never gets elected. Literally, they have the numbers to demonstrate that after you've been known for more than 13 months you can't be elected president. The Republicans have usually taken people who lost the last nomination and win the next nomination, Ronald Reagan, Bob Dole, John McCain, and the rest.

With all due respect, I think saying that Hillary is a junior senator is a totally absolutely misstatement. One of the things you learn in the Senate is very few senators are identifiable. I can remember when Senator Biden was in the Senate, for years the only senators people could identify were Bill Bradley and John Glenn. I'll guarantee you, in 2006, the only senator that the public could identify would be Hillary. So Hillary started out with an incredible lead. The equation was, there was going to be Hillary and there was going to be somebody else. Now, what happened was what always happens in these races. Somebody becomes the personification. Howard Dean became the personification in 2004 because he was the only one running who had not compromised with George Bush on something, so he was the only one who could get up and say, "I would never compromise with George Bush on anything," and completely, in my opinion, demagogue that issue, and pick up all the people that hated George Bush. So he rose to the top in Iowa until he and Gephardt got in a fight, and then Kerry came through and won the nomination and [John] Edwards came in second.

So you get to our race. First off, Hillary is the 300-pound gorilla. She's going to win. It's going to be poll to poll. Obama's not going to run. John Edwards, the previous vice presidential candidate, went out to Iowa and spent all of his time out there. By the time we got to Iowa, he had been in Iowa and people were committed to him. He had just worked Iowa like he was the senator from Iowa, and it really paid off for him because it gave him credibility in Iowa, and that gave him credibility nationally and helped with his fund-raising and all those kinds of things. The one unknown wild card was Obama. And it was just like how Joe Biden won in 1972, Obama turned out to be an *extraordinary* candidate. Whether he was a freshman senator or whatever, he just turned out to be an extraordinary candidate with an extraordinary campaign organization, like Jimmy Carter. He had Axe [David Axelrod] and [David] Plouffe and those guys. Axe and Plouffe ran the campaign much like Jody [Powell] and Hamilton [Jordan] ran the campaign for Carter. Two guys, which meant decision-making, this is it. [Snaps fingers]

Now why did we think we could win even when the Iowa race showed Hillary

and Obama ahead with big organizations and lots of money, and John Edwards being a very tight third? The reason why we thought we could win was a real simple concept, and that was: three is an unstable number. Whenever my children got together with two of their friends it would be this week Mary and Meg were against Jane, and the next week Jane and Meg were against Mary. You learn that three is a very unstable number. Number two, you look back at history, the past is prologue. In 2004, what happened? Well, if you look at the numbers, Dean and Gephardt were the prohibitive favorites going into January. I can remember that six weeks out, Kerry and Edwards were nowhere. They were just where Biden and Dodd were—in fact, I think Biden and Dodd were doing better than Kerry and Edwards were. Then what happened was Dean and Gephardt both felt they had to win Iowa. They got into a death spiral where they both started to run negative ads against each other. People in Iowa hate negative ads, so Kerry came through and Edwards streamed right in behind them, and they won.

I saw the same scenario. The way I described it to people was it was like a horse race that was only three horses wide. There was no way you can get around until one of the three horses falls back. At some point one of these three horses will go negative. It will hurt them and it will hurt the other two. It's going to be a free-for-all at the end. We'll go to the wire, we've got a good organization in Iowa, and Biden wins. So with 30 or 45 days out I saw this scenario. As we got closer, it was clearer to me that all three of them were reading the polls too and realizing that they didn't want to repeat what Dean and Gephardt had done. But I still thought the competition would drop to two at some point. That's essentially what happened. We would have done a lot better in Iowa—if the turnout had even been double what it was before, we still would have had a lot of delegates. The problem with Iowa is once you get further down the line you lose delegates almost exponentially, not arithmetically. I remember in the district I went to, when I saw how many of our people showed up, I figured we were going to get three or four delegates out of fifteen or something like that. Then the doors opened and my God they poured in! In the end, we got no delegates. The numbers were such that the way the process worked, we ended up with no delegates, even though we had what in 2004 would have been a good number of the people there. Again, it goes back to my thing about presidential campaigns. If you think you're in control of what's going on, it's illusory. We were crushed.

**RITCHIE:** That Gallup Poll book also showed that for a long period from 2007 to 2008, that Hillary Clinton and Rudy Giuliani were the two frontrunners for the two

parties, for pretty much the same reason, because people recognized their names more than anybody else.

**KAUFMAN:** Yes, and people weren't interested. The big thing is that in 2007 no one was interested in presidential politics except for 400 people who were totally obsessed with it. So it really isn't about recognition.

**RITCHIE:** But then, after that candidates have to stand on who they are, and the negatives turned out to be very high, as well as their name recognition.

**KAUFMAN:** Well, Hillary to be fair, in my opinion—you can look at the Gallup polls and the rest of it, but in my opinion Obama just ran a fantastic campaign. It was hard for Dodd and Biden to get a larger percentage of the vote—because Hillary was going to get her vote. Hillary's vote was there, they knew Hillary, they wanted to vote for Hillary, and so Hillary got her vote. The problem for her was the same as for us, which was that Obama got this incredible vote and then it turned into a race. Now, once it was a race, then the flaws in the Hillary Clinton operation, and theory, and everything else, just went to pieces. If our race in 1987, we had a great big head with little spindly legs, Hillary had a head like this! [Throws arms out wide] I mean, she had every goddamn consultant. She had the whole Clinton brain trust, with 47 million different ideas and opinions on everything, running the campaign. It was the campaign from Hell.

I had a good friend who was not involved in the campaign but knows Hillary well. I used to say, "Whenever things got bad, I thought 'Oh, thank God we're not in Hillary's campaign!'" I remember David Wilhelm was our Iowa coordinator in 1987 and then went on to become involved in Clinton's campaign, and actually managed Clinton's campaign in 1992, and became chairman of the DNC. He was very helpful in our campaign, and we were talking about the Clinton campaign, because they had the "ragin' Cajun" [James Carville] and [Paul] Begala, and all the different people, and all the Hillary people, just a lot of talent in that campaign. He said, "The good thing for us [the Clinton campaign in 1992] was we just got ahead and we stayed ahead. If we had ever started down, the whole thing would have blown up." The beauty of the Biden campaign is even though we lost, everybody stuck together. People didn't leave, we stayed together because a lot of the people involved in the campaign had been with him for a long time.

**RITCHIE:** The interesting thing I thought was that even though Biden lost, he

acquitted himself very well in that campaign.

**KAUFMAN:** That's an excellent point. I told him right from the beginning, when we were talking about how difficult it would be. I don't know what it's like to go through childbirth, but contemplating a presidential campaign, if you are a consultant you are thinking, "Oh, boy, this is going to be great." But from where we were sitting, this was not something that you say, "I can't wait. It's going to be great!" It's awful. I said to him that "one of the real positives of this campaign is that you're in an incredibly enviable position right now. I believe the American people are looking for a candidate to nominate for president who they believe is telling them what he genuinely believes, the kind of McCain Straight Talk Express. When I sit in meetings throughout this campaign, you're going to hear me say time and time again on what positions you should take on issues, 'Joe, what do you think?' 'What do you think?' Because whatever happens, the single best thing you can say and do in an event is the best thing you think you should say and do." I said, "That's an incredible advantage in this campaign." And when you look at that campaign, that's exactly what Joe Biden did.

First of all, he knew more about this stuff than any of the other candidates running. Chris Dodd is close, Chris Dodd has been on the Foreign Relations Committee, but Joe Biden was the chair. Chris Dodd is great, but Joe Biden knew more than any of the rest of them. When you saw the debates and people were impressed, I think there were two things that impressed them. Number one, I often say this, the one thing Americans really know how to do is watch television, and Americans can tell a phony on television faster than anyone else. When they looked at that screen they saw things. They saw a guy who was incredibly knowledgeable about the issues, but not in a jargon way, not because he said big words. A lot of the cognoscenti and the people that follow this in Washington watched this and said, "Oh my God!" I remember when they did the panel on what's the most dangerous country in the world, they went around and said Iran, Iran, Iran, Iran. When they came to Joe he said Pakistan. They said, "Why Pakistan?" He said, "Well, if Iran is a real problem because they may have nuclear weapons, Pakistan is a problem because they already have nuclear weapons and the capacity to deliver them, and they could become a Muslim radical state. They could become Iran, only they've got nuclear weapons and the delivery vehicles." The guts it took to say that! Everybody else was saying Iran and the safe thing to say was Iran. Joe said Pakistan and anybody who was thinking said, "You know, he's right about Pakistan." And then they could tell that he was just saying what he believed.

I absolutely think that the reason why Obama picked him for vice president was because of watching him on the Foreign Relations Committee and going through the debates with him. This is a guy who is very, very knowledgeable and also self-confident, not in a bang your chest way but self-confident in that he's willing to say what he believes in.

**RITCHIE:** Watching the way vice presidents are chosen, there's often an impulse to pull somebody out of the hat who'll be a big surprise and draw attention to the ticket. But it seems to work better when the candidate has proved themselves on the hustings during the race for the nomination because then they don't have to prove themselves during the campaign.

**KAUFMAN:** They don't have to be vetted, and you don't have the Quayle problem or the Palin problem. But I think what's happened is—and I've felt this for a while before this race—and it's amazing how poor the punditry is. They still want to go with this “pick somebody who's going to give you North Carolina, John Edwards.” If I was advising the person who was going to get the nomination for president of the United States, Barack Obama or anybody else, on their vice presidential selection, where it's been for the past 12 years, I'd say “Mr. Nominee, this is the first decision that people will see you make as a potential president of the United States. They'll be looking at that through a lot of different prisms, but the biggest prism and the biggest question they will have for you, Mr. Nominee, especially if you haven't been around for a long time, is: Is this a guy going to do what he believes is right for the country, or is he going to do the things that are going to get him elected and reelected? I think that your first decision should send a message that you're more concerned with governing.”

Not to be critical of you, but just to make the point, you say “how he performed on the hustings.” I would say, that's exactly what you don't want to do. You don't want to pick somebody that's going to be on the hustings. You don't want somebody who's going to give you a state. You don't want somebody who's going to help you in a political campaign, because they're really going to vote for you. Who you pick as vice president—now, I think Joe Biden was incredibly helpful to Barack Obama, okay?—but the big thing is, you pick Joe Biden and they say, “Delaware?” There's a great feeling in the country that goes back to 50 years ago when you wanted to pick a vice president who was going to deliver votes. You pick a guy with electoral votes? When he was running for president they would say, “Why, he can't win, Delaware only has three electoral

votes.” I said, “Where you’re from is totally irrelevant anymore. It doesn’t matter anymore. You’re 50 years out of date.” But you pick Joe Biden, the guy who’s most qualified to govern; you all of a sudden give yourself a great big shot in the arm of being a guy who’s more interested in governing the country than you are in getting elected.

**RITCHIE:** What I meant was someone who already has a track record, the public knows who this is and they don’t have to be introduced to them as someone who’s going to be in the second spot. I think Bush did that with [Richard] Cheney, also from a three-electoral vote state.

**KAUFMAN:** I think you are right, the thing that happens is, and I think you’re also saying in terms of the vetting is that you don’t go through the beginning of the campaign where it’s all about Dan Quayle or it’s all about Sarah Palin. You want it to be all about Barack Obama. I think that was the main point you were making.

**RITCHIE:** Part of it is that a candidate has been out there and told everybody who they are.

**KAUFMAN:** And no one is vetted. I can remember one the saddest times I felt for a candidate was when the story about inhaling marijuana came out for Clinton. Clinton was actually in a press conference and said, “You know, I ran for governor of Arkansas and this was never an issue.” I thought, you poor soul, if you thought that running for governor of Arkansas is like running for president of the United States! I know he didn’t mean that, but the point is until you run for president—like when Bill Bradley called Joe up and said, “Why are they questioning my integrity?” There is no vetting.

**RITCHIE:** It’s a little like when members run for the House and no one questions them, but then they run for the Senate and reporters look at their record differently. Then they run for president and reporters look at them in a completely different way. The same thing with the vice president.

**KAUFMAN:** Exactly.

**RITCHIE:** But by 2008, Joe Biden was a well-established persona.

**KAUFMAN:** Warts and all, absolutely.

**RITCHIE:** So, when he was being considered for vice president, did he have any qualms about the position?

**KAUFMAN:** Oh, yes. I think it's been pretty well reported that he didn't want to be VP. He had some rather serious considerations. What are the ground rules? One was that he was going to be doing something substantive, and the other was he was going to be the last person in the room with the President. Those are two pretty serious requirements, but he was not interested in being vice president. In the end, I think the only reason he allowed Obama to do his background checking was kind of the same reason why he ran for president. It wasn't that he wanted to be vice president. How do you look yourself in the mirror and say, "It was a terrible inconvenience? I'd rather be chairman of the Foreign Relations Committee, and that's the reason why I didn't do it." So I think to a large extent in the end it came down to an extension of the same decision he made to run for president. And I think a lot of it had to do personally with Obama: "This is a transformational presidency. And if Barack Obama thinks that I can help him be president, who am I to say no?" The campaign part of it wasn't that much. If he ran in the campaign and they lost, it wasn't about worrying about winning or losing, it was really about—not did he want to be a candidate for vice president but did he want to be vice president.

**RITCHIE:** Obama had been a member of his committee, on Foreign Relations. How well did they get along while they were in the Senate?

**KAUFMAN:** Well. But remember, Obama pretty soon was doing a lot of traveling. But they got along real well, and they got along real well during the debate. I think they liked each other's style.

**RITCHIE:** Obama also got along really well with Richard Lugar, when Senator Lugar was chair of the committee before that, so I wondered if that continued.

**KAUFMAN:** Well, Lugar and Biden got along very well, and Kerry and Lugar. Lugar, especially in his later years, has just been a model United States senator. By any definition of a great senator, he is a great senator. And again there are a lot of issues that I don't agree with Lugar on, although on foreign policy, and broadcasting, he's wonderful.



But that says more about Lugar, he's kind of special.

**RITCHIE:** I read that Obama's staff, when he first came to the Senate told him: Don't spread yourself thin. If you're going to go to a hearing, stay with it, don't just come in and ask a question and leave. Apparently the first time that Lugar really noticed Obama was when he realized that at the end of a hearing they were the only two senators left sitting at the podium.

**KAUFMAN:** And that's what I did. That's why I only took two committees (although at the end I wound up on four committees, but that's a whole other story). And John Kerry sat through the whole hearings. It would be Kerry and I, and Jeanne Shaheen was there a lot of the time, and others were there. But my basic approach was learn from the hearings. The hearings, if used properly, are incredibly informative.

Before Obama made his announcement on what he was going to do about Afghanistan, John Kerry put together an excellent set of hearings, and I sat through practically all of them. There weren't a whole lot of senators that did, although a number of them sat through some of them. We had a hearing right after Obama made his decision. A number of my colleagues came in, and I respect them and I like them but after they asked a question, you'd think, "Are you from Mars? You really would have benefitted from having sat in on some of those hearings." I think that's one of the biggest problems with the Senate now, the fact that they are beginning to correct it. They allow people on too many committees, so they're spread too thin. And you're allowed to chair too many committees, so you're chairing subcommittees and committees and you can participate and therefore you don't get the advantage of the incredible knowledge about what the hell is happening there. So you're operating on what you read in the newspaper or what your staff gives you, or something like that. You have a basis—but for something that's changing, like Afghanistan was, where there was dramatic change going on in terms of what the strategy is and how the whole place can work, you can't do the job right. What time is it?

**RITCHIE:** It's about twenty after three.

**KAUFMAN:** Oh, good.

**RITCHIE:** Senator Fulbright used to call his committee meetings "educational

hearings,” and his hearings may not have changed policy on Vietnam but they certainly informed a lot of people about what was going on.

**KAUFMAN:** I think that’s right, and as I said, John Kerry did an incredible job. The hearings he had on Iran, the hearings he had on Afghanistan, the hearings he had on Iraq, on so many issues he really did put together hearings that did affect policy and did affect the administration and were educational.

Now, in Judiciary we never have any hearings that are just educational. I mean, not that they’re not educational, there are some, but the bulk of the hearings are oversight hearings or they’re hearings about nominations. But there’s still a lot of information on Armed Services and Homeland Security, which I was put on later on.

**RITCHIE:** That raises a question about committees. It’s a truism that senators go on a committee because they’re interested in that particular issue—

**KAUFMAN:** Well, to oversimplify it, I used to say there are three reasons why senators select a committee. If you went to senators and asked them: “Why are you on this committee?” I think you’d come back with a range of these three things. One, you’d be on a committee that helps you back home politically. Two, you’re on a committee that you’re very interested in the substance of what’s going on. And three, you’re on a committee to raise money. It isn’t just they have an interest. I have tried so hard with senators and staff who ask me. I say, “Politics back home can cut both ways. If you’re interested in an issue, you’re just going to be so much more productive than the rest of it.” One of the smartest things that Joe Biden did was move from Judiciary to Foreign Relations when he did, I think it was 2000.

**RITCHIE:** In the 50-50 Senate of 2001, wasn’t it?

**KAUFMAN:** Yes. Because—and you don’t read this in the text but it was really true—he’d been on Judiciary for so many years and the chance to go and become chairman of the Foreign Relations Committee was like opening all these other presents, all these other issues. When he was chairman, we always used to sit down in the fall, when I was chief of staff, and even after I was chief of staff I’d participate in these meetings, and come up with a list of what are we not going to do in the coming year. Not what are we going to do, what are we *not* going to do. We quickly learned that if he’s on

Judiciary, Judiciary gobbled up a lot of time and Foreign Relations didn't. The first time the reason would be clear would be when the secretary of state is testifying in Foreign Relations and the Attorney General is testifying in Judiciary, and you're the chairman of the Judiciary Committee. That's a little scheduling thing that makes it clear that when you are chair of a committee you can't be as big a player on other committees—you can't go to the educational meetings of Foreign Relations, let's put it that way. Biden got a whole new lease on life when he moved over and was chairman of the Senate Foreign Relations Committee.

**RITCHIE:** Judiciary has a reputation of being a very polarized story, too.

**KAUFMAN:** Great story about that. When I came back to the Senate as the most junior member on the Democratic side, I was sitting there at the end of the table. The table turns around and there were so many Democrats that I was around the curve. I was sitting there looking at the Republicans. Chuck Schumer came by and I said, "Chuck, what the hell have you done to this committee since I left? I mean, look at that lineup! You've got Sessions and [Jon] Kyl and [John] Cornyn, and [Tom] Coburn. That's a pretty ideological lineup you've got over there." Chuck said, "Hey, look at our side." There was Leahy and [Dianne] Feinstein and [Russell] Feingold and [Dick] Durbin, and Schumer. It was like: "Yeah, you want to see ideology man? I'll give you ideology!"

Yes, the Judiciary Committee, as you know, more legislation passes the Judiciary Committee than any other committee. And the issues are so diverse. I remember when [Birch] Bayh was head of the constitutional subcommittee. School prayer would be on the schedule, "Okay, you want a constitutional amendment for school prayer? Let's talk about a constitutional amendment on burning the flag, let's talk about a constitutional amendment on abortion." It was like fireworks. Then you've got the Justice Department and all the civil rights battles that we had, not just on busing. It is the battleground for a lot of the social issues. Then of course there are the judges.

I don't think it was quite as polarized back when he first got there. The issues were difficult, but there wasn't as much emphasis on the social issues. There was concern about them, but they didn't have the visibility. We didn't have any of the confirmation problems that we have now, and that is really a constant sore rubbing at every meeting, whether to report someone out or not.

**RITCHIE:** Whereas Foreign Relations was a committee that senators with an international bent usually went on, which meant there usually was a lot of unanimity until Jesse Helms arrived and served as a counterpoint.

**KAUFMAN:** Yes, but he came around. I think there's a natural pressure in foreign relations to come around. The institution, and the reality of the job, and the idea that politics stops at the water's edge, and all that stuff, does push people. But right now you've got some very conservative members of that committee. [James] Inhofe is on that committee, and [John] Barrasso. There were a lot of conservative members, and then there was Barbara Boxer, and Chris Dodd, and John Kerry and [Robert] Menendez. On Foreign Relations there was little peace with Helms, but it was like my experience on the Broadcasting Board of Governors. After Ken Tomlinson left it went back to the way it had been. After Helms left, the Foreign Relations Committee went right back, especially with Lugar as chair. The same if Johnny Isakson gets to be the chair, or [Bob] Corker.

For years the Foreign Relations Committee had just one unified staff. Even now there's just incredible cooperation with staff. Again, if you look at the problem—of my statement of the problem with Congress is not civility but it's the differences in the country that are reflected in the representatives of the people—then Foreign Relations is where there is the least difference in the country over how we should proceed. Which is really interesting, when you think about it. It just shows you how the left has become so much more “un-angry,” mellow than it was in response to Vietnam. We kind of got it all out of our system in the '60s and '70s, and now the Republicans are going through it. But when you look at the reaction to Afghanistan and Iraq, it is truly, absolutely amazing to me that there haven't been sit-ins and things like that. Now, the biggest reason why it's not like Vietnam is because of the draft. Most of the people who protested the war were worried about the draft. As they say, “Where you stand depends on where you sit.” And “There's nothing to concentrate the mind like the prospect of hanging.” Well, there is something more—the prospect of being sent to Vietnam would pretty much concentrate the mind. But it is extraordinary that there hasn't been more outrage about Iraq and Afghanistan. When members get up and speak about it, especially in the House, but a lot of senators too, they clearly aren't happy. Clearly the electorate is not happy. But it's the foreign relations and it's the water's edge.

**RITCHIE:** I suppose when members of Congress speak today, they're not hearing the same response from their constituents as they were hearing back in the 1960s,

and '70s.

**KAUFMAN:** Exactly.

**RITCHIE:** And in the '60s and '70s members were hearing from their own children. You hear that story quite often, the fights over the breakfast table that took place.

**KAUFMAN:** One of the favorite stories I tell my staff is that in Joe Biden's Senate office, when you came in the door and turned the right corner, there was a third-grade picture of a tuna. His daughter, Ashley, got involved in tuna in the gill nets and the rest of that stuff in school, and by God, Joe came in one day and got started. He talked to Barbara Boxer and everything else. If there's one person that every tuna in the world that's swimming around should be thankful for, it's Ashley Biden.

**RITCHIE:** It's good to know they can have influence.

**KAUFMAN:** Well, they do. I had a case in my class about the Clean Air Act and the amendments to change it for all the exceptions that Robert Byrd wanted, the big battle between Byrd and Mitchell. I talk about how Byrd had been leader and then was Chairman of Appropriations, and about how this was the first big fight. I have a series of about 7 questions I would ask the students, "Are you for it or against it?" Then I would give them more information. The played the role of a Democratic senator who is thinking about running for the presidency, and the Sierra Club says they will not support you for president if you support the Byrd Amendment. (I'm thinking of Senator John Glenn.) You say okay, and now you are called by the Chamber of Commerce from your home state, they believe this is going to make them non-competitive, and they will never give you a campaign contribution for as long as they live if you vote that way. Now how do you vote? Usually it comes out they vote with Byrd. My final question is, it's the day before the vote and you're home, and your 11-year-old daughter wants to have a discussion with you. She tells you that they've been talking in class about this new act and how important the Clean Air Act is, or else we won't be able to breathe, and she's very thankful that you're the person that's going to lead the fight for the Clean Air Act, and she just wants to tell you how proud she is because every day she goes to school and they say you're one of the leaders for good. Now how do you vote? And they change their vote. Then I ask them the million-dollar question. I say, Okay all those who said

that you're going to vote with Byrd and against the Clean Air Act, what do you tell your 11-year-old daughter? You know the best answer I got to that? You don't say anything to your 11-year-old daughter. You go to her class and you explain to the class about the issues. But that's real life. Real life is your spouse. I guarantee there are a lot of senators when it comes to a pay vote who are between their constituents and their spouse.

**RITCHIE:** I'm sure that's not an easy choice.

**KAUFMAN:** Well, it is for some, but I'm just saying I'm sure there are a lot of spouses who care about how you vote on the pay raise bill.

**RITCHIE:** Well we're about 25 to, and we have yet to talk about your Senate period.

**KAUFMAN:** Right. What's your schedule for next week?

**RITCHIE:** My week is wide open except for Friday.

**KAUFMAN:** Well, why don't we try Tuesday?

**RITCHIE:** Tuesday would be great.

**KAUFMAN:** I think we could spend two more days on this productively. Why don't we put down Tuesday and Wednesday, and then we may not do Tuesday and Wednesday.

**RITCHIE:** Well, we'll do at least Tuesday and hold Wednesday as a possibility.

**KAUFMAN:** That's what I'm saying. Well, what do you think? Do you think we can get it done on Tuesday?

**RITCHIE:** Well, that depends. I want to talk about your Senate period, but then go back and discuss some broad questions in general. It just depends on how much it engages you and you want to talk about. I'm willing to come back.

**KAUFMAN:** Well, we have a few minutes before you have to make the train. Let

me show you the notes I've made. I have a whole big section on civility, which I think would be good to talk about, the George Packer article and the rest of that. Obviously, the accomplishments we'll go through. I would like to talk about the media. Being on the Senate Foreign Relations. Then we ought to talk about "hit the ground running," and beyond "go with the flow." Then you know what I'd like to talk about? I'd like to talk about late votes and the food in the caucus room. And then how did this happen? Why did you decide? What went on? I spoke to the chiefs of staff—I really had a great time talking to the chiefs of staff, but in it there's a lot of stuff that I think would be interesting. Two Supreme Court justices. There's a lot of it.

**RITCHIE:** I've got questions on all of these, but if we get to the end and I missed an area, that will be a time to go back over this.

**KAUFMAN:** I've got a lot of anecdotes. Some of them will just roll out, as they have, but some of them won't, so at the very end we can go through this list and do these one after another.

**RITCHIE:** That will be great. You know, each person remembers things in different ways and organizes them in different ways. I interviewed Frank Valeo, who was the secretary of the Senate who swore Senator Biden in the first time.

**KAUFMAN:** I know, he swore him in right down here in Wilmington, in the hospital.

**RITCHIE:** Frank said, "Give me a list of senators." I'd throw out a name and he'd have a story for every person.

**KAUFMAN:** That is a great idea.

### **End of the Fourth Interview**

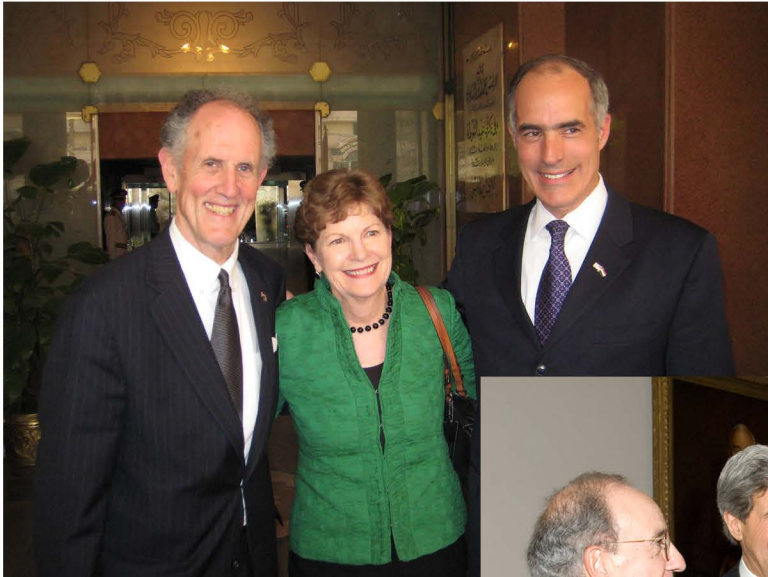
*Photos on the following page, from top to bottom:*

Senator Ted Kaufman with Senators Jeanne Shaheen and Bob Casey.

With Senators George P. Mitchell and John Kerry.

With Senator Amy Klobuchar.

With Senator Jon Tester.





**SENATOR FROM DELAWARE**  
**Interview #5**  
**Tuesday Morning, August 23, 2011**

**RITCHIE:** The last thing we talked about was the vice presidential campaign in 2008, and I noted that you were on Senator Biden’s transition team, but also when you were a senator you introduced a bill about creating an earlier transition process. What was your experience in that transition that shaped your thinking?

**KAUFMAN:** First off, let me spend a minute on the selection. Senator Biden was reluctant to participate in the [vice-presidential selection] process. He had been through it a number of times. He’d been at the periphery, being talked about before. His basic approach was, “I don’t think I want to do this. I don’t want to go through the process.” He did everything he could to find out—sub rosa—“Is this serious? Am I just one of 20 names?” The feedback was pretty strong, that Barack Obama had been talking about, for quite a while, selecting Joe Biden. He, after a lot of family discussion, said okay, they could tell Senator Obama that he would go through the process, which he did. He met with Obama in Minnesota, and said, essentially, “If I am your VP, I want to be the last person in the room on decisions,” you decide and I will go with your decision, but I want to have a chance to give you my ideas at the very end of the process “and this has got to be serious, and the rest of that.

Then, as a little sidelight, I had two friends and we decided that we were going to take a course in motorcycle riding. We signed up for the course and the first day I was in the classroom, the three of us went. Then at three o’clock the next morning I got a call that Obama had picked Biden to be vice president. I never got to ride a motorcycle after that.

As soon as he was selected, he appointed Mark Gitenstein and me to be co-chairs of the vice-presidential transition team. Mark is a remarkably talented person who had joined the Biden staff in the very beginning, had been general counsel of the Judiciary Committee and stayed involved with us ever since. He and his wonderful wife Lib have become very close friends of the vice president, Jill, Lynne and me. He was a partner in the Washington office of the Mayer-Brown law firm. So, we started going to the meetings of the Obama transition team, led by John Podesta. I was amazed at the extent—it was like Germany at the end of the Second World War, and North Vietnam, I

mean there was this incredible infrastructure, a gigantic organization, totally below the media radar. It had to be kept below the media radar. There was one story at one point about it, which went with the standard line: “Obama is building this transition. He’s measuring the drapes in the White House. He’s convinced he’s going to win.” That was the one story you wanted to avoid, and the reasons why you didn’t do transitions. McCain was faced with the same thing.

John Podesta had a group of about 25 people who used to meet regularly, at a law firm in Washington. And then there were 25 behind that, and 25 beyond that. Podesta had set up an operation where he had literally mirrored the government and had people all over doing it. I was incredibly impressed. And the other thing that was amazing was that the Bush White House was incredibly cooperative. I mean incredibly cooperative. Looking back historically, because we got a lot of historical data, it probably was one of the most cooperative transitions. That was Josh Bolton, because he was the chief of staff in the White House. That was probably his doing, and President Bush’s doing. President Bush deserves credit for doing that, in my mind. But it all had to be kept below the radar.

Then Obama and Biden were picked. The convention was just surreal. To think that Joe, after all the conventions that he had been at, all the times we had been there, all the work that we had put into two presidential campaigns—for naught—and then Barack Obama wakes up one morning and says, “You’re going to be our vice president.” All of a sudden, Joe Biden, and Jill, and Beau, and Hunt, and Ashley, and everybody, are all on the stage. I remember David Strauss, who was a Senate chief of staff [to Quentin Burdick, chairman of the Environment and Public Works Committee], and then was in the Clinton administration. I passed him one day in the hall and he said, “Well, you passed the Hi David test.” I said, “What’s that?” He said, “When you see me you say, ‘Hi David.’” All of a sudden you’re an important person. And by the way, you *are* an important person. I never got used to it. In fact, frankly it took me a long time to get used to, after he was elected, that he was actually vice president.

In a strange way, it was even a tougher transition than seeing me as a senator. Clearly, it was a bigger shock that I was a senator than he was vice president. It was a shock to me, I guess seeing him do it, as opposed to not seeing myself do it. I can remember the first time it really finally nailed me. I was in Pakistan—Peshawar—and we went into the U.S. counsel’s office. There on the wall in this not very big counsel’s office, in a rundown building in bad shape, and you walk in the door and there’s a picture

of Barack Obama and a picture of Joe Biden. I said, “Oh, my God, he is really vice president”

I’ve said many times that being a senator was truly historic. I’ve answered the question, “Did you ever dream of becoming a senator?” by saying, “I never dreamed about being a senator. I never thought about being a senator.” I used to give this speech in my class and to groups who asked me if I felt bad about being a staff person—I remember Lynne one time asked me in 1973, “Don’t you feel bad about being behind the scenes?” I said, “No, no, no.” My father, in 1952, when Joe Clark became mayor of Philadelphia, he was one of the people who applied to be commissioner of welfare, and he became deputy commissioner of welfare in charge of children. He had a good friend, Max Silverstein, who was over at the house one time. I said, “Gee, isn’t it a shame that Dad didn’t get to be commissioner?” He said, “No, no, no, Ted, you want to be the number two, don’t be number one.” I’m not sure if that affected my whole life, but I never forgot that. You know, being number two is really good—the analogy I came up with, which fit me perfectly, was volleyball, with strikers and setters. When you look at a good volleyball team, people talk about the strikers, but without a good setter you’re not going to be a good striker. Staff people are basically setters and senators are strikers. I said, “Most good setters are not good strikers, and most good strikers are not good setters.” I felt comfortable with that. I completely revised that after being a senator. I’m absolutely convinced that most chiefs of staff I met would make good senators. Whether senators would make good chiefs of staff, I’m not quite sure, and I have no confidence that most chiefs of staff could win the election.

One of the stories I told the most, when I was in the Senate, was after I had been there for about two or three weeks I got on an elevator after a vote with three other senators, which is what normally happens after a vote. Mel Martinez, a senator from Florida, who later resigned, said, “Ted, tell us, what’s harder, being chief of staff or being senator?” Without even thinking, I said, “Chief of staff.” I could tell right away I had not answered the question properly. So I spent a lot of time thinking about it. I found that senators work harder. They work longer hours than chiefs of staff, although chiefs of staff work long hours. Senators are on call all the time. The media and others do call at home when you’re a chief of staff at eight o’clock or nine o’clock at night, or on Saturdays and Sundays, when they want answers to requests, but it is the senators who have to be on the shows and parades and other appearances on weekends – staff shares the burden. You do shows, and you stay late as a senator for votes. When I was chief of

staff I used to get on the train at 6:30 practically every night. Joe Biden would be there until the Senate finished voting until he got on the train. But senators get a lot of fun things to do. We can get into that later on.

People used to say to me, “It must be great being chief of staff, you have a lot of fun.” I would say, “No, you don’t have a lot of fun. It’s a very difficult job. But you never go home at night wondering what you’re doing with your life.” Being chief of staff was great, and I really do think it was harder. For instance, when I was a senator, I showed up at the wrong place, not any important or big things, but if from some kind of mess-up in scheduling, I showed up at the wrong room (which never happened to me, because my scheduler, Kathy Chung, was absolutely incredible), it wouldn’t bother me that much. So what? But boy, when I was chief of staff, if they had sent Senator Biden to the wrong place, I would have been so upset—not with everybody else, just with myself. There’s a lot more stress.

I remember we were at a meeting one time, this was like 30 years ago, and everybody was introducing themselves. Senator Metzenbaum’s chief of staff got up and introduced himself by saying “my job is to worry.” No one ever described a chief of staff’s job better than that, because it is to worry. If you were chief of staff and you weren’t waking up one or two nights a week staring at the ceiling, you really weren’t doing your job. As a senator, I never once woke up at three o’clock in the morning. And the final piece is I had a wonderful chief of staff, Jeff Connaughton, who I had worked with for many years in different capacities. He went to Alabama and then had an MBA from Chicago, and went to Stanford law school, graduated near the top of his class, was in the White House counsel’s office, and then law and lobbying firms. When he agreed to come to work for me, I put my hands on his shoulders and said, “Jeff, I was chief of staff for 19 years. I don’t want to be chief of staff again.” I used to sit in meetings and Jane Woodfin, my Legislative Director, who had been Joe Biden’s legislative director for years, who I had hired way back when, a smart and wonderful person, when she and Jeff and I many times were sitting around, they’d start talking about something, and I would say, “Oh, oh, chief of staff, I’m out of here,” and I’d get up and walk out of the meeting because I didn’t want to deal with a chief of staff issues.

To go back to the transition, it was a wonderful transition but you had to keep everything beneath the radar. So when I got to the Senate, one of the things that was clear that was wrong with the Senate was the confirmation process. What everybody knew was

that there were a number of things that we should do. If you went back and read the last five reform commissions—every once in a while the Senate decides we’re going to have a reform commission. Adlai Stevenson had one when I first came—Adlai Stevenson III, the son of the presidential candidate, the senator from Illinois. He chaired one of them, and I used to get involved with them every time. One of the things that came up was that senators were on too many committees—we’ll talk about that again, but clearly that had gotten out of hand. It was bad when I left the Senate, it was horrible when I came back, so you had to do something about reducing the number of committees senators served on. They had gotten on to extra committees through waivers, so you had to cut the waivers back.

The second thing you had to do was something about the confirmation process. There were just too many confirmable posts. The Senate spent way too much time on it. Every committee had its questionnaire and its own set of guidelines. Being on the Judiciary Committee, let me tell you something, their form was so long—every time somebody came up with a new idea, it got added to the form. I remember when I went through the confirmation process for the BBG and had to fill out all these forms, I thought, “Oh, my Lord! I knew it was bad but I had no idea it was this bad.” So I knew that was really a bad situation. Max Stier, who heads up an organization for the advancement of federal employees [Partnership for Public Service], had pretty much put together a good program of what should be done. So what I wanted to do was introduce the idea of change in this area and build some credentials on it.

What I decided to do was start out with the Presidential transition, because working on the Obama Biden transition, I found out that the fact that it was all sub rosa made everything difficult. This was true even though people were allowed to go in and meet with government officials, thanks to the Bush administration. Then you hit election day, and you found out that it was crazy to put a whole administration together in such a short time. I tell my students, a lot of them are MBAs and law students, and they have business experience, I say, “You’ve just been hired to run General Motors at its height—only a thousand times bigger—and the day you walk in the front door of the headquarters, your top 2,000 managers walk out the back door. You have to carry on your labor relations, your finance, manufacturing, marketing, everything else, and your top 2,000 employees walk out the back door.” It’s just crazy. You also have to put together all the things you want to do.

So what I decided, in order to start this process, was to introduce a Presidential Transition bill. And I first asked and got very good support from—this is Senate 101—Joe Lieberman and Susan Collins, who were co-chairs of the committee on Homeland Security, which has dealt with this in the past. Then I asked George Voinovich, who served on the committee, and he cosponsored it with me. What I did was write a bill that said that the day after you were nominated by a major party, or by a minor party that reached a certain threshold, kind of the standard rules that are in existence to allow third parties or fourth parties or fifth parties to participate, that the GSA, the General Services Administration, would set up a space in Washington for you to go. You'd be able to get all the security clearances you needed. It would all be public. And you had to set it up. So now no one could criticize a candidate for planning a transition. I got support from John McCain and his people. I got a number of prominent Republicans and Democrats, people around DC, Donna Brazile, Ed Gillespie, Tom Korologos, Tom Mann and Norm Ornstein, John Podesta, just a lot of Democrats and Republicans around town. Ed Gillespie and Donna Brazile wrote an op-ed in *Roll Call* supporting it. Essentially to put in place this system, so the transition could hit the ground running and wouldn't be sub rosa, and therefore you'd be able to put all these things together in advance. Fortunately, it got passed in the Senate, and got passed in the House. It may have been among the last 10 or 12 bills that passed in the 111<sup>th</sup> Congress. It was great to write a bill and have it pass.

As I was saying earlier, it was historic being a senator, but I really felt at the time that the most historic thing that happened to me, probably in my life, was that just two or three days after the election of Barack Obama, I got on an airplane with Mark Gitenstein and Joe Biden and on November 5<sup>th</sup> and flew to Chicago, Illinois, and sat down with Barack Obama, Joe Biden, Mark Gitenstein, John Podesta, Pete Rouse, Valerie Jarrett, Jim Massina, David Axelrod, and Rahm Emanuel—just those people—and began to plan the Obama administration. I mean, I had to pinch myself. I thought this could be an incredibly important administration. We had run on change, and we were going to have critical change. The idea to be able to sit with them and talk about who the cabinet secretaries should be, what our economic policies should be, and what the priorities should be for the administration. I went out there, I guess, for four meetings. The last one was on November 19<sup>th</sup>, because right after that I was selected by Governor Ruth Ann Minner, who said she was going to nominate me. So at that point I stepped off the committee. But it was a remarkable, historical, incredible situation to be sitting in a room with eight or ten people and planning the Obama administration.

**RITCHIE:** What is the role of the vice president when a president is setting up an administration? How much does the vice president get to suggest? Does he get an area to work on or does he talk about things in general?

**KAUFMAN:** Well, we could probably spend a whole day on this, because the more I got into it, the more I found out about it, and the more I began to realize. The shorthand is that it varies. Every president can do it any way that president wants to. It's been done all kinds of different ways. You can tell from those names, Rahm Emanuel and John Podesta were involved in the Clinton administration, and the difference between the way Clinton did it and the way Obama did it was quite striking, based on their personalities and their modus operandi, and the way they do things. One of the things, again, having experienced in Washington, the vice president-elect had, when he met with Obama in Minnesota, and said, "Clearly, we don't know how this is all going to work out, but I just want to know that I'm going to be in the room when you make the important decisions, and I'm the last person in the room before you make the decision." Obama honored that every which way. That's really the key to how this one worked.

The vice president, I think it's been demonstrated, has had a very important role. I think it was unusual that the president would have a meeting to make these decisions and would invite the vice president—not only the vice president but have the vice president bring two of his staff people to the meeting. We were treated as total equals, Mark Gitenstein and I. Now, there's a separate question, and I'll just do shorthand on this, and that is: What is the role of the vice president? I've done a number of press interviews on this. About two years into the administration in 2010 they'd say, "Well, Ted, the vice president said that he was going to be this, that, and the other thing, but now his role is this and what do you think about that?" I said, "Well, if you want to go back and compare his role now and his role then, that's fine, but you've got to remember that his role back then is very difficult to articulate, because outside of "the last person in the room," what happens in any administration—now that I've been through this it's easier for me to see, I'm sure it's the same way in a corporation—is the president comes in and the first question you have to answer is: What's the role of the president? Then you pick the role of the vice president. Like the CEO comes in: What's the role of the CEO? Then, what's the role of the vice president for manufacturing? Barack Obama had a lot of experience in a lot of different things. What were the things that he was going to want to do himself? And then what was he going to pass off to the vice president, based on his and the vice president's talents.

In those early discussions, I said to the vice president-elect that I was absolutely convinced that he would have an incredibly busy vice presidency. First off, there were so many issues on the table that the president had to, and would, delegate a great deal. So you're not in a presidency where the president can handle all these things. Like Barack Obama knew a lot about foreign relations, he was on the Foreign Relations Committee, but I thought, "He's going to want Joe Biden to do a lot of foreign policy." But that wasn't clear at the beginning. So when you're vice president and people ask you what's your role going to be, one of the things you can decide is institutional. A big institutional decision the vice president made, after talking to a lot of people and studying history, is "I'm not going to have a portfolio." Al Gore had a portfolio. A number of vice presidents had a portfolio. He said, "I do not want a portfolio." And I think that was smart. He had so many interests and so many talents that to lock himself in—like Gore took Russia and then Reinventing Government. What Joe Biden said, "Look, if there's a project, put me into the project, but I want the project to end." Because there may be something coming up that's more important.

Really, when determining what the VP should be doing at any time you've got to use the old economic term that is what is the "highest and best use," for Joe Biden. After the president picks his priorities, you're going to want Joe Biden working on the next highest priority, the best use of his time at any particular time. We met with a number of vice presidential scholars. My basic approach, and you can ask the vice president about this, ever since I was on the staff, we'd sit down and do scheduling at the beginning of the year. I'd say, "The problem is not what we are going to do, the problem is what we are not going to do." When you're Joe Biden, as his committee assignments grew, there were so many things he could do. I would say, "We should brainstorm." The fun part is planning all the things you could do, which is what we did. But I said, "The hard work in this is selecting what you don't do, because if you try to do all these things that you're good at you're stretched too far.

In the discussions with the vice presidential scholars, we started talking about foreign policy, and one of the scholars said, "Oh, foreign policy, you know every world leader. You've been doing this for 35 years." I happen to think that Joe Biden knows more about foreign policy than anyone else, period. He went on the committee in 1976 and he literally has met with every world leader—and when they weren't leaders. He used to travel to the North American Alliance, where all the parliamentarians from around NATO would come. He's been through so many issues, he knows so much about



what's going on. So we talked about it, and this one vice presidential scholar said, "You should do nothing but foreign policy. With all the credentials and experience you have, you should do nothing but foreign policy." So then a little bit later we were talking about congressional relations and the lame duck sessions. "Oh, congressional relations, not only do you know everybody in the Senate, you know Nancy Pelosi and John Boehner. You should spend all of your time doing congressional relations." Then he did such a good job on the stimulus bill, he dealt with governors and mayors, plus he settled a bureaucratic food fight in the administration at one point and the president said to him, "Hey, would you go talk to the people involved and straighten this out?" which he did.

I said, "What you have to do is really simple to me." I'm an engineer and that's how I approach things, an engineer and an economist, where the two of them cross. "You've got to figure out what's the highest and best use of Joe Biden today" Or next week, something like that. Maybe going to Iraq is the best thing he should be doing." I can remember during the lame duck session, he went to Iraq and there was criticism that he wasn't back doing the lame duck problem because he was in Iraq. All he was trying to do in Iraq was end the war and bring our troops home, and Joe Biden knew all the sides. He knows the head of the Kurds, Jalal Talabani. He knows Prime Minister [Nouri al-] Maliki. He knows the Sunni leaders. He knows all the players, and they all trust him. They're all on the record as saying how much they trust Vice President Biden. The same thing in Afghanistan. So in the end, those meetings on what he did as vice president came down to, "I'm the last person in the room. I want to be there when the decisions are made. And no portfolio." That's pretty much the way it's worked out.

**RITCHIE:** While you were still on the transition team, before you had been appointed to the Senate, were you thinking about joining the administration, taking a job with Vice President Biden or somewhere else in the administration?

**KAUFMAN:** No, I was not. This again could be a long story, but it's essentially all the reasons I talked about when I left Joe Biden's office. I wanted to spend more time with my family. I wanted to have a series of jobs, a bunch of pieces that I could do for the rest of my life. I did not want to retire. I didn't want to stop and just spend time with my family, and play golf and tennis, and read books, which is good and a very important part about what I was doing till the day I died, and the ratios changed. With seven grandchildren, there's more family to see. Plus my three youngest are in London, the next two are in Detroit, and the two oldest are in Washington. Those are the grandchildren not

counting the children. So I wanted to have more time for family, and I think there are different stages in life. There's a time when you get more contemplative. As I said earlier, I wanted to get away from administrative work. I didn't want to work for somebody else. So I put together this wonderful model for my life and it was moving along just well, and I was not interested in going back to working 65 hours a week, or more. Not because I didn't want to work but because this was what I was doing and I was perfectly satisfied. So I was *not* going to go to work in the administration.

It's hard to explain this to people. You can explain it to people who are older, but it's very hard to explain to others who have this view that everybody in politics is just super-ambitious and would run over their grandmother in a car. It's hard for them to believe otherwise. The whole time I was in the Senate there were people who couldn't believe that I didn't want to run for reelection. It took them a while to figure out that I was serious. I wasn't going to run for reelection. I didn't want to run. I didn't want to serve beyond the two years. So I did not, and would not, take a job in the administration.

Then one night we were flying back from Chicago and Vice President Biden's son Hunter, his children are special to me, as special as they can get when they're not blood. Joe Biden always says "Blood of my blood." It's hard to believe sometimes that they're not blood of my blood, but they're wonderful young people. I hold them in the highest regard, and would do anything for them, Beau, Hunter and Ashley. Anyway, Hunter is riding back with the vice president and Mark and me, in the plane, and we started talking about who was going to take his place in the Senate. There were a number of names floating around. Hunter said, "Why not Ted?" He said all sorts of nice things about me, that I could hit the ground running, and the senators knew me. My initial response was oh, no. I wasn't taking a job in the administration; I knew the answer to that question. Being senator, that takes a lot of time and I had a lot of concerns about it. But I went home and started talking it over with Lynne.

I just had a lot of concerns. One was going back and changing my life the way it was. The problem with that was pretty quickly I was facing the same situation that Joe Biden was faced with. How do you look in the mirror and say you're not going to be something like this, because you've got a better life and you want to spend more time with your family. That's where he came out, and that's where I came out. But I also had a bunch of other concerns about being a senator. First off, I believe in the spikers and setters analogy I talked about earlier. I was a setter, not a spiker. When I had been a staff

person I really did not like talking to the media. As a senator I would have to do a lot of that, and that's not what I wanted to do. I was commuting to Washington, but if I got a place in Washington I'd lose connection with my friends back home. Just a whole bunch of things.

But, in the end, because of the fact that I'm hard wired for public service—I think I've already talked about this, but it's kind of key to how I view the world. I tell young people that we're all hard wired on a continuum with Gordon Gecko at one end and Mother Theresa at the other end. I had learned through my life that I was more towards the Mother Theresa end, that's the way it was, that's how I was hard wired. I went through business school and the rest of that but clearly trying to make a difference in my life outweighed other concerns. What it basically came to was the vice president-elect said, "Ruth Ann is going to call me. Do I tell her that you would be an excellent choice?" In the end, I said yes.

On November 21<sup>st</sup>—I remember the date—Lynne and I had packed our bags. We were going to London where my daughter, Meg, her husband, Tom and my three youngest grandchildren Calvin, Martha, and Lincoln live. Meg always points out to me that I sometimes leave her off, and just mention the grandchildren. But we were going to London. We had our bags packed. We were getting ready to go to the airport to fly to London for Thanksgiving. A large part of our luggage was filled with Thanksgiving things, because obviously they don't celebrate Thanksgiving in England. We make a constant effort to remind our grandchildren—a greatly failing effort—to remind our grandchildren that they are half American. The telephone rings, and it's Ruth Ann Minner, the governor.

I talked to you earlier about how well I knew Ruth Ann. I had known Ruth Ann for years, ever since she was the outside reception for Governor Sherman Tribbitt, and I had worked on her transition when she became governor. She called and said, "Ted, I've put a lot of thought into it, and I've thought of a lot of people, but I think you would really be the best choice. I'd like to ask you if it's okay if I nominate you for Senator Biden's seat?" I said that I already knew the answer for me. I thanked her and I said, "Sure, that's great, Ruth Ann, I really appreciate it," and all those things. I had always had a great relationship with Ruth Ann. And then I said, "But we're going to go to England for Thanksgiving. We'll be back in a week. Can we wait and announce it then?" She said, "Oh, fine, whenever you want to do it, that's fine. We'll hold off until you get

back from England.” I then called the vice president-elect and told him about the governor’s call, and there’s silence on the other end of the line.

I’ve got to give a little background to this. Joe Biden and I had worked together for years, and I think he’ll say, and I can say that we rarely approached a new problem the same way. It was different sides of the brain: me being an engineer and him being a lawyer. But the vast majority of times we ended up in the same place. The other thing was, I am an engineer and a business school graduate. My greatest happiness comes in putting together a plan for the next two weeks, two months, two years, and then implementing the plans step by step as we go along. I mean, I’m open to changes, and I say that nothing’s cast in stone, but putting all the dominos out there and watching them fall down just makes me feel good. Joe Biden is someone who every moment of every day is trying to figure out: Is this the best use of my time? Now, I realize that he’s locked into some things, but I’ll never forget during one of his campaigns, we were distributing these brochures. It took us a long time to write these brochures. If you ever see them, they are very well written, very well done. I didn’t have anything to do with writing them, so I can say that, but Valerie and Joe Biden, really wrote them. They’re fabulous. They’re funny and they’re on point, and they took a long time to write. Then we had to rent a truck and have someone drive to New Jersey to get 180,000, and bring them back, and we’d have all the volunteers ready to distribute them around the state. I think this was the 78 or 84 campaign, but we did this in every campaign, at least the first three or four campaigns. So the truck was up there, it picked up the paper, it was coming back, we had people all lined up to come into headquarters from all over the state to pick up the brochures, and Joe Biden called Valerie and me and said, “I don’t think we should distribute this.” It was like, “What? I don’t believe this.” He said, “There’s no point in putting it out. It was great when we wrote it, but things have changed and that’s not the priority now, and we should just not distribute it.” Boy, it just threw me for a loop. But we didn’t distribute it, and he was absolutely, totally right. One of the great things I learned from Joe Biden was to temper the dominos instinct and think more about taking each decision separately and checking it out. It was one of the many big things that I learned from him, and it’s really helped me in my life.

Anyway, there’s silence on the other end of the phone. Then Joe Biden said, “Ted, I know you’re scheduled to go to England for Thanksgiving, but do you really want this to hang around for 10 days? Do you really think it will stay a secret for 10 days? Do you think you ought to put off your trip to England and maybe what you ought

to do is have a press conference this Monday?" I thought for just a second and said, "As usual, you're absolutely right on this." [Laughs] "You put your finger on it, I do not want to wait on this thing." So I called Ruth Ann back and said, "Ruth Ann, we ought to do it this Monday." I could hear the sigh of relief on the other end of the line, "Oh, thank God!" [Laughs] So Lynne got on a plane and went to England before Thanksgiving and I stayed around. We didn't do it on Monday, I can't remember what it was but some big story came up and we didn't do it Monday. As I remember it, we did it on Tuesday.

There's one other humorous sidelights. I was home all alone. When you're home all alone at night you can think of all kinds of things. On Saturday night, I think it was, I woke up at five o'clock in the morning and thought, "I can't do this. The media's going to be a problem. I've never done this before. There's going to be incredible pressure on me. There's going to be all kinds of things I'm supposed to know. I've seen how different it was to be a senator, and I really don't think that staff can make good senators." And so on and so on. I called Lynne, because it was later in the morning there. I said, "I just can't do this. I've got to call Ruth Ann back and tell her I can't do it. I'm not a public person, I'm a private person. I can't do it." I called Lynne in London and started to go through it. She called my daughter Meg and said, "Meg, get on the phone, you've got to talk to your father." Meg is my youngest, my three daughters are wonderful and I go to them for advice all the time. It took a couple of minutes for Meg to get to the phone, she got on and said, "What's going on?" Both her mother and she talked me down off the ledge.

So everything passed and a week later I was in England. I had been there for a while, and finally Meg and I were alone one time. She said, "Dad, I've got to tell you this." I said, "What's that?" She said, "When Mom called me and said 'Your father wants to back out.'" She said, "I thought, oh my God, he is having an affair!" [Laughs] I thought, oh, yeah, right, life is simple. The other thing that was great about it was my youngest grandson, who was then about one and a half and just talking, when the whole thing went on. It was on CNN and on the news even in England. I was doing a press conference. His name is Lincoln, and Lincoln looked at it for a minute and then he went around the back of the TV looking for me, which is a standard thing with young people.

So okay, I'm going to do it. We're going to have a press conference. All of a sudden I start focusing on the press conference, and I'm thinking, "Wow, press conferences, they can ask me anything!" Fortunately, Margaret Aiken, who had been

Senator Biden's press secretary, and Alexander Snyder-Mackler, who was his press secretary, and my communications director, sat down with me and went through everything, which really helped. And then it was wonderful, my other two daughters, Kelly drove up from Baltimore, Murry flew in from Detroit to be with me, and my granddaughter Ginna, who was at the University of Pennsylvania came in from Penn, so I had all this support group.

But it was truly scary for several reasons. One is they can ask you questions about anything in your background or history, and it's on the air. I had never done a press conference before that I can think of, and I definitely had not done a press conference where there were so many cameras in the room. We were just getting into the You Tube generation, so you make a mistake to television and it goes viral on the Internet. It's totally different than making a mistake five years or ten years previously. One of my favorite sayings is there's nothing like the prospect of hanging to concentrate the mind. I was thinking: They could ask me just about anything! When I look at Caroline Kennedy's short senate campaign in New York, I look at the Quayle campaign, I look at the Palin campaign, I just don't know how people make the decision to do a job and then have a press conference when they know so little about what they're talking about. And then everybody's so surprised. I mean, Caroline Kennedy, I've met her, she's a wonderful human being, but to ask her to get up in front of a camera and deal with all the issues you have to deal with as a United States Senate candidate, or Sarah Palin as a vice presidential candidate, or even Dan Quayle, that disaster. So I knew how bad it could be, but fortunately I had a lot of help from people and a lot of support from friends who came down to the news conference.

And Ruth Ann was great. Another one of my concerns, just to give you an example of the kind of things that you think about when you're going into one of these things, here she was going to say, which was true, was that my biggest strength was being able to hit the ground running; nobody knows the Senate any better than Ted Kaufman; I had taught about it for 20 years; I had been there at work for 20 years; he's an ideal selection. When you're looking at it from a governor's standpoint, what would you rather have in Washington, for you personally? Would you rather have somebody who really knew what they were doing, could help Delaware, knew who to talk to about getting appropriations, or somebody who's new and has to learn the game? In Ruth Ann's case, by the time that person learns, Ruth Ann's going to be out of office. So there were a lot of practical reasons why it made sense to pick me. That was good. It was a

good storyline, and it overwhelmed the other line, which was: He's just getting picked because he's a friend of the vice president's. That was expressed in some of the early stories but died out quickly, thank God, because I think people began to believe the second story, which was I knew what I was doing.

“Hit the ground running” was based on the idea that “he’s worked in the Senate for 22 years and he knows a lot of senators.” But remember, I had left the Senate in 1995 and there had been a lot of turnover between 1995 and 2008, a lot of turnover. Just the value of sitting with people and talking about it—in this case this was something I came up with on my own—but you go through “What do I say about this?” “What do I say if they ask that?” and having people help me with that. So I came up with the answer to “Do you know all of the senators?” My answer would be, “No, you know there’s been a lot turnover in the Senate, and there are a lot of senators I frankly don’t know. I’m looking forward to meeting them, because they look like they’re good people. But one of the advantages is that among the senators I do know, I know Senator Pat Leahy, who is chairman of the Judiciary Committee, I know Senator John Kerry, who is chairman of the Foreign Relations Committee, and I know Senator Inouye, who is chairman of the Appropriations Committee, Senator Baucus, who is chairman of the Finance Committee, and that will be a big help.” Which was absolutely, totally true, and turned out to be even much truer than I even believed. All of those, and a bunch of others, were so incredibly good to me, not counting all the staff that helped—“One of our guys made it.” It was great.

**RITCHIE:** I’d like to go back to that press conference. What was it like facing the press? How well did they treat the story?

**KAUFMAN:** Oh, the story, they treated it very well. There was some of this “this is a deal.” There was this whole idea that Beau Biden was going to run. I had told Ruth Ann when she called that, “I will not run for reelection. Two years is great.” And the reason I wouldn’t run—after I was there I had a lot of kind people come up to me saying, “You’re doing a great job. Why don’t you run?” I was fortunate that most of the comments were positive. Some had the idea was that I was really a stalking horse for Beau Biden, and that I wasn’t going to run so he could do it, which totally was not the case. I said I wasn’t going to run. That story died when Beau Biden announced he wasn’t running. Everybody came to me and said, “Oh, you’re going to run now.” I said, “No. Did you listen to what I said?” I was just not running. My colleagues were great. Harry

Reid called me and said, “I know you said you weren’t going to run, but would you reconsider it?” I said, “No, Harry, I’m not running.” People on street and other senators said the same thing.

So I announced that I wasn’t going to run. But the story was a good story. Very quickly the story went to “hit the ground running.” Here’s a guy who the day he starts is going to do it. It was easy for me to decide not to run for reelection. I think I said earlier about my discussion with Roland Burris, when he was making his consideration, after I made mine. I said, “You can either spend two years with 65 percent of your time running for election, not just money but organization and things like that, or you cannot run and spend two years as a United States senator.” It was the easiest decision I ever made. I’d like to claim credit that it was a tough decision and I made the right decision, but it was a no-brainer to announce that I wasn’t going to run.

Now, that being said, the press conference turned out very, very well. I was thrown a whole bunch of soft balls. I wasn’t asked any tough questions. We have a thing in my family—we’re all worriers to a certain extent—sometimes one of us “catastrophizes,” which is the ultimate obsession. Take some little subject and the next thing you make it into a catastrophe. So despite my worrying it went very well. One of the things I found out, one of the biggest surprises of this whole process, and I’m always semi-embarrassed when I say it, but it’s so true, I had not liked talking to the media at all. I had avoided talking to the media all the time when I worked for Joe Biden. I dreaded it. And then I became senator and did this press conference, and TV shows, and I loved it. It was the biggest surprise. It’s really quite simple, it didn’t take me long to figure it out, but when I was working for Joe Biden, if I screwed up, I screwed up Joe Biden. When I was senator, if I screwed up, I screwed myself up. And I was at a point in my life where you’re very philosophical about what you’re doing. So it really didn’t bother me. But it was great from the standpoint of doing media because I’m a very competitive person. The opportunity to put my ideas out there and find the best way to put them out there, and being successful, which I was, fortunately, for a lot of reasons—a lot of it was just the times, and what I was, and what my strengths were, and what people were looking for, so I came off in these things very well.

What I learned was when you’re standing in front of a TV camera, you really think hard. I went on a lot of TV shows, and I don’t think there was one of them that I didn’t come out without having a greater insight into the subject matter than I had going



in. Again, back to my saying that the prospect of hanging concentrates the mind, when you're on television these days, you know that you say something wrong you'll be on the YouTube hit parade, so it really does concentrate the mind. But I never once was nervous. I really enjoyed it. I looked forward to it. I can remember, it was really funny, when I was younger and on the Senate staff, the high point of a senator's life was to get on *Sixty Minutes*. That was really a big deal. In 2010, *Sixty Minutes* did a show on high-frequency trading, which I had been talking about a lot, and I'm on the show. I got a lot of comments after being on *Sixty Minutes*.

Later on in the fall of 2010—this is the truth—some of my grandchildren came to me and said, “Well, Pop Pop, we know you're important but you've never been on *The Daily Show*.” I said, “But I've been on *Sixty Minutes* and I've done all these other shows.” “Yeah, Pop Pop, but you've never been on *The Daily Show*.” So many good things happened to me over which I had no control. *The Daily Show* decided that I should be on the show [October 26, 2010]. You go to the show, and you go early. I'm there about an hour and a half before the show starts. I'm in the green room with Jeff Connaughton, my chief of staff, and Lynne was there, and Amy Dudley, who was the press secretary, and we are there for a long time. The way the show works, Jon Stewart comes down—and they told me this beforehand—and spends five minutes talking to you. He only had one guest a night, which I never focused on. It's a half hour show, so it's not like he has to do a whole lot of preparations. Just based on the questions the producer asked our press secretary, they put together this thick book. Jon Stewart looks at it, I'm sure, and then comes down and talks to the person and figures out what's the show going to be about.

He was great to me, and I enjoyed doing it. The big thing was, an hour and a half before and then on the show, never once was I nervous. I was amazed. If anybody had told me two years before that, I would have thought I'd be petrified, because *The Daily Show* is a tough show. It's not just getting on and making your arguments like on other shows. It's a funny show. I had seen very, very good senators not do well on some of these shows. Joe Biden always did well, but Joe Biden is Joe Biden, and I'm not Joe Biden. I was also concerned that basically there are a lot of negative feelings about the Senate and the Congress, which there should be, going back to the fact that people should be skeptical about the Congress, but they shouldn't be cynical. Well, Jon Stewart and *The Daily Show* are many times cynical. When he came in to meet with me, he said, “Washington is just a terrible place. All these things are going on.” I can't argue with

that, but I said, “You know, Jon, you’re absolutely right. There’s only one place worse.” He said, “What’s that?” I said, “In New York, it’s called Wall Street.” He said, “You’re absolutely right.”

My big worry was they were going to start attacking the Senate to be funny. I love the Senate. I think the Founders knew what they were doing when they created the Senate. I think what makes our democracy great is the Senate. I think, with the filibuster, the idea that you protect political minorities is the key to America. For years people have been saying, “take democracy around the world.” They say, “democracy is about elections.’ Democracy is not about elections, elections are about majorities. What makes us great is the protection of minorities, and not just racial, ethnic, religious minorities but political minorities. In many countries, somebody takes over, Hamas takes over and just *crushes* everybody else. The same thing has happened to a certain extent in Iraq and Afghanistan. You win an election and then you rule. We’re about the protection of political minorities, and the best protection of political minorities is the Senate with the filibuster. You’ve got to get 60 votes and the political minority can stop things unless you deal with them.

Well, that’s a pretty esoteric argument to be making on *The Daily Show*. I didn’t want to get into an attack, but it worked out very well. I’m sure there are people who love Jon Stewart and hate Jon Stewart, but he is really an extraordinary individual. It’s just like I have a friend, Norm Pattiz, who is very big in radio broadcasting. He said, “Rush Limbaugh is in a class by himself—as an entertainer.” I don’t agree with Rush Limbaugh on anything, but this guy really knows his stuff. He said, “All the rest of them are okay, but Rush Limbaugh is in a class by himself as an attraction.” He’s the one who got conservative radio going, not conservative ideas, because this guy is so incredible. I think that’s true, and I think the reason *The Daily Show* has been so successful is because of Jon Stewart. Now, I got a chance to meet with the writers and all the people on the show. They were great too. But this is a long way to get to the point that it was a big surprise. I never thought that I would go on a show like *The Daily Show*, that it would come out okay, and that I would so totally enjoy it.

The other point was that it is totally remarkable how many people watch *The Daily Show*. The number of people who came up to me on the street, not counting friends and family, who said, “I saw you on *The Daily Show*,” was much higher than *Sixty Minutes*. Anyway, those were my concerns, and a big negative turned out to be a big

positive.

**RITCHIE:** There are some in political life, Sarah Palin comes to mind, who complained about the press and their “gotcha” moments. Did you ever have problems with the press in that regard?

**KAUFMAN:** You know, when I talk about the big surprises of being a senator, one of them was—it’s hard sometimes to explain it—but never in my wildest dreams thought that I would make it through two years as a senator of the United States and not have some issue which really engendered bad feelings from a sizeable proportion of people in Delaware. I never thought that would happen. Joe Biden was incredibly popular in Delaware but there were times, like when we went through the Panama Canal Treaty, when it was just a horror and there was a big chunk of people who were upset that he was voting for the treaty. Now, people say healthcare reform, and in Delaware healthcare reform was a big issue. But I talked to everybody and I never had people coming up to me in the streets, like they had occasionally when I was chief of staff, saying, “Why are you doing this?”

A big issue that could have been negative for me was credit card reform. There was a major credit card bill that was passed, and I had some concerns. Credit card companies are probably the major private employer in Delaware, so I was concerned about that, being from Delaware. That affected 25,000, 30,000 people. But there’s 600,000 people who have credit cards. So assuming that I would be for the credit card bill because we’ve got credit card companies in Delaware, even my representative function, talking about being a representative or trustee and what’s best for the country, I wasn’t quite sure that not having major reform of credit cards, so these 600,000 people didn’t have to pay these incredible late charges and have their interest rates change, I wasn’t quite sure that was going to work out. So I thought that I might have a real problem. I thought there well could be a credit card bill that I would vote against, which could make a lot of people in Delaware unhappy. Fortunately for me, the Federal Reserve came up with a whole program on what we should be doing. It was excellent. The credit card companies decided: We can’t beat this, so we might as well join it. So the credit card bill turned out to be an easy bill.

I was surprised by the fact that it was a very positive and smooth time for me. The vast majority of people were very positive about what I was doing—I would be hard

pressed to come up with an exception—I was down at the state fair and I went by the Republican booth, and there was a very conservative woman there who lambasted me. But I did not have people come up to me on the street to protest. I spent practically every weekend in Delaware, I was in Delaware a lot, and I didn't have people come up to me on the street saying, "Why did you do this?" really about anything I had done, which was another gigantic surprise to me.

So there wasn't anything that came up that the media went after me on. I think the media, nationally, and locally, and regionally, on the issues that came up, the financial issues, the foreign policy issues, the judicial issues, all the issues that I dealt with, there wasn't really anything negative. I had no negative stories, if you read my press for those two years. The vice president used to call me and say, "What in the hell is going on? I've never seen press coverage like this!" If I had bet I would have lost a fortune, because I would have bet there's going to be a period where the press is going to be on me and this is going to be negative. What happens with the modern press more and more is that a reporter will start with a hypothesis. They're so busy in so many areas, and there are so many complex areas, that most press people start with a hypothesis. And then, unfortunately, they gather primarily the data that supports this hypothesis, because "I've got to get this story written." So if you tell them something that doesn't fit their storyline, they don't want to put it in there because that opens up a whole bunch of different questions. I think the national press, to the extent that they were interested in me at all, and the regional press and local press kind of bought into the fact that I knew what I was talking about. I didn't say things that I hadn't thought through or that weren't thoughtful. The mix of issues that we dealt with during those two years were not issues that I didn't know what I was talking about. So I got, really, a free ride in terms of coverage.

**RITCHIE:** My sense of the press is that they're looking for somebody who can provide reliable information, and when they find somebody who does, they like to call back. So if you have a reputation in Washington as a good source of information, that stands you well.

**KAUFMAN:** Yes, that's true, but the other side of it is that, having taught the course and studied the media, if you look at the coverage they would much rather cover scandal. They would much rather cover personality, like *People* magazine. I remember, Joe Biden was in *People* magazine and I never had so many comments about him. So many people said, "I was in the doctor's office and I saw that story about Joe Biden in

*People* magazine.” Or, “I was on an airplane.” Nobody every subscribed to *People* magazine that I ever met. It was always I read it somewhere else. But that’s the area where people want to burrow in on. And they do have a very negative perception of members of Congress. They think members of Congress do bad things. So you’re running counter to what’s out there if you are positive about a member. So I don’t rate this to me, I rate this to an incredibly fortunate series of circumstances.

And you’re right, I know reporters call you because you’re the historian and they want to get the facts. Lots of press people say—I remember sitting in a meeting, Joe Lieberman and Lamar Alexander had a bipartisan breakfast group (we stopped meeting during healthcare). But for the first several months I used to go to it, and we started talking about what we should do about reconciliation with healthcare and the rest of it. They had brought the parliamentarian back—he had been there earlier.

**RITCHIE:** Bob Dove?

**KAUFMAN:** I can’t remember, a big beard?

**RITCHIE:** That’s Bob.

**KAUFMAN:** Yeah, Bob Dove. So we’re sitting there. There’s 12 senators in the room and we’re talking about the Budget Act, and there’s only two people in the room who were around when that passed, Bob Dove and me. So many times at the elevators, or at votes, or on the train, or at calls, the press would call me and ask me, “How does this compare with that?” “What did this do?” “How did that work?” So that part, you’re right, I think people thought I knew what I was talking about. That is always a good thing to have when you’re talking to a press person. They say, “Oh, yeah, Kaufman knows what he’s talking about.” I would like to think that after 22 years on the Senate staff and over 20 years teaching about it that I would know what I was talking about.

**RITCHIE:** Was there much difference between the Delaware press and the national press, in the types of things they were interested in?

**KAUFMAN:** No, not really. What we have now, which is a big change from ’73, is if you read a newspaper in Atlanta, Georgia, it would be a very different one from one in Washington, D.C., or Seattle. At the Newseum, in Washington, you can walk by and

see the front pages of all the papers and it's amazing how similar all the papers are. A lot of it obviously is driven by television. There's a woman, Elaine Povich, who wrote a wonderful book on Congress and the media. The last time I talked to her she was working at *Newsday*. She pointed out that the days are done when people would get up in the morning and look at the headline on their morning newspaper and say, "Oh, my God! Harry, we've declared war!" Those kinds of stories, like sports stories, when you write a newspaper sports story you assume that the people picking up the newspaper have already heard on radio or television what the results of the baseball game or the football game was and so you have to do analysis. So the questions that Nicole Gaudiano, who covered me for the [Wilmington] *News Journal*, asked, and people from the national media asked, really weren't very different. You didn't have to have two different stories. For that matter, when I was downstate, and I met with the downstate papers, the *Delaware State News*, and the *Coastal Press*, and the others—I don't want to leave anyone out—the papers and the media groups, WBOC-TV out of Salisbury, WDEL and WILM radio stations. They are very informed, and they're asking the same questions.

**RITCHIE:** One of the big stories at that time was about appointed senators, because there were so many coming in at once.

**KAUFMAN:** Yes.

**RITCHIE:** You were appointed for two years, and I think you expressed some sentiment that maybe special elections might be better. Have you thought more about that whole issue?

**KAUFMAN:** Yes, it's a good point. I came and said, when they asked me about it, that always it's better to have elected officials than appointed officials. Appointed officials are great for a lot of positions, but I think for senators, and representatives, and governors, mayors, that really it's better to have democracy, to have the people elect them. I thought that probably a special election would be better. And I still think that, but I would not sign on—I remember Senator [Russ] Feingold had a constitutional amendment to make this happen. We should leave appointment process up to the states. That's clearly something the states can make decisions on.

I did kind of change my position slightly. I was replaced by Chris Coons, who is very smart. But he had just finished a gigantic Senate race with Christine O'Donnell. I

understand there was more coverage of that than any other race in the country in 2010. He's elected, and then 10 days later he becomes a United States senator. He's done a great job, but I look at some of the appointed senators who only served for two years, and I don't know if the electorate isn't better served by picking an appointed senator. Paul Kirk, for instance, who was picked to fill out Kennedy's seat, it wouldn't have been at all bad if Paul Kirk had served two years. George LeMieux came in [to fill a Senate seat from Florida]. I'm not sure that if the governors choose wisely—and again this is self-serving—but I think you could pick someone who knows what they're doing in Washington, I think Paul Kirk in my experience comes to mind as someone who knew what he was doing when he showed up. For two years it might not be better having the governor select.

So I started out being very much in favor of having democracy pick the officials, but I'm not so sure that with two years it might not be better to have the governors pick someone who hits the ground running, is experienced, can concentrate on serving. And then Kirsten Gillibrand and Michael Bennet, both of who ran for election, did great jobs as interim United States senators. I do lean more towards appointees serving for two years and then not running, for all the arguments I've said before. I made a personal decision but it's good for society. Again, looking at Michael Bennet and Kirsten Gillibrand, who I think are going to be great senators, you've got to think that through, too.

**RITCHIE:** Well, with a state like Delaware it's also a little easier to have a special election than a state like California.

**KAUFMAN:** Yes, but my problem with a special election, even in Delaware, is that you have a special election, you put someone through a campaign, and then you throw them right into office. Probably, if they've gone through a special election they're going to run for reelection. Personally, I would not go through a special election with the idea that I was just going to serve for two years. You're going to weed out the field, so only people who are going to serve longer would run, which is not necessarily a good way to weed out. Then they do this campaign and bang they're in the Senate. I know what you're saying, California would be impossible, and Illinois and Florida, but even in states like Delaware, and Rhode Island, and Wyoming, I'm not sure it's a good idea.

**RITCHIE:** Even in those states, a special election would probably bring out a

very small percentage of the registered voters.

**KAUFMAN:** Oh, yes, although in small states, picking a United States senator is a big deal. But you would get a much smaller turnout, just like you get a smaller turnout in elections held in non-presidential years.

**RITCHIE:** Historically, a lot of governors have chosen to pick people who weren't going to run, in part so that would leave an open race for the nomination. That way they don't have to choose among the major players in their state. Someone once said that when governors make a choice they make one person happy and a lot of people unhappy.

**KAUFMAN:** Well, there's Napoleon's rule, which I found to be absolutely true, about patronage. According to Napoleon for every appointment you make nine people unhappy and create one ingrate. I hope Ruth Ann doesn't think of me as an ingrate, but based on my experience of appointments that have been made—not by Senator Biden, because he didn't make that many appointees—but having watched the scene and seen appointees, not only are a lot of people unhappy but you've got a lot of incredible ingrates, people who were not happy with the appointing authority.

**RITCHIE:** Well, you've been appointed and you walk into the U.S. Senate as a senator, after 19 years as a chief of staff, 22 years on the staff, what was it like that first day?

**KAUFMAN:** It was really extraordinary. What happened was we put together the swearing in and we were going to have a party. Lynne and I went down to Washington for the swearing in. Senator Biden had resigned from the Senate but he had not yet become vice president, so Dick Cheney presided over the Senate. Joe Biden and Tom Carper came to my swearing in and marched down the aisle with me, and I was sworn in. It was running late and I had a sizeable group of my D.C. friends and my Delaware friends waiting for me to come to the [re-enactment for photographers and guests of the] swearing in.

After it was finished, I was standing in the back of the Senate Chamber trying to figure out how to get out. Again, once more Senator Biden was in the moment and I'm thinking down the road. Senator Carper was speaking and I started to leave. The vice president grabbed my arm and said, "Ted, you can't leave while Senator Carper is



speaking.” And I know right away [snaps fingers], instantaneously, he’s absolutely right. So I listened to Senator Carper and remember, I had never spoken on the floor. The vice president elects grabs me and whispers, “Ted, when he finishes, pick up the microphone, right here” on one of the desks in the back “and say something nice about Senator Carper.” So Senator Carper finished and a lot of my friends and family are still in the gallery, because they’re not going to go down to the room—but the room’s full—until they see that I’m going to be there. So I picked up the microphone and said some nice things about Senator Carper, who is a wonderful United States senator, I could not have served with anybody better, who was so supportive every step of the way, and who’s such a good person. And I was so glad that the vice president was there. Then I went down and everyone is commenting, “Boy, you really looked like you knew what you were doing on the floor.” I said, “Well, you know, if you’re going to be staffed, you might as well be staffed by a vice president.” [Laughs]

The swearing in party was great. It was just wonderful to see my family and friends so happy. In some respects it was like being at my own memorial service. I mean, people were saying nice things about me that no one would ever normally say about me. The press was asking questions, and everyone else was enjoying the party.

I was on the Broadcasting Board of Governors for 13 years and the main time I would be in Washington during those 13 years would be for the board meetings. At Union Station, or downtown, or coming to and fro I would bump into people that I had worked with during those 22 years, and with a lot of them, at one point or another we had done very pretty intense things, we had been in foxholes together during wars for different issues that had come during that time. Former staff people, former chiefs of staff, interest group people, people downtown, people involved with the Democratic Party, former senators. I had said to Lynne, one of the things that really bothers me is this instant psychobabble about people, someone who says, “Well, I never met President Clinton, but I think the problem was with the way he was raised,” that kind of stuff. One of the arguments I always made was that Lynne and I have been married for over 50 years, and I think we know each other about as well as anybody has ever known anybody. We dated before we were married for a number of years. But she never ceases to amaze me, in terms of she’ll just say something.

She has had a very good life in Wilmington, a lot of friends, doing things she’s really interested in. Anyway, so long before this, in 2008, just coincidentally, I guess it

was after the Iowa caucuses and Senator Biden was out of the race, and his friends and family decided that after all these years of people thinking he was going to be president, he was not going to be president, turning our back and closing that door. What made it so ironic was that he did get to be vice president. I said to her, earlier, just in passing, “There are lots of people in Washington I really like. I’m not going to be part of any administration, clearly not any Biden administration. But I’d like to spend some time living in Washington, because there are people I bump into down there, people I see and a lot of friends,” expecting her to say, “Okay, that’s fine if you want to do it, but I’ve got a good life here in Wilmington.” Instead she said, “That’s a great idea.” So it was a great surprise. Lynne just really enjoyed those two years. She met a lot of new people, got involved with the Senate spouse club and also spent time with old friends.

It was great to be in Washington. One of my favorite stories is, I had been in the Senate for about a month or so. It was dusk and I was walking back from the Capitol. I crossed Constitution Avenue and was walking into Dirksen, because that’s where my office was in the beginning. This car came to a screeching halt. I can hear somebody yelling. I turn around and this guy has rolled down the window on the passenger side and he shouted, “I’m so-and-so from Senator Thurmond’s staff.” I had just got the Senator Thurmond’s staff and couldn’t hear his name. It was dusk, so I couldn’t really see who it was. He said, “We are so proud of the fact that one of our guys made it. It’s so great that you’re a United States senator. I just wanted to tell you that.” Meanwhile, it was a minute or two experience but you know what that intersection is like. Without anything more, he rolls up the window and drives off. I never knew who it was. But it turned out to be a wonderful two years in terms of seeing so many old friends. Being able to talk to them and seeing them happy, so many of the former chiefs of staff from both sides of the aisle happy. It was a very positive experience.

**RITCHIE:** Well, living in Washington was so different from your experience of commuting while you were on the staff.

**KAUFMAN:** Exactly.

**RITCHIE:** And yet, more senators now commute rather than live in Washington.

**KAUFMAN:** Yes, but they don’t commute every day. One of the things that’s interesting is that while everybody talks about how they commute, but they lose sight of

the fact that every night most of them are not going home to their spouses and families, because their spouses and families are back home. So they spend time together. They spend more time working during those hours, and they spend more time with their colleagues. Some of them live in the same areas as their colleagues. Clearly, one of the big negatives, though, is not having the families in Washington and the fact that senators spend Friday, Saturday, Sunday and Monday traveling back and forth to their home states.

**RITCHIE:** I was going to ask if the fact that your wife was with you whether that gave you an opportunity to socialize more in Washington.

**KAUFMAN:** Oh, yes. And as I said my wife got very involved in Senate spouses' club. In fact, she started a book club for the Senate spouses, which had never been done before. They chose books and started reading and discussing. And she made great friends. When people talk about partisanship and civility, I found a lot more partisanship when I came back but a hell of a lot more civility. People were friendlier. One of the nice things about being a senator is that once each year all the senators and their spouses have dinner together and have a speaker. It's a really nice event. Many of the spouses from around the country come in, a majority of them. Both times, as you know in life, your spouse is the one who sets things up. You come into a room and there aren't assigned tables. The next thing I know my wife has picked out a table. I think in the two dinners, there were tables for ten, and both times we sat with four Republican senators and their spouses, and we had a great time. So it's not civility, it's not because their spouses are away that somehow there's a bad feeling in terms of personal relationships, which is what civility is about. I found a lot of civility, and a lot more than in '95 when I left.

In '95, remember, we had gone through a tough pace. The approval ratings of the Congress were as low as they had ever been. I attribute much of it to—this sounds partisan, but I really think when you look at the data—now a lot of it was the House banking scandal. The Democrats had been in control of the House for 40 years and it probably was time for us to leave, so there was a lot of that. But Newt Gingrich had done a very effective job of attacking the House, but also attacking the Congress. If you look at the data, Chris Schroeder, who I taught with at Duke, who I worked with on the Bork nomination and is a professor at Duke Law School, who is now an assistant attorney general, and had been acting assistant attorney general in the Clinton administration, and

really a great guy, he and I started in 1995 a Center for the Study of Congress, in the Duke Law School, based on the idea that it's okay to be skeptical about the Congress and about power in Washington, but you shouldn't be cynical. I'd like to think that because of this, the approval ratings of Congress went straight up from there, but if you look at it, they went straight up after that, and the reason for that is because the Democrats, who basically believe there is a role for Congress, never really attacked the Congress when the Republicans were in charge of the House and Senate, as an institution. They attacked Republicans but not the institution. The Republicans did attack the institution, and in my opinion they went after the institution again in 2009. They decided that the way to reverse the horrible results for them in 2006 and 2008 was to attack the institution. But if you look back at the numbers in 1997 and 1998, the approval ratings started going back up again. We finally discontinued the Center because the approval rating had gone up.

In '94 there were a number of United States senators who were not civil to each other. I think some of it came out of so many senators coming over from the House, where it's toxic. Part of it was Gingrich's fault, in my opinion, part of it was the House Democrats' fault in the way they were draconian in the way they treated the minority, because they had been in power for 40 years. I talked about that earlier, they had been in power for 40 years and they never thought they would lose it. Therefore they didn't give the minority staff and they didn't treat them well. Then Gingrich was a very toxic person. I can remember very early on one of the things that started this lack of civility was Newt Gingrich had headed up GOPAC, which had been started by Pete DuPont when he was governor of Delaware in order to build a bench for the Republicans. One time, I think it was when Frank Luntz was working for him—he's a Republican pollster whose speciality was words and the power of words, he's brilliant, I've talked to him several times. GOPAC worked with Republican state representatives and state senators and state elected officials who then would come along and build a bench to run for Congress. He sent out the 35 words that should be used against your opponent, like "traitor" and "liar." It raised the level of incivility much higher.

Gingrich came in and then proceeded to really, according to the Democratic congressional people I know, do all the things that he had criticized the Democrats of doing. So people coming over from the House to the Senate during the early '90s were much more used to a lack of civility, so they brought that with them. But I think the biggest thing was, and I've never seen this written but it's my opinion when I look at the people who caused the problems, when I first came to the Senate staff, senators were

very courtly. They went out of their way to say positive things about each other. And the seniority system was ingrained as an article of faith, so the junior senators were not seen nor heard. You worked your way up the chain of command, kind of like at a law firm where you come in as an associate and you eventually get to be a partner. Or at university where you come in when you're not tenured, and then you work your way up to be associate professor and then a full professor. That's the way the Senate was. What happened was we as a country in the late '70s and '80s started talking about term limits. Term limits were very important at one point. In fact Tom Foley was Speaker of the House and one of the reasons why he lost his congressional seat, they say, was because he opposed term limits. I also think of that race as one of the things that's really striking about people's understandings of the process. According to the polling data at that time, as I remember it, 40 percent of the people believed that if the Republican beat Foley in the election he was going to become Speaker of the House. There was a lot of misunderstanding.

So they came over, and it's fair to say that when the term limit folks showed up they weren't interested in seniority. They weren't interested in the rules. Not only that, they basically believed as an article of faith, and they had argued that senators who had been in the Senate for more than 12 years were the problem. Robert Byrd was the problem. Dan Inouye was the problem. Bob Dole was the problem. That was not good for civility! Because if you've been through this whole process, to have the new guys show up who didn't believe in the process but also believed that you personally were the problem, because you were a "career politician" really didn't help civility. And part of it, I think, was personalities. There were a number of senators back then who were very abrasive in the way they approached things. I don't find that now. There are senators that I don't agree with, but when I first came to the Senate two of the most conservative senators, John Ensign and Sam Brownback, called me and said, "Would you have coffee with me and let's talk?" I went to a lot of the bipartisan group meetings. I just didn't find a lack of civility. I don't think during my two years I was treated in a way that I would say was not civil. We had differences of opinion.

Now, as I said before, one of the key things that I signed onto was the idea that you don't question someone's motivations. A lot of lack of civility that I saw on the floor sometimes was when a senator was questioning another senator's motives, especially in some cases where you didn't get the motives quite right there's a problem. But I just didn't find civility as a problem. My main reason why there is such a split is first, that the

Republicans in the Senate, under Mitch McConnell, it's clear now, decided to adopt the Newt Gingrich 1994 strategy, which was: If we do everything we can to slow down the Senate, whatever passes is not going to be good, because it's going to come out of this gigantic group in the House. You go back to George Washington and Jefferson, that the Senate is the saucer that cools the hot passions of the House. There's been a lot of legislation coming out of the House that the Republicans weren't going to want. The main part of the strategy was that basically if they stopped all legislation in the Senate that would be good for them because the voters would blame the Democrats who controlled Presidency, House and Senate for the gridlock, and would reward the republicans when they were up for election in 2010. So they started out early. What's ironic is they were successful.

Gridlock was a word I heard a lot when I was a senator, and since then I've read a lot about. You can say a lot of bad things about the Senate. You can say it's broken. But gridlock is a tough word when you pass more legislation than any other Congress did since FDR, and maybe more than FDR passed. Tom Mann at Brookings and Norm Ornstein at AEI are two of the people I look to as being really knowledgeable about the Congress who do not work for Congress. They say that more legislation was passed than any Congress since FDR, more than was passed by LBJ. When you look at the number of major bills that were passed it's clear to me that it was true. I mean, healthcare reform, whatever you think about it, you may not like it, but it was historic. So many other presidents, and majority leaders, and Speakers, had tried to pass healthcare and hadn't. So just that alone, but then you look at the Dodd-Frank legislation, which was historic. The credit card reform act. The stimulus bill. The Kennedy National Service Act. Lilly Ledbetter. The Defense Procurement Act. Just so many bills were passed. Any one or two of them would have been historic in my almost 40 years around the place, and then you just add them all up.

When you look at Chris Dodd and the major role he played in healthcare reform, and then the major role he played in Dodd-Frank, and then he got the credit card reform bill passed. I don't know anybody in my experience who was instrumental in passing three bills the size of those three bills. I said he should go right to the Senate Hall of Fame for having passed the trifecta. The only senator, I think, that ever did anything close to that, in terms of having the power, maybe not pass the legislation, that wasn't a majority leader or minority leader, was Scoop Jackson, who during the energy crisis in the '70s was thought to be more powerful than anybody else in the country. The problem

that we have is not that there's gridlock in Washington. Ever since I've been involved, polling data says that partisan bickering is the single thing that people don't like. Partisan bickering implies that there aren't real differences, and that if we could get rid of the partisan bickering everything would go together, and they point to September 11<sup>th</sup>, and how the Congress came together. Well, the Congress came together because the country came together, and if you were president you could do a lot of things because the country came together. But if you look at where we are as a country, on the major issues. Look at healthcare reform or the debt limit that just passed. The country is split down the middle. These are deep differences.

What's come out in recent data is that it isn't just the issues we're split on, but it is the fact that we live in communities with people who we agree with, that are not heterogeneous, in terms of positions on what we should be doing as a country, but are homogeneous in terms of being very conservative or liberal. I saw the other day, the numbers aren't exactly right, but if you looked at 1976, the congressional districts where the presidential candidate had won by more than 20 percent—you call those landslide districts—that in the mid-'70s 28 percent of the districts qualified as landslide districts. Then in 2008, almost 50 percent were landslide districts. So if you use the old terminology of "red" states being Republican states and "blue" states being Democratic, you now have red congressional districts and blue congressional districts, and you now have red communities and blue communities.

After the 2004 election, Charlie Cook was speaking to my class and one of my students said: "I looked at the data, and the exurbs, which are the places where people drive long distances out of the city to get to anything, Bush just carried the exurbs in big numbers. We should go after the exurbs." Charlie Cook kind of laughed and said, "Take a look at the exurbs. They weren't put there involuntarily. These are people who decided they didn't like the cities, and they didn't like the suburbs. They were self-selected. So you're not going to find that as a very hospitable group for Democrats to go after." So that's what's happened. I think we trivialize the problem by attributing it to civility. It is a much more difficult problem to fix than just having everybody sing "Kumbaya" and join hands and start liking each other. It goes to much more basic splits in the country.

Part of it has to do with media. People say, "The media is so partisan. Fox News is so Republican and CNN is Democratic, and MSNBC and the rest of it." My biggest problem with Fox News is not that they're Republican, but that they say they are "fair

and balanced.” I think one of the other problems in this country is too many people take something that is not true and just use it and say it. Clearly, Fox News is not “fair and balanced.” But I don’t have any problem with them being highly Republican. What happens is that more and more people are turning to the media, but it’s much more like the European situation. I travel to England because of my grandchildren, and you get your newspaper based on what your political positions are. You look at one of the things that’s so negative about where we are in terms of this thing is just how the media now supports and drives these partisan positions. I felt for a long time that the Republican caucus in the Senate was united and so negative about doing anything. It wasn’t just healthcare reform, it wasn’t just Dodd-Frank, it wasn’t just the stimulus bill, it wasn’t just confirmations. They didn’t want to pass anything. I think in the beginning it was kind of a strategy to adopt the Gingrich approach, but as it went on it reached the point where it was very difficult for the senators to stand up to the negative media, who would not let you alter your position. I think that’s a lot of what drove this recent debt limit fight, why Republicans would not accept any tax increases at all, under any circumstances. And the Republican presidential candidates, in the debates, oppose it, even if it was ten times spending cuts to one time tax increases, they wouldn’t vote for it.

**RITCHIE:** You mentioned earlier about some of the Republican senators calling you up and inviting you to coffee. When you met with a Brownback or an Ensign, were they looking for areas of common ground, some place where you might introduce a bill together?

**KAUFMAN:** No, in both of those cases that was not the case. It was just I’m going to get to know everybody because I’m going to work with everybody. It turned out Brownback and I started the Global Internet Freedom Caucus. We would have done that even if we hadn’t had coffee together. I have a couple of examples on the civility issue and Republicans and Democrats, and one was—which you can go and look at the C-SPAN tapes—was the stimulus bill, the Recovery Act. I presided for three hours the day that was voted on. The Republicans came down and ripped it to shreds, said there wasn’t anything good about it. The Democrats came down and said that’s what we needed. If you looked at it, you would think this was a civility problem, and you’re right, there isn’t a whole lot of civility.

It was right before a recess, and one thing that hasn’t changed about the Senate is if you’re going to have an important vote, have it before the recess, because if anybody



wants to get up and speak, there's an added reason not to get up and speak if you know you're holding up the recess. If you hold up a recess, it's kind of like when you're in Marine boot camp: one guy makes a mistake and everybody in the platoon has to do push-ups. If you speak and senators start missing their planes, not only do you miss your plane but you're not going to be very popular with your colleagues. So it was right before a recess and we had the vote, and I was just amazed after the vote, because it was a very tense vote—and it was the same thing with healthcare reform, which was a *very* tense vote, we did that sitting at our desks and there was a lot of tension there—boy it was like all of a sudden everybody was old friends. If you look at the tape, the Republicans are on the Democratic side, the Democrats on the Republican side. People are hugging. I got hugged by Bob Corker. The only thing I could compare it to is high school or college right before you go away on summer vacation. “Hey, Ted, what are you going to be doing on the recess? When do you get back? Hope you have a great time.” If you look at the tape, it's hard to make the argument that these people don't like each other at all.

The other example I use is when I was presiding one day and John Ensign came to the floor and gave a long speech about what was wrong with the D.C. bill, because they were going to eliminate vouchers. He had pictures of some very attractive students who were going to lose their ability to continue at private schools. It was a very good presentation. And then Dick Durbin came to the floor right away. Dick Durbin is incredible. He came down with no notes and started speaking. You could just write it down, whether you agreed with him or not. The other guy like that was Senator [Byron] Dorgan. Those two could go to the floor and start talking. No notes. The other person like that was Arlen Specter. I sat next to Arlen Specter during the Sotomayor hearings. He came in and they gave him his book. He looked at his book and he got one of those little Senate pads and started writing notes down. Then when it came time to question Sotomayor he questioned her for half an hour, just based on those few notes he made. It was really extraordinary. Anyway, Durbin came to the floor and he argued against what Ensign was saying. They argued back and forth. It wasn't ugly, but you thought if there was a lack of civility in the Senate this would be one of the instances, but what many times we use “a lack of civility” for a substantive disagreement. There was a very strong disagreement between Durbin and Ensign on the wisdom of this bill, on the judgment of the people who were promoting this bill, all those things, not on their motivation. Later that evening, as I walked out of the Senate Chamber, in the back on the Republican side Durbin and Ensign were sitting side by side, not even speaking. Clearly, they had searched each other out and they felt comfortable enough with each other. It was just

like one of those things that happen between friends. So it was clear that there weren't any civility problems between Senator Durbin and Senator Ensign. I didn't see it.

There's the old saw about your children: you never say your child is dumb, but you say your child may do some dumb things. I disagree with many things that Republicans —and by the way and Democratic senators say. In fact, I really was much more upset many times by what Democratic senators were doing than what Republican senators were doing. I disagreed with the Republicans much more on substance but just on the way things were done I had problems. I don't buy civility being a problem. I buy the fact that there are real basic differences and these come down to being very partisan. They reflect the fact that this is a representative democracy and to a certain extent members of Congress should represent their constituents. If you look at the polling data, the vast majority of Republicans are opposed to healthcare reform, and the vast majority of Democrats are in favor of healthcare reform. That's not a lack of civility. That's not partisan bickering. That's the way a representative democracy works.

After the vote on healthcare reform, people used to stop me on the street and say, "Wasn't that terrible about what went on in Washington about healthcare reform?" I would say, "No, no, with all due respect, you need to listen to what went on around the country, where there was uncivil behavior at these town meetings." Mike Castle, our congressman, had a town meeting downstate and it was just awful. The lack of civility is not on the Senate floor, not on the House floor, but in schools and meeting halls around the country where people are questioning members' motives, and who they are, and attributing to them motives for their positions that are just off the wall.

**RITCHIE:** You've mentioned a couple of times presiding over the Senate, which freshmen senators spend a good amount of time doing. What's it like presiding in the Senate?

**KAUFMAN:** Well, in the beginning it's daunting because you're there and the C-SPAN cameras are on, and these are very complex decisions. First when you recognize a senator you've got to make sure you've got the right state the senator is from, just to start with. Then what they say, and who you recognize, and how it works. You take a slight orientation course and then you're into the mix and you're presiding. What I learned very quickly, and I think most of my colleagues learned very quickly, is that if you listen to that voice that's sitting right in front of you [the Senate parliamentarian and

his staff], you will avoid having any problems. It is truly daunting when you start because so many things can happen and you don't know how to deal with them. There are so many questions. And you're on television. But after you do it for a while it's not a totally negative experience. It gives you time during a very busy day to bring your thoughts together. But also it's interesting to listen to the debate. A number of the positions I took—Wyden-Bennett, which was the major amendment to the healthcare bill put in by Ron Wyden and Bob Bennett, I got interested in that by hearing Ron Wyden give a speech on the floor. I learned a lot, sharpened my arguments many times when the Republicans were speaking—or the Democrats—but mostly what the Republicans were saying. I would listen to what they were saying and think, “Well, that really makes sense, but that doesn't comport with this.”

It was a good opportunity to do that, so I look on presiding as a very positive thing that you do as a freshman. As you get to be more senior—which gets to the real problem in the Senate, which is that senators are on too many committees and have too many responsibilities. In 1984, when Senator Biden was thinking about running for president in '88, he dropped down to just two committees, and that was the smartest thing he ever did. I never felt he was constrained in any way by just being on two committees, and eliminating the subcommittees, too. So when I came to the Senate, I said, “I want to be on just two committees.” When Harry Reid called me, I said I thought that would make a lot of sense. I was only going to be there for two years. I understood the substance of most of the issues on Foreign Relations and Judiciary, having dealt with them for most of the 22 years I was on the Senate staff, so I felt comfortable with that. Maybe I should get on a different committee, but I thought it would take an investment of time to learn the new issues—even though I knew most of the Senate issues, because I had been there for so long, and had dealt with them, and had been interested in them. So I just said I wanted to be on two committees. It turned out to be a great decision. I got to sit in on a lot of committee meetings and hearings that other people missed.

One of the problems with senators being on so many committees is they can't go to the hearings. I remember one day something important was going on in both Judiciary and Foreign Relations and I was going back and forth between them. I can't imagine if you had four committees and all the subcommittees on top of it. It's a real mistake, and I spoke about this in the caucus, I spoke to everybody I could about it. What had happened, there were rules to limit how many committees a senator could serve on, but the waivers had just grown and grown. Then Senator Mark Pryor was appointed by Senator Reid,

after I left, to come up with a report on that. He called me and I spent a lot of time talking with him on the phone. And now they are beginning to cut down on the waivers on the committees. I thought that was really important.

When you're in Washington for only three days and you're on four committees, and subcommittees and the rest of that, you don't have a whole lot of time to be doing anything except that. It's interesting, some of my colleagues thought we could schedule our way around it. I said, "Look, you're only here from Tuesday through Thursday, and you're on four committees, that's not a scheduling problem. That's trying to get ten pounds into a two-pound bag. There's no way that can work." One of the great things was that I actually got to sit in committee hearings. I can remember before the president made his decision about Afghanistan, Senator Kerry put together a great set of hearings on Afghanistan. A number of us sat through them all. Senator Shaheen was at a lot of them, and Senator Barrasso and Senator [James] Risch on the other side. Senator Kerry was at every single one of them, and Ranking Member Richard Lugar. But after the president made his decision, a number of my colleagues came in and had not been able to go to any of the hearings, literally none, and some of the things they said were based on what they read in the newspapers or what their staff told them. They never would have said that if they had sat in the hearings. I found it to be extraordinarily helpful to have the time to sit in the committees.

Then what happened was Scott Brown got elected to take Paul Kirk's place, who had taken Ted Kennedy's place, and therefore the Democrats needed someone to go on Kennedy's committees. It's a complex thing. Because the election had replaced a Democrat with a Republican it changed the ratios of the committees. I think Kennedy was on four committees so they needed Democrats to go on those four committees. There were other problems they had to balance it. It's a very complex, Byzantine, and esoteric process, but the result of it was they needed a number of Democrats on a number of committees. Lula [Davis] in the [Democratic] cloakroom called Jane Woodfin, my legislative director, and asked, "Can we talk Senator Kaufman into going onto the Senate Homeland Security Committee?" Jane asked me and I went over to the floor and saw Lula, and I said, "Sure, Lula, I'll go on the Homeland Security Committee." A little later that afternoon, Senator Levin came up to me. We went off the floor and he said, "I really would like you to be on the Armed Services Committee." I said, "I've already said I would be on Homeland Security, and the reason why is because I want to be on the Permanent Subcommittee on Investigations, the subcommittee you chair, because you're

doing some great stuff on Wall Street reform.” Senator Levin said, “Yeah, but I’d really like to have you on the Armed Services Committee, too.” He knew I had been to Afghanistan, Pakistan, Iraq and the Middle East in that first year. I had traveled with him for part of the time. I said, “Well, I’ve already told them that I would be on Homeland Security.”

You know how the Senate works. I was standing on the Senate floor and Harry Reid came up to me and said, “Hey, Ted, how are you doing?” And I thought, “Oh, God!” [Laughs] One of the first rules I used, which worked very, very well for me and I would suggest to any freshman senator: I went to Harry Reid, I went to John Kerry, who was chairman of the Foreign Relations Committee I served on, and I went to Senator Pat Leahy, chairman of the Judiciary Committee, and I said, “Let me tell you something, I’m here to help you. You don’t even have to call me. If you ask me a question, unless it has something to do with my family or something like that, the answer is going to be yes, whatever you ask. Senator Kerry and Senator Leahy, they just raved about the fact that whenever they asked me to do something, I would do it, and as a result they did some really wonderful things for me. Not quid pro quo, it was “I’m on your team, I understand how the Senate works, I understand that I work for you on this committee, don’t call me on issues and ask me to vote a certain way, but in terms of if you need somebody to chair a hearing or you need somebody there to make a quorum I guarantee the person sitting in the seat will be me.” I said the same thing to Harry Reid, so when he said “How are you doing,” I thought “Oh, my God.”

He said, “Ted, I know you said you’d be in on the Homeland Security Committee but I’d like you to be on the Armed Services Committee too.” I said, “Mr. Leader, whatever you say.” So I ended up being on four committees, which turned out to be great. Both of the chairs, especially Joe Lieberman on Homeland Security, know that was not one of my top priorities. (The Permanent Subcommittee on Investigations, they had one hearing and I was there from beginning to end, it was on Wall Street reform. It was a fantastic four days.) So I was now on four committees. Then about two hours after that, Lula called Jane Woodfin and said, “Say, Jane, how about if Ted went on the Budget Committee?” I went back to Lula and said, “Lula, I told the leader I’d say yes to anything. But the Budget Committee?” Five committees, I think that’s ridiculous. One person can’t go to all those committee hearings. I said, “No, I don’t really want to do that.” She said, “Okay, let me think about it.” She came back and said, “That’s fine.”

**RITCHIE:** Did you find that being on a committee made it easier to introduce legislation related to that committee? Can a senator who is not on a committee introduce legislation as well?

**KAUFMAN:** When I first came to the Senate, never. There was a study done in the 1970s that something like 92 percent of bills favorably reported out of committees were passed by the Congress. I remember Senator Biden, before he was on Judiciary, I think, went down and gave a whole speech critical of the LEAA, Law Enforcement Assistance Act, and boy people were all upset about that. But what had happened in the interim was both good and bad. Because senators are on so many committees now, they can't control what's going on. They can't know enough, they're not as expert anymore. So what happened to me was I found out that Judiciary and Foreign Relations were great, but in addition to that I was the only engineer senator. When I first got there the *New York Times* did an article [January 29, 2009] in which they said there were now two engineers in the Senate, and the other engineer was Jack Reed of Rhode Island. So we had a caucus lunch right after that and I said, "Hey, Jack, we've got to get together. You and I are the only two engineers in the Senate." He started laughing and I said, "Jack, what are you laughing at?" He said, "Ted, I graduated from West Point. Everybody who graduates from West Point gets a degree in engineering." He said, "I'm not an engineer, I'm a poet."

I understand engineering, and Jeff Connaughton was involved with the science caucus, so he had me meet with the deans of about eight or nine of our top engineering universities. It was a marriage made in heaven. I just loved working on Science, Technology, Engineering and Math [STEM], I loved working with the deans. I introduced a whole bunch of legislation on engineering. I spoke at the annual convention of all the deans of all the engineering schools. I spoke to many engineering groups including the American Society of Mechanical Engineers here in Washington, and received their President's Award. I spoke to the national Meeting of all the U S Engineering Deans, and the annual meeting of the Chairs of the electrical engineering and the Chairs of computer engineering schools. Probably, the most fun, was that I was the graduation convocation speaker at both the University of Pennsylvania and the University of Delaware engineering schools.

We had a lot of legislation that we got passed: the coordination of STEM, and making sure that engineers were in the Edward Moore Kennedy Serve America Act, in

which is said that engineers could be involved in national service.

The other thing that became part of my trademark was I got there and found out that a lot of things I learned at the Wharton School in investing and business and from my personal investing were front and center. Even though I wasn't on the Banking Committee there were a lot of things that I could do.

**RITCHIE:** I read Paul Simon's memoirs and he said that one reason he left the House and ran for the Senate was because in the House, if you tried to introduce legislation when you weren't on the committee, the chairman would just say, "We'll get to that later," and never take it up. But senators had much more freedom to introduce amendments.

**KAUFMAN:** That's right, but when I first came there it was a one; when Simon was there it was a three; now it's a 427<sup>th</sup>. I can talk about this with regard to Wall Street reform. Want to take a break?

**RITCHIE:** Yeah, I think this is probably a good time for lunch.

**KAUFMAN:** When we get back we can talk about Wall Street reform not as an accomplishment but more as an example of how the Senate works, and especially highlighting the fact that here I was on none of the relevant committees and was able to play a major role.

### **End of the Fifth Interview**

*Photos from top to bottom:*  
Senator Ted Kaufman presiding over the Senate  
With Supreme Court nominee Elena Kagan  
With Senator Dick Durbin  
With Senator Dianne Feinstein  
With Senator John McCain





**THE FINANCIAL MELTDOWN**  
**Interview #6**  
**Tuesday Afternoon, August 23, 2011**

**RITCHIE:** The Gallup Poll published a volume on the 2008 election [*Winning the White House*], tracking public opinion. It seems clear that the economic collapse in September was the deciding factor in the election. The candidates were relatively close up to that point, but from the last week in September Obama goes up, McCain goes down, and the trend never reversed. Their responses to the economic collapse, I think, influenced public opinion, that one seemed to be calm and cool about it, the other seemed to be more frenetic.

**KAUFMAN:** I don't know about that. See this goes back to what I talked about the other day, the Kathleen Hall Jamieson test. A lot of people start focusing on that. I don't think it's that. I think it's the substance. People identified Bush with the problem. Bush had done a lot of things that created the problem. To this day, they blame Bush for the whole meltdown. McCain could not run far enough away from Bush. It was kind of like [Hubert] Humphrey couldn't run that far from [Lyndon] Johnson. But I think there's too much emphasis on who's cool under fire and who isn't. That survey she did shows that the media covers that kind of stuff, and they cover it, and cover it and cover it, so that if you're not careful you fall into that trap.

I remember the Obama-McCain debates. After the debates were over, especially I think it was the third one, the pundits were talking about how great McCain had done, he looked more decisive, he had taken the economic issue and wrestled with it. When the poll numbers came out, the public thought he was awful! There was one threshold question that Obama addressed and McCain didn't, throughout all the debate. It was what he was going to do about the financial crisis. Obama mentioned the middle class over 20 times, McCain not at all. If you look at all the debates you will not find anywhere that McCain says what he's going to do about the crisis, and Obama keeps talking about what he's going to do about the crisis, and that was the key. We had this crisis, and people wanted to know: What are you going to do about it?

When you look at that Hedrick Smith show [about media and lobbyists], where he goes through and documents the numbers, once you see that, and then you watch different things, and you try to take into account what the polling data says and what the

pundits say, the pundits are just totally wrong about this, in my opinion. Now, you may be right, that may be the reason why they turned on McCain, but my very strong opinion is McCain was DOA. There wasn't anything he could have done. He was the Republican candidate. He couldn't trash Bush, Obama could. The people in the press were trashing Bush. Poor John, it was just like what happened to Carter with the hostage crisis. No Republican could have won in 2008. Now, I think in 2012 it's difficult for Obama to win. The only two presidents to lose in recent history were Carter and H W Bush. The only two presidents to run in a bad economy were Carter and H W Bush. If the unemployment rate was 5% Obama would be cruising to a lopsided reelection. He may win, but I'm just saying that it doesn't have a lot to do with style. In the end, most of these things come down to substance and especially the economy. Okay, let's talk about financial reform.

**RITCHIE:** So you arrived in the Senate in this moment of crisis. What was the reaction in the Senate to the financial meltdown?

**KAUFMAN:** It was really interesting. When I first came, the freshmen started meeting with different people, just about everybody we met with—not everybody but we met with most of the important players—the secretary of defense, the secretary of the treasury, [Ben] Bernanke, Rahm Emanuel, a whole bunch of important people. Then as the Senate went on the meetings petered out because everybody was so busy. We met with Bernanke and [Timothy] Geithner very shortly after I got there, and it was quite clear to me at that point that they were both very scared. This thing was unfolding and AIG has just announced it had lost—was it \$68 billion? I remember reading that and thinking, “How could AIG lose \$68 billion?” And they didn't know where the credit default swaps went. They didn't know who had bought them. There were problems in England, problems in Iceland, the Bank of Scotland. So I think they just didn't know where it was going. The way I explained it was it was kind of like this friend of mine who has this oak tree out in front of his house, it's a gigantic tree and it's surrounded by a driveway. The roots were coming up and knocking the driveway. But when they tried to put a new driveway in, they didn't know *where* the roots went. The roots went *all over*. I think that's the way they felt at that time.

You have to look back on the TARP and the stimulus bill in the context of what was going on at the time. One of the things I prided myself on—I was born with this, it's just kind of intrinsic to me—but one of the things I found that stood me in good stead was I'm pretty good about remembering, years later, what was going on at the time.

Maybe it's because my favorite quote is: "Never underestimate the ability of the human mind to rationalize." So I really try not to rationalize. Maybe it's my engineering education. Who knows what it is? But I find that I'll get into a discussion with someone about something that happened six months ago, a year ago, two or three years ago, and it's clear to me they aren't remembering what it was like. A lot of the discussion we're having now on what went on at the end of the Bush administration and the beginning of the Obama administration reflects the fact that people just don't remember what we were going through. It was really tough.

After I was appointed, I kind of took an management by objectives approach to this, and that is sit down and figure out what it is you want to accomplish over the next two years. There were a number of different people I spoke to, obviously the vice president, and all the people that had helped me over the years, former staff people, and tried to figure out what is it that I want to do. I decided to ask for assignment to the Judiciary and Foreign Relations committees. I decided that Jeff Connaughton, was my chief of staff, he is a good friend, I had worked with him and he has an MBA from Chicago, a Stanford law degree, he's been an investor over the years—I've been an investor for a number of years. I started investing back after graduate school. I was doing investing on my own, not a lot of it—excuse me, *a lot* of it for the first three or four or five years and then I kind of got off that. As my family grew I didn't have even time to do it and I kind of lost interest in it, frankly, doing micro investing, like buying individual stocks and following them and studying them. Jeff and I both decided that we were really upset by the fact that the folks that had been a big cause of the meltdown, that there should not just be civil but criminal penalties, and we should do something about that.

It turned out that Harry Reid agreed and assigned me to do Judiciary, and to do Foreign Relations. I wasn't even thinking about the engineering part of it then. And I did not ask to be on the Finance Committee, or Banking, or any of those. What happened was, when I arrived at Judiciary I was interested in the issue of what are we going to do about putting these people in jail. It turned out that Senator Leahy, the chair, and Chuck Grassley, the Republican from Iowa, were working on a bill called FERA [Fraud Enforcement and Recovery Act] to go after the folks that had been involved in this. I asked if I could be a major co-sponsor of that bill, and Chairman Leahy said, "Absolutely." This was one of the great things he did for me. I was brand new and they had been working on the bill, but they said, "Yes, you can do it." I said, "I'm going to do exactly what you want me to do, but you guys have so much on your plate, I'd like to go

out and start publicizing this bill. We're going to have a hearing, and I'd like to play a role in the hearing, and the rest of that." Senator Leahy and Senator Grassley both said, "Fine, go ahead and do it." So I wrote an op-ed and I went on some TV shows.

We had a hearing, and the great thing about the Senate hearing process is that the hearing process really was good. [John] Pistole, who I think was deputy director of FBI and now is head of TSA, the travel security organization, he came and he gave really good testimony. He said, "We have a real problem. The problem is when 9/11 occurred, the government shifted a lot of FBI agents and prosecutors over to antiterrorism," which made sense, but then they never filled in behind them. I can remember there were some fights between Senator Biden and the Bush administration about more FBI agents back then, but Bush would not fund them. As a result, you had a situation where, I think the data showed, and his testimony, that with all the problems in 2008 we had more financial fraud cases brought in 2001 than we did in 2008. In fact, I think we only had something like 220 FBI agents investigating financial fraud for the whole country, and he pointed out that during the savings and loan crisis they had a thousand agents just working savings and loan. What our authorization bill did was provide \$170 million to have more prosecutors and more FBI agents, and train them better, so we could catch these guys. We put the bill in and the bill passed. We ended up with \$30 million in appropriations, and it became law. I actually sat on the stage at the White House for the bill signing – very, very, unusual for a freshman senator.

I had two oversight hearings, with [Robert] Khuzami, who is the head of the enforcement division of the SEC, and Lanny Breuer, who is the head of the criminal division at Justice, and Kevin [Perkins] from the FBI. Two sets of hearings, one right after the bill passed and another afterwards. We really went after this, and it turned out to be an incredible disappointment to me that nobody went to jail because of their actions. I mean, people went to jail, mortgage brokers, little people, but none of the big people on Wall Street who put together the mortgage backed securities and the credit default swaps and the rest of it who were the targets of FERA.

Later on, I participated in four days of hearings in the Permanent Subcommittee on Investigations, which came out with all kinds of, I think, fraud at Washington Mutual, and at Goldman Sachs, and at the rating agencies. But it's very discouraging. That was the main thrust of what I was doing. I was going to the Judiciary Committee, again classic Senate stuff, working the Judiciary Committee bill with a lot of help from the

chair, and bipartisan help. I played a role and we passed it.

I think I've said before, but it's worth saying again, that I did a lot of interviews when I was appointed and then a lot of interviews right before I left, which were helpful to put things in perspective. One of the questions people asked me, just about in every profile to start with, was: "What do you hope to accomplish in just two years?" I said, "I'm going to accomplish a lot, in terms of me. In terms of my accomplishments, I'm going to leave the Senate very happy about my accomplishments. I may not be happy with a lot of things, but I will be happy with the accomplishments, and the reason is because one of the great things about doing this when you're older and hopefully know yourself better is that most people my age I think understand that the important thing in life, about all of these things is to try as hard as you can. The vagaries of life—to think that you are in total control of your life are wrong. The idea that you can control what happens, or that any one person is responsible for anything in a complex environment like the Congress, is wrong. But that the one test for all of us is in your opinion, just your opinion, did you try with all of your being. It is not did I win but did I try? Do I go home at night and say, 'I tried as hard as I can'? I know for the next two years I'm going to try as hard as I can, therefore I'll be successful. Whether I get bills passed, all those kinds of things will depend on a lot of things. But I feel good about that."

I never once thought that in those two years I would be on the platform with the president of the United States at a bill signing. I don't know, I haven't gone back in history and looked at it, but clearly back in the 1970s that never happened. I don't know very many freshman senators who have ever been on the stage at a bill signing. Now, you can be in the audience. I was invited to the audience for a number of bills, including healthcare reform, including Dodd-Frank, but to actually be on the stage is only for the chief sponsors. If you look at the pictures of the bill signings it's always the chair and the senior members. But I was invited to be on the platform for the signing. Whoever would have thought that it would happen? It was a wonderful experience, but I really do regret that it doesn't look like as much came out as I would have liked.

**RITCHIE:** Why do think it didn't?

**KAUFMAN:** Oh, it's a very complex mix. One of the things that most upset me in my dealings with Wall Street was their kind of superiority. Actually reporters, people on television saying to me, "Well, how do you expect to prosecute them? Wall Street

lawyers make so much money, and they're so accomplished, and they know so much about what they're doing and you've got a bunch of government attorneys down there. How could they ever do anything?" I don't put any stock in that because during the savings and loan crisis those government attorneys turned up plenty, and during Enron, that was not the problem. I remember there was a reporter for a major news organization, who I won't identify because I don't want to embarrass him, but he was saying at a meeting, not on television, the same riff, "How do you expect to win any of these cases when we've got multimillion dollar attorneys up here and you've got attorneys down there making only \$400,000 a year?" Talk about the D.C. bubble, the Wall Street bubble I find even thicker than the D.C. bubble. There wasn't any attorney in the United States government making even half of \$400,000 a year. The idea that money measures it, I don't think that's the answer.

The biggest thing in my opinion was that by the time we actually got around to going after it, it was too late. I think to a certain extent what they say in detective books and novels—I know this to be a fact—if you don't catch somebody in the first 24 hours they're very difficult to catch them ever. As one of our principals said, "These guys are not like drug dealers." The drug dealers rarely clean up after themselves. Where on Wall Street, the lawyers and accountants come in, they really clean up after themselves. It's very difficult to go back and establish what happened. When you look at the fact that a lot of this stuff happened in 2008, by the time the Obama administration got in place, by the time we passed this bill, by the time Breuer and Khuzami and the rest of them were in place, everybody had a real opportunity to clean everything up. When you go up to Wall Street, they used to say, "We don't need any new regulations. The bad guys are all gone." Well, I don't know where they got "the bad guys are all gone," but that's their mantra.

First off, they were late, that's number one. Number two is, Jeff Connaughton had found out that during the saving and loan crisis, an incredible number of successful prosecutions were done from referrals from regulatory agencies to the Justice Department. Unfortunately, the Bush administration regulatory agencies were effete at this point. During the Permanent Subcommittee on Investigations' hearings, we had testimony from the head of the Office of Thrift Supervision. I'll never forget it. It was sad. This guy testified that at that time Washington Mutual was the largest thrift in the country. They were supervising them closely—or they should have been, but they weren't. It came out clearly that they weren't supervising them at all. In fact, the FDIC wanted to do something about Washington Mutual and the head of Thrift Supervision

stopped them. Not only had they not done the work themselves, they stopped the FDIC from doing it. And where that became incredibly clear was when he was testifying about Long Beach Savings, which was part of Washington Mutual.

We went in and looked at the data. There is a thing called “stated-income loans,” popularly known as “liar loans.” And that is: someone would come in for a mortgage at Long Beach Savings—it happened all over the mortgage brokerage business—and they could apply for a mortgage and never tell them what their salaries were. They never submitted any W-2 forms or anything. I was watching this broadcast on MSNBC where a woman said she belonged to a church in LA in a lower-income section of the city. She said some guy showed up and said, “Who wants a \$500,000 house?” and they all ended up with \$500,000 houses. They were called stated-income or liar loans. Carl Levin, at the beginning of the testimony of the person who was head of the Office of Thrift Supervision, I just don’t remember his name now, asked, “What do you think about stated-income or liar loans?” He said, “Stated-income loans are an anathema to the banking business,” so he completely condemned stated-income loans.

So it came my time to question him, and I said to him, “What percentage of the regular conventional loans are liar loans?” He said, “I have no idea.” I said, “Take a guess.” “I have no idea.” I said, “Would you believe 92 percent?” I said, “What percentage of the ARMs” —the Adjusted Rate Mortgages which are a little more risky—“are stated-income loans?” “I don’t know.” “You don’t know? What do you think?” “I don’t have any idea.” “Sixty-three percent. Okay, how about sub-prime loans, the most risky of all, what percentage would you say were stated-income loans?” He said, “I don’t know.” I said, “Fifty-two percent.” It was clear there was fraud. You can’t give out 50, 60, 70 percent of your loans, especially 50 percent of the high-risk loans and not ask anybody for their income statement, and say that you don’t know what was going on if you’re managing the company.

My sister was out there. My niece was at Cal Tech and my sister was out there. She and her husband thought about maybe buying a condo near Cal Tech. She called a mortgage broker and said she was interested. Two days later the broker called her back and she said, “No, we’ve decided not to do it.” “I can get you a great mortgage.” She said, “How can know you can get me a great mortgage. You don’t know anything about me.” He said, “I guarantee, if you come in, I’ll get you a mortgage.” So it’s clear there was fraud. The inspector general for the treasury department at the time, who was

testifying, when he heard about the high percentage of stated-income loans, said, “That is a target-rich environment for fraud.”

So I think we showed up late. They had cleaned up what it was they were doing. They were complex cases. People sometimes think that laws almost came from God. Like insider trading, “this person is engaged in an illegal activity.” Every time you try to make the insider trading law tougher, the Chamber of Commerce and everybody on Wall Street are in there stopping you from doing it. So the laws are not written to actually define bad behavior. They are written to get enough votes to pass it. That’s why most of these successful cases in white-collar crime are “obstruction of justice.” In insider trading, very few go to jail for that. Like Martha Stewart, she didn’t go to jail for insider trading, she went to jail for obstruction of justice on insider trading. It’s very difficult to prove these cases. It isn’t just that these lawyers in New York are smart, and they are—by the way, many of those lawyers worked in Washington before they went up there—but it’s because the law is very difficult to apply.

But the biggest problem is that it wasn’t contemporaneous. Where this really became clear to me was with the Department of Justice and SEC’s recent successful cases on insider trading. Because I talked to a lot of people and they said, “If you want to get the case, you need a whistle blower.” The best way to bring these cases is to have someone inside who says, “I was there and this is what happened.” Whistle blowers are usually driven by the fact that their concern is personal. They may be driven in some areas where they can get a reward, but also because “If I get there first I’m not going to be the one who goes down for the charge.” But what you really want, and the reason why the insider trading case worked, is because they had wires. They had wiretaps, and while everything was going on, contemporaneously, they were on the job. Those insider trading cases without the wiretaps would have been very difficult to bring. So the fact that you’re going back six months, eight months, or a year later, there’s no chance for wiretaps. No one feels that they are under pressure to throw somebody else under the bus. You don’t start, like we usually do, with the little fish and work the way up.

Those are all the reasons why we didn’t do it. I do not believe—a number of press people asked me, “Do you believe the secretary of the treasury and the White House were bringing pressure on the Department of Justice not to bring cases?” I totally do not believe that. And it has nothing to do with what I think about any of the people involved. It has to do with the idea that anybody who calls up the Justice Department and tries to



bring pressure on them on whether to prosecute or not is just nuts. They are opening themselves up for real problems and potentially even getting prosecuted themselves. The Justice Department has gotten very independent. That's good. They weren't independent enough, in my opinion, under the Bush administration. I think it really was late to the scene, and very efficient and organized Wall Street accountants and lawyers. What's really scary is they do not bring cases because if those on Wall Street they want to prosecute have reasonable belief in what their lawyer or accountant told them to be the situation, it is very difficult to win the case. Which when you think about it means that law is what lawyers and accountants say the law is. But I've talked to enough people in the Justice Department and in the SEC to realize that it's very difficult to bring a case if the target of the case can say, "All I was doing was what my lawyer said."

The second thing is, disclosure. Many of these cases on these absolutely terrible packages of residential mortgage-backed securities and credit default swaps and credit default organizations, that were awful, if you go down and read the fine print in the page after page after page of disclosures, they disclose what the situation is. But so many people just don't read that going in. I think that's really why it's been so difficult to bring cases.

But what happened after that was, I was still upset, obviously, and I was talking to a friend of mine who is very interested in investing. He "runs a lot of money." He told me that the SEC in 2007 and 2008 really was a very laissez-faire, no regulation operation. Bernie Madoff is the poster child for that. There's been a lot of demagoguery about Bernie Madoff, but clearly the enforcement division of the SEC did not feel they could bring a case against him because they had to get the approval of all five commissioners and the commissioners just were not in favor of bringing cases. They were looking at many people on Wall Street, like Bernie Madoff, as their client, not the investing public. It was a laissez-faire attitude; there felt there shouldn't be any regulation of these things.

During that period they had removed the up-tick rule in short selling. Short selling is a process by which an investor can literally make money with a stock that is going down in price. Essentially, what you do is sell the stock in the company with the idea that you are going to buy it back later at a lower price. You sell the stock at 20, without having to deliver that particular stock, and then a week later buying it for 10, and you made the difference. What you have to do during that process, it used to be, you had to borrow a stock to cover what you had to make sure you weren't doing what's called

“naked short selling,” which is wrong because you should have some investment anyway. You talk about leverage, if you don’t have to have any stock and you just sell it, the leverage is infinite. That’s called “naked short selling.” Predatory bears and short sellers have been around ever since there were markets. I’m sure if we sat with the cave men, practically, we would find people betting that prices for things were going to go down. There’s nothing wrong with short selling. I’ve done short selling, but every time I’ve done it I’ve had to borrow stock to cover it. That was during the time of the up-tick rule.

What the up-tick rule said essentially was, in order to stop someone from just beating a stock down by all kinds of techniques, including spreading bad rumors about the company and the rest of it, you couldn’t sell short unless there was an up-tick in the stock price. So if a stock was selling for 20 and then went to 19.9 then to 19.8 then to 19.7 you couldn’t sell, but when it went from 19.7 to 19.8 then you could sell short. We had had the up-tick rule around for years and it really was very, very helpful. The SEC did away with it. And the reason that’s scary is they did away with it based on research they did in 2005, during an up-market. Short selling is not a problem during an up-market. It’s very difficult to make money selling short in an up-market. That happens in a down-market.

Then what I learned happened in the case the failures of Lehman Brothers and Bear Stearns, there was lots of circumstantial evidence that the predatory bears had really driven them down. I don’t remember the numbers anymore, but I think Bear Stearns had an incredible drop in just three days. Then the other thing to indicate they were selling short was the float, which is the amount of shares out in the market that actually sold. It was up 150 percent. People were selling stock they didn’t own, was what it looks like. And then I was collecting anecdotal evidence from a number of people I know on Wall Street that a number of well-known predatory bears were bragging about it and had parties to celebrate the fact that they had done these things.

Mary Shapiro, who had been appointed to the SEC, in her nomination hearings said she was in favor of reinstating the up-tick rule. I wrote her a letter on March 17—a day that will live in infamy—2009, saying that I really supported that, but then nothing happened. I got Johnny Isakson, a Republican senator from Georgia, and Jon Tester, a Democrat from Montana, and Arlen Specter, I got a bipartisan group of senators. We wrote to Mary Shapiro about the up-tick rule and naked short selling. Nothing. We actually put a bill on the floor. Still nothing. The SEC had a panel to talk about it, and the

vast majority of people on the panel were either in short selling or academics that were writing about short selling. It was really an incredible experience for me to see that the SEC still was not willing to do what needed to be done.

Then on the naked short selling here's what happened. The SEC had changed the rules on having to borrowing stock when you sold short to a "reasonable belief" that you could borrow the stock. Whereas, when I do it, my broker had to go out and identify the stock, and I had to borrow the stock. But now you just had to have a "reasonable belief" that you had it. There was an outfit called DTTC—they do the vast majority of backroom work for Wall Street, in terms of people who handle all the trades. It used to be, when I was involved in the '70s and '80s, each firm had its own backroom operation, but then they consolidated into this DTTC. They came in and said, "We know how to deal with this naked short selling. Right now, if someone comes to us and says 'I want to sell 200 shares of AT&T short. Do you have 200 shares of AT&T?' Say we have just 200 shares. We say, 'Yes, we have 200 shares.' So they go off and sell it short. Five minutes later, or five hours later, someone comes in and says, 'Do you have 200 shares of AT&T?' They say, 'Yes, we have 200 shares.'" What they suggested to us—and I've got the PowerPoint presentation they made to us—they talked to the SEC and they suggested to us that there be a flag. So if you had 200 shares of AT&T, someone came in and said they wanted to use it, there would be a flag on that so no one else could use that 200 shares. A very simple thing that would have dealt with a large portion of the naked short selling. They could never get the Securities and Exchange Commission interested in it.

What happened was, the DTTC is run by Wall Street firms. So they had a roundtable to talk about the naked short selling, and by the time that happened they had the entire hearing and DTTC never once mentioned this proposal, because by that time they had gotten so much blowback from the predatory bears and the short sellers, they were afraid to say anything. But I have the PowerPoint where they recommended it. So they never did anything about it. What all that did was let me understand what was going on. What I began to focus on was just how much the markets' regulations had changed and that the cause of this great meltdown was a number of changes that had been made in the last 10 years in the way Wall Street functioned.

The other thing I found out, which goes back to what we were saying earlier, was that it didn't matter if I was on the Banking Committee. It didn't matter if I was on the Finance Committee. I just started going down on the floor and giving speeches. The

media was picking it up and I was going on TV shows to talk about it. All of a sudden I was a player without being on any of the relevant committees. They were bringing up the Wall Street reform bill, which became Dodd-Frank, and I started looking at that, now having been educated about the Wall Street of today. *The Big Short* by Michael Lewis has a wonderful section that I recommend to everyone who is trying to understand this. Michael Lewis starts out in the book by mentioning a book called *Liar's Poker*, which he wrote in the 1980s, to talk about the absolutely incredible practices on Wall Street, a combination of incompetency, abuse, greed, all the things in the mid-1980s, and he wrote this book *Liar's Poker*, which became a best-seller. Then he writes *The Big Short* 20 years later. He says, "When I wrote *Liar's Poker*, I thought it would be an interesting book historically, that people would look back and say that was a pretty crazy time on Wall Street, and 'Wow, I can't believe that ever happened.' When I wrote *The Big Short* I found out not only was it happening, it had never changed."<sup>1</sup> This thing that should have been an aberration in our behavior, of incompetence, greed, and everything else, had become standard practice on Wall Street, and that's really one of the big causes of the meltdown.

What I quickly learned was that it wasn't just chance. We had deregulated, which I had not focused on to the extent that I did after I began to see what was going on, we had just deregulated the whole Wall Street. We just said to Wall Street, "Go off and do whatever you want. You don't need any regulation." I found myself, and I find myself to this day, having to argue about whether we should have regulators or not on Wall Street. The best argument I came up with was: Regulators do what referees do in a football game. You can't go to a football game and say, "You know, the referees blow their whistles at the most inopportune times and they stop the play. Let's just get rid of all the referees and go out there and let the kids play." Well, I'll tell you what, I wouldn't want to be at the bottom of the second or third pile-up if there are no referees. The other analogy is the police. Some people say, "It just doesn't work. You can't regulate Wall Street. We've demonstrated you can't do it, so you shouldn't do any regulation." That's sort of like saying there are sections of a city where a lot of crime goes on, so therefore we don't need any police down there because the police aren't going to be able to stop crime. People are still going to be committing crime. Why would we send police into that area when we know there's still going to be crime? Really and truly, these are the

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<sup>1</sup>Michael Lewis, *Liar's Poker: Rising Through the Wreckage on Wall Street* (New York: Norton, 1989), and *The Big Short: Inside the Doomsday Machine* (New York: Norton, 2010).

arguments. I've been on panels, I've given talks, I've spoken to all kinds of Wall Street groups, and these are the arguments you get: there should be no regulation.

In fact, there's a very smart man named Lawrence Kudlow,<sup>2</sup> you can see him every night on television. He's still arguing we don't need any regulation on anything we're doing. Well, my basic argument is, five or six years ago you could make that argument, but not after what happened here with no regulation. Even Senator [Tom] Coburn from Oklahoma talks about the fact that the lack of congressional oversight caused the meltdown. I totally agree with that. What happened was we did a number of things, it was like we just drifted into it, to cause it to happen. My argument on the Dodd-Frank Wall Street Reform Act was we should do what happened after the Great Depression, after the great financial meltdown of 1929. After 1933 they set up the Pecora Commission, and Pecora went in and looked at everything that went on and then they wrote a law that created the FDIC. It was Glass-Steagall, which said that the crash of 1929 was just the final episode in a number of bank panics during the 19th century and before. People would be afraid a bank was going to go under so they rushed to the bank to take out their money. Banks lend long (mortgages etc) and borrow short (certificates of deposit etc), and therefore if there's a run on them, their money is tied up and they can't give it back. You have a run on the bank, and anybody who has seen *Mary Poppins*, the movie or the play, has seen what can happen. Pecora commission wanted to stop that, but they also wanted Americans to put their money in the banks instead of in their mattress or a tin can in the backyard, because they thought the banks weren't safe.

So Congress passed Glass-Steagall, which essentially said we will have an organization called FDIC, which will guarantee a certain amount of money for deposits. Those banks that decide to take that, be part of FDIC, they have to be in commercial banking, a business that would have not the greatest return but would have very low risk. You could make good money out of it, a lot of commercial banks could, but if you wanted to be in the investment bank business, which is much more borrowing, mergers and acquisitions, investment of all kinds in stocks and bonds, you couldn't be in both. You had to decide whether you would be in commercial banking, low risk, low return, or investment banking, higher return but higher risk. Well, in 1999, in what I think was one of the dumbest things we ever did, we repealed Glass-Steagall. Admittedly Alan Greenspan and the Federal Reserve had weakened Glass-Steagall with their rulings on

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<sup>2</sup>An economist and host of CNBC's *The Kudlow Report*.

the CitiGroup mergers, but the results as could be predicted were awful. Now we had commercial banks who were also in investment banking, which I think was one of the big causes of the meltdown.

The other thing was that derivatives were just starting to be used. They were growing. The idea that you could buy synthetic investments. Warren Buffet called them “weapons of financial destruction.” I would never invest in derivatives because my basic rule of investing had always been don’t invest in something you don’t understand. I had an MBA from the Wharton School. I was interested in it, but I could not understand what a lot of these things were at the time. I now know what they were, because I got involved in this thing, but there is clear evidence that many, many, many, many people were buying derivatives that had no idea what they were or how they worked. And the Congress, in this anti-regulation phase they went through, actually passed a bill The Commodity Futures Modernization Act in 2000, that said the government can’t regulate derivatives. So you had this incredible growth of derivatives, no regulation, an amazing amount of changes, trillions of dollars went into derivatives, credit-default swaps, credit-default organizations, basically turning Wall Street into a casino—that’s not an overstatement. And no government regulation.

When we considered the Dodd-Frank Financial Reform Act there were a number of things I wanted to do. I wanted to write a law that defined and dealt with the major problems that caused the meltdown, and not push the solutions back on the regulators. The lack of oversight by Congress and the regulators was one of the main causes for the meltdown. No regulation allowed for some very bad behavior. Now, that being said, because there are no cops on the beat does not mean that you have the right to break the window of the jewelry store and grab the jewels and run. There is way too much of, “This is all the fault of Washington.” A lot of people were opposed to Wall Street reform, a lot of Wall Street people. “This wasn’t Wall Street’s fault. There wasn’t congressional oversight and there wasn’t regulation.” No, no, no, guys, that’s not the way the world works. Again, using my policeman analogy, just because the policeman is sitting down at the local lunch counter having a cup of coffee doesn’t mean you have the right to break into a store and steal, and that’s what went on. My approach was, first, don’t give it back to the regulators. We have to do what Pecora did—we need to pass a law. The first thing is to reinstate Glass-Steagall. Maria Cantwell and John McCain had an amendment, I signed on to it, to reinstate Glass-Steagall.

The main reason not to give it back to the regulators is that they change. Let's just say we have great regulators now. Some presidents believe in regulation, some presidents don't. We now have a president who believes in regulation. We're putting in regulators, therefore the regulators do okay. But what happens when you've got a new president, two, four, eight or sixteen years from now and they don't believe in regulations. Now you've lost your regulators again and you don't have any laws to support it. So the first place where I clashed with the administration and the committees in both houses' approach to this thing was I think we should have put in place laws. We should have replaced Glass-Steagall. We should have passed laws on derivatives. We should have gone back. There was an article in one of the papers that compared me with Senator Richard Shelby. Shelby was the ranking member on Banking. They said it was a battle between conservatives and liberals, and Shelby is a conservative and Kaufman is a liberal. Jeff Connaughton called up the reporter and said, "Wait a minute, why don't you talk to Senator Kaufman?" So I talked to him and said, "Look, I am the conservative. I want to go back to what's worked in the past. That's the only test for me." As an engineer, I look at it as we tried something and it did not work. At least the first test has to be: Why shouldn't we go back to what we were doing when everything was okay? We went for years with no major financial problems. We had minor financial problems but no major crises like this. Then we did the derivatives thing and the repeal of Glass-Steagall, and the whole thing went to pieces.

So my first argument was we should go back in order to go forward. We should make that part of the law. The other thing is the regulators have a lot of new problems they are facing, like the high-frequency trading, and they're going to be hit by 400 new regulations that they have to write. That's way too much for them. And then the regulators change and we're back to the same problem. Then I got to the other big part of my concern, which was "too big to fail." That was, I became convinced that we had a number of financial institutions in the country that were too big to fail. The example I always used to use is that 15 years ago the six largest banks' assets were 17 percent of the gross domestic product of the United States. When we were considering Dodd-Frank, the top six banks' assets were 63 percent of the gross domestic product of the United States. The banks had just exploded and a lot of the explosion had occurred not naturally but when we had the meltdown and because we were worried about things going over we took Bear Stearns and Washington Mutual and put them into J.P. Morgan Chase. We took Wachovia and put it into Wells Fargo. We put Merrill Lynch and Countrywide into Bank of America. These weren't natural evolving mergers, they were artificial. The

minimum we should have done was spun them off after the crisis was over. But no, these banks were getting bigger and bigger and they were too big to fail.

There was a lot of discussion during the debate on Dodd-Frank that “we’re going to deal with too big to fail, we’re going to have a resolution authority”, which means the banks were going to have to write a will. Resolution authority was somehow going to resolve any big bank problem like a bankruptcy. We would identify a bank that’s in trouble and then we would be able to spin it off much like FDIC does with smaller banks all the time. But these banks are *massive*. We found out during Lehman Brothers that it was very difficult even to do bankruptcy on an institution that size, because so many of the creditors were in the U.K., and the U.K. had different laws. There is no agreement, even the slightest agreement, on resolution authority across country lines. So when you have these massive banks with investments around the world, the idea that you can resolve them—no, no, we’re going to be faced with the federal government having to come in and bail them out again.

I didn’t see anything in the legislation that would stop that, except Sherrod Brown, the senator from Ohio, and I introduced Safe Banking Act to slim down the banks. We put a 2% limit on non-deposit liabilities, a 10% limit on deposits as a % of national deposits, and a 6% leverage limit. I think if you read the coverage of Dodd-Frank it definitely was the key amendment on too big to fail. There were other amendments on too big to fail. Susan Collins had an amendment requiring they had more capital, because that was one of the problems. Then the former chairman of the Fed, [Paul] Volker, had a proposal saying banks couldn’t be involved in proprietary trading. I had met with Volker before he introduced the proposal and talked it through with him. His basic feeling was we would never manage to reinstate Glass-Steagall and this was close to that. I was for it. Senators Jeff Merkley and Carl Levin had an amendment that institutionalized this. I thought it was good what we were doing. I thought it was the best result if we could not get Glass-Steagall reimposed. But it’s just too hard to identify what proprietary trading is. I had learned through all my trips to Wall Street, the television shows, the radio shows, the press people, the people I talked to in the banks, and the rest of it, that if there’s the least little loophole, the smallest crevice, they will shoot through it like they did on derivatives, and the next thing you know they’ll get an opinion from a lawyer or an accountant, if it isn’t laid out in cold blood, and they’ll be off doing something equally terrible.



I suggested during one of the hearings on the FERA—one of my real concerns was . . . Let me start out by saying, I know a lot of people on Wall Street. I went to school with a lot of people on Wall Street at Wharton, and I think the vast majority of them are good people, but there is a sizeable minority to whom what I am about to say applies. That is, it was clear to me that a number of different organizations on Wall Street, that people had to know long in advance that the housing market was going to come to pieces. They continued to sell securities. I think the case with Goldman Sachs, which came out during the hearings of the Permanent Subcommittee on Investigations, demonstrated they knew a long time but they were still selling residential-mortgage-backed securities. In fact, they were still selling credit default swaps to bet on the fact that the housing market was going south, at the same time that they were selling residential-mortgaged-securities to their customers. But they said under the law—this is another example—as a market-maker they could do that. Now, nobody else in the world can do that. An automobile agency cannot be selling cars at the same time it's selling insurance that pays off if, in fact, the car crashes. But that's really what went on and it was legal. It should not have been legal.

Merrill Lynch is my broker and they sent me an analysis of the housing market in 2005 that was so stark about the fact that there was a bubble in the housing market that I sent it out to each one of my children and said, "Please, don't invest in anything in the housing market, just in case you're thinking about it. Here's the charts, you look at them, but there's no way this bubble is going to last." It was like the dot-com boom, when people were saying, "There are so many people with their 401(k)s, they are going to be buying so much more stock that the stock market is going to go up forever." Then we had the dot-com crash and stock prices went down. They were saying the same thing with the housing market: "There's so many new people coming into the housing market, there are so many people buying houses, that's the reason that housing prices are going up. It's not a bubble." But Merrill Lynch did this analysis that showed that if, in fact, there was increasing demand, and that's the reason why prices were going up, then there wouldn't have been a whole lot of difference in the slope of the curve in the housing price market and rentals. Rentals during this period stayed level. At some point, you make a decision that it's cheaper to rent than it is to go in the housing market, and clearly there was a bubble in the housing market, based on the old theory about bubbles, which is the reason why people invest in bubbles, whether it's tulips or real estate or dot-coms, is what we call the "greater fool" theory. That is, no matter what I pay for this, even though I'm paying this outrageous price, there's a greater fool going to come along after me who will

buy this, and that's basically what happened in the housing market.

So if I knew in 2005, it isn't 20/20 hindsight that they didn't know it. I asked Lloyd Blankfein [chairman of Goldman Sachs] at what point there was a meeting at Goldman Sachs where they said the market was going to go down. He said there never was. I just don't believe that. Goldman Sachs was so big in this market, I don't believe you could have meetings, not one but loads of meetings, where people said, "How do you think it's going?" These are really, really smart guys. They had to realize early on that the housing market was going south. But the basic approach they had was: We're making so much money on this we're going to sell right up to the end. The example I used in the Judiciary Committee was: It's a little like people in a burning house. They know the house is burning, but they're not going to call the fire department. All they're doing is grabbing money and running out the door. As long as they're standing out on the road with their arms full of money, and the house burns down, and the house is Wall Street, the house is the financial markets of the United States, they really don't care because they got their money and ran.

There are so many examples of that. People at AIG, all of the terrible things they did selling credit-default swaps that never could work out, but they were making the bonuses. The truth of the matter is they were still getting bonuses for what they did in 2007 and 2008 in 2009 and 2010! For reprehensible behavior—whether it's illegal or not it was reprehensible behavior, and they were still getting their bonuses. So you build a culture of people, which is clear from Andrew Ross Sorkin's book, *Too Big to Fail*, and Simon Johnson's book, *13 Bankers*, there's a bunch of them out there.<sup>3</sup> That there's an attitude: "Keep making money. Keep making the bonuses. Keep making the executive comp, and if we destroy the financial markets, so be it."

One of the points I've made throughout all this is two of the things that have made this country great are the institutions of democracy and our capital markets. They are the two crown jewels for the United States: the fact that we protect minorities and all the things we've built up really makes us great, but it's been our financial markets. People come from all over the world to trade because they know they're fair and on the

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<sup>3</sup>Andrew Ross Sorkin, *Too Big to Fail: The Inside Story of How Wall Street and Washington Fought to Save the Financial System from Crisis—and Themselves* (New York: Viking, 2009); and Simon Johnson, *13 bankers: The Wall Street Takeover and the Next Financial Meltdown* (New York: Pantheon, 2010).

level. After this dot-com meltdown, and housing bubble, and the lack of proper regulation or passing the proper laws, if we lose their confidence, there's plenty of other places for them to go. If they stop coming to the United States, it will really hurt us, so I'm arguing for the future and the health of our financial markets.

**RITCHIE:** Back in the 1980s, when deregulation of banks was started, those in favor of deregulation were always saying, "Well, other countries are doing it, Japan and Brazil, and banking money will shift to London," and that "these New Deal laws are obsolete and you've got to lift them, otherwise you're artificially depressing American banks." Was there any validity to that argument?

**KAUFMAN:** Well, there's always some validity to it. But it's very selective when they make the argument, and it's complicated and you've got to figure it out. Like, for instance, they talk about how we have the highest tax rates in the world so people go elsewhere to avoid taxes. But we have one of the greatest deductions, and in fact when you look at the bottom line our corporations don't pay the highest taxes. GE didn't pay taxes last year. I don't think Toyota has ever paid U S taxes. I don't know. But it goes on because we have all these deductions and deals and credits and all the rest of it.

The one that is striking is capital requirements. The argument made by the Secretary of the Treasury Tim Geitner when he met with me was that we should not have capital requirements in the bill, and the reason is it would hinder us in international negotiations. Well, what happened in effect was at Basil III, this is the international bankers, the other countries wanted stronger capital requirements than the United States. So I think like everything else you have to look at the details of what we're talking about. But I would say over the forty-some years I've been here, the arguments that have been made that we have to be careful or we'll lose to overseas have turned out to be not credible much more than they are credible. All the discussions about anti-trust, if we institute anti-trust laws it's going to hurt our ability to compete. Clearly, the arguments that we need bigger banks to compete internationally, which have been made for the last 25 years, there have been a number of studies and one from Andrew Haldane of the bank of England that show that the maximum size for international competition is \$100 billion. Let's just say if we put in capital requirements it would make us competitive overseas. Competitive for what? So to be sure that when our banks are too big to fail, then their banks are too big to fail?

And by the way, on too big to fail, my ultimate indicator that banks are too big to fail is the interest rates that banks pay on their CDs. The major banks in the United States pay less interest than the smaller banks, which is a clear indication that the market believes they are too big to fail, so it's not just me. The administration and others make the argument that things we're not going to do are being done in other countries. But look to England and what they did the Royal Bank of Scotland which was bigger than any of our banks when it failed. A big bank, and they fired their CEO and let it fail. I think you're on a slippery slope when you get into this argument that we should not pass a law because it will hurt us overseas. You have to check it out. That's a very important part of legislation. It's complicated.

But I found in *so* many cases these arguments are made when in fact *we're* the problem. We're the ones, capital requirements is an example, we're the rush to the bottom. We're the ones who are allowing our banks to grow to the size that they have and not do anything about it as a country. As I said, Andrew Haldane from the Bank of England put the maximum size at \$100 billion, and there's just no reason why these banks have to have \$2 trillion in assets. Even if it hurts us competitively, which I do not believe it will do—now they're coming with arguments that regulation is too expensive, it's going to cost us money—nothing we have done in the history of the republic has cost us more than not having regulation of our financial institutions and the trillions of dollars that we have lost, Americans out of work and losing their homes all because we didn't have proper regulation.

I must admit that corporate America, and I consider myself part of corporate America (not this part) has done an incredible job, through Frank Luntz, the wordsmith, of just demonizing regulation. So that most Americans say we shouldn't have regulations. But again, if you look at regulators being the cop on the beat, the referee on the field, the person that should have been making sure that Bernie Madoff was caught early on, most Americans believe in that. They believe that our food supply should be protected, that the Food and Drug Administration is a good idea, and the rest of those things. Can I take a break?

**RITCHIE:** Oh, sure.

[break in the interview]

**RITCHIE:** I was going to ask you, I've always found it odd that after they

deregulated the savings and loans, and the savings and loans collapsed—in the '80s an enormous amount of federal money went into that—and then before the decade was over they started looking into deregulating the banks. Why was it that no one learned anything from the first collapse?

**KAUFMAN:** Well, there's a number of issues. First, there are some bad regulations and there is government bureaucracy that plays to people's views. It's easy to do anecdotal. One of the things that happened in the '80s was local television programs, but also the national networks, the half-hour of the evening news is 10 minutes of news and 20 minutes of these other stories. They started these "government waste," "fleecing the consumer" stories, and government scandal. As I said before, scandal is always a lot easier to cover and a lot more fun to cover. So there's a combination of playing to the crowd, plus corporate America really pulled their act together on this.

If you look back during the Reagan administration, I can't think of very many other think tanks that were of the size of Brookings, which is generally perceived to be left of center. But when Reagan came in, the Heritage Foundation started, the Cato Institute, a whole series of intellectual think tanks that were to the right, who were against regulation, against government control. Cato is libertarian, Heritage is more classic conservative, but both were started with a major financing by corporate America. Then it started working for them. You had the tax cuts under Reagan and under Bush II. I remember the first tax cuts in many parts of the country were called Kemp-Roth. In Delaware they were called Roth-Kemp, because Roth was our senator. Even though it benefitted mostly the more wealthy people in our society, the Roth people told me that one of the things that made it go politically was that middle-class people were in favor of it. So it began to pay off. I always used to say the easiest thing to do would be to raise money for a Republican candidate because you can go to someone and say, "I'm for cutting your taxes and it's going to put \$50,000 in your checking account, now would you give \$1,000 to my candidate?"

Now, I am not—one of the popular misconceptions about campaign financing in my opinion is that there is some kind of quid pro quo. I don't think—I don't know, because I've just been involved with a few candidates, one main senator, and there were no quid pro quos in our office. I don't think there were quid pro quos in most offices. But I think the single most important thing we can do is change the way we finance our campaigns. We need to have public financing of campaigns, which has been incredibly

complicated by the Supreme Court's number of very bad decisions. I've said earlier that the big mistake we made with the Supreme Court was we didn't get people who actually had life experience, who had run for something, like so many of the great Supreme Court justices in the past. We have just totally and completely picked people who have spent their whole careers as judges, and their campaign financing decisions make no sense. So I favored public financing of campaigns and the reason was not that I thought people were being bought, quid pro quo. I think that if two people get up, Tom and Mary, and Tom wants to run for the Senate to help the poor and disadvantaged, he thinks we ought to do something about controlling emissions, he wants more government regulations, and Mary believes we have to lower the capital gains tax, we have to have more tax cuts for wealthy Americans, we ought to do away with the estate tax. The two of them genuinely believe that. Mary has a much better chance of raising the money she needs to run for the Senate than Tom does.

When you have that kind of environment, you're going to have situations where candidates for office, when they raise money, are going to begin to move more and more to the place where the money is. Again, never underestimate the ability of the human mind to rationalize: Well, I'm running for office and I'm going to do a lot of great things, I believe that, so I think maybe that lowering the capital gains tax is a good idea, or doing away with the estate tax. The estate tax is one where you see it all the time, where people who you normally think would be opposed to decreasing the estate tax, people who really believe that government services are important and the money has to come from somewhere, not that they want to soak anybody but they just believe you've got to have a tax base to pay for education and all those other things. That's a long way of saying that when it comes to benefitting moneyed interests, there's been more and more interest in doing that and I think that wall street and corporations want and have become much more adroit at doing it, and the campaign finance rulings have made it tough.

The other thing was there has been a demonization of unions. In 1973, the reality in the United States, no matter how you felt about unions or corporations, was there were two countervailing pressures: unions and corporations. Unions now, except for the public employees unions, are essentially gone, only 6.9% of private sector workers belong to a union. So there is no countervailing pressure. No one to defend what benefits the middle class. If you look at a chart on the decline in real middle-class income, which has been a steady decline since the 1970s—depending on who you talked to, either it peaked in 1972 or it peaked in 1980, real take-home income. Now it's been off-set by the fact that two

people in the family work. But even so, the middle class has gone down. If you count the fall of union membership, and you look at the decline in pension benefits—there are no more defined pension programs—at the decline in income, straight-up salary, the correlation is almost perfect. So the unions, whatever you thought about the unions, used to be the base that protected the middle class. When you look at the incredible gains in wealth during the '90s and 2000s, practically none of it went to the middle class at all, it went to the top one percent. You have a situation now where the top 400 families have as much wealth as 150 million Americans.

Then you have the argument I saw on television the other day where Warren Buffet came out and said wealthy people should pay their fair share. He came to talk to the senators one time. He carries this piece of paper in his pocket and he pulled it out and said, “Here are the salaries and the taxes for me and for some of my employees.” And then he would read off, “I made x millions of dollars and I paid 15 percent” or something like that, and “Mary Smith, my secretary made \$57,000 and she paid 25 percent.” So Buffet came out and said we have to do something about taxes, and they had a piece on *The Daily Show*, just to be funny, and they had all the Fox News anchors calling it class warfare. And Marco Rubio, the senator from Florida, calling it class warfare. And one anchor called Warren Buffet a socialist. Well, there’s been a class warfare in this country. I am opposed to class warfare, but there’s been a redistribution of wealth in this country, starting in 1980 when they cut taxes. Real wealth has been more and more concentrated in fewer and fewer people. It’s been a transfer from the poor and middle class to the very wealthy. So I think that all has been part of a mix that has poured money not just into campaigns, it’s poured money into public relations.

**RITCHIE:** The whole building is shaking. Do you have earthquakes in Delaware?

**KAUFMAN:** Once every—it’s gone. God, that *was* an earthquake. The last time something like this happened, I was in the ninth floor of the DuPont Building, right over there, downtown, and the building shook. You know, DuPont started in the black powder business, with explosives. I went over and looked out the window across the Delaware and the Carney’s Point plant of DuPont had blown up and you saw a black cloud coming up from it. That was the last time I sat in a building that shook. No, this reminds me of California.

**RITCHIE:** I've been to California a lot and never been in an earthquake, but now I've been in one in Delaware!

**KAUFMAN:** I lived in California for a year and we had them. So where were we?

**RITCHIE:** We were talking about financial reform. One thing that was odd was the repeal of Glass-Steagall was signed by Bill Clinton.

**KAUFMAN:** Aided by Bob Rubin and Larry Summers, they were out there, the same thing with derivatives, they drove it. No, in terms of the money and everything, it isn't 100 percent Republicans and 100 percent Democrats. But, to be honest, the Republicans voted for none of this stuff on Dodd-Frank. Five Republicans wound up voting for Brown-Kaufman, three Republicans and 30 Democrats. So sure, there are some Democrats—we were talking about how with the left and right there isn't much overlap. But there is some overlap. In fact, there are some members of the Democratic caucus who are opposed to regulation under any circumstances, and you just watch and see what happens. But you had to have some Democrats, because we had 60 Democrats so they had to have some Democrats vote against it in order for it not to pass. So the Clinton administration had help. But if we leave the Clinton administration and go to the Obama administration, the Obama administration opposed Brown-Kaufman. There was a quote from an anonymous treasury department official saying, "If we wanted Brown-Kaufman to pass, it would have passed." They fought Brown-Kaufman. They fought passing the law. They were in favor of paring regulation back. Practically everything I've talked about, the treasury department and the Obama administration joined with Republicans to defeat. And I think in most of these discussions—it would be interesting to go back and see—I don't think I've used a lot of "Democrat" and "Republican." But it's clear that the Democrats are much more—like I said, 30 Democrats voted for Brown-Kaufman, three Republicans, that's about right. There were twenty-some Democrats, more than that, who voted against it.

**RITCHIE:** Well, do you think the main thrust was Dodd-Frank, and that so much energy was put into that that it took the steam out of other reforms?

**KAUFMAN:** No, what happened here was Democrats supported the bill, but it's the amendments that I'm talking about. The amendments like Brown-Kaufman and



Merkley Levin, the amendments on doing something about short selling. No, no, it was the amendments where the problems were. Dodd-Frank, the idea about having Wall Street reform was very popular in the country. And I'll tell you, in the Democratic caucus—the message suggested by the administration was that “We’re on your side.” Many of us in the caucus said, “Yes, but where in the bill are you on our side?” When the bill was passed, there was a lot of discussion in the administration that “We’re on your side,” and a lot of us were just kind of looking at it. Now it’s a year later and it’s hard to figure out where Dodd-Frank was on “our side” in terms of doing something about too big to fail, on doing something about real Wall Street reform, on doing something about derivatives and the big banks. The bill requires 400 rules and only something like 40 of them have actually been written. The regulators are jammed. Now you’ve got a Republican House and you’ve got the head the securities subcommittee over there writing to the Securities and Exchange Commission, “We don’t want any of this.” We’ve got the Consumer Financial Protection Bureau, which is an important piece of the bill, the Republicans in the Senate have said they were not going to confirm *anyone* for that position. They started out saying Elizabeth Warren, and now they’re saying they won’t confirm anybody unless they change the rules.

I think the strategy, of passing it on to the regulators and not doing exactly what we did after the Great Depression with Glass-Steagall, following up on the Pecora Commission, was a mistake. I wrote an op-ed the other day, and one of the people who responded said it was a great op-ed, “but Kaufman sure is smug.” I try not to be smug, but I do think it’s important to point out that this is not something that I just woke up today and was unhappy about. You go back, and I’m perfectly comfortable with anyone going back and reading—if they could put together a committee and go back and go through all of my speeches on Dodd-Frank and check them for what’s true and what’s not true, and then check them on where I was right and where I was wrong, I would feel very comfortable with the outcome. Because during that whole process, I had a process that we developed in Senator Biden’s office, which was like Sergeant Friday from *Dragnet*, the old TV show, “The facts, ma’am, nothing but the facts.” Go out there and give them the facts as you see them. What I did on all legislation I dealt with, healthcare reform, credit cards, the stimulus bill, I would give a speech and usually had an op-ed that I submitted where I would lay out exactly what I expected to get out of this, in stark terms. And then at the end of the bill, I would talk about how the bill did based on where I was right at the beginning, and where I was wrong at the beginning, but basically how it turned out.

One of the things that came out at the end of the 111th Congress, I don't know who put it together, but someone put together how many speeches each senator had given on the floor, or days when a senator had given a speech. I was, I think, tenth in the Senate, which is impressive when you think that I gave that many speeches—not that they were good—but I gave a lot of them, because clearly the top four are the majority leader, the majority whip, the minority leader and the minority whip. So the first four spots are gone. Of the other 96 senators, I was sixth.

**RITCHIE:** Did you write most of your speeches or did you use your staff?

**KAUFMAN:** Totally collaborative process. I guess maybe now is the time to talk about the staff. One of the great things that I had going for me was a great staff. I had worked for Senator Biden for a long time. Most of the time we had good staff, sometimes we didn't, but by the time I was appointed, Senator Biden had been fortunate enough to recruit a number of people who stayed with him for many years. Some of them I had hired before—Senator Biden hired everybody, but basically I handled the hiring process—people who had been with him for a long time, starting with the legislative director, Jane Woodfin, who had been there for 15 years, in the Washington office. In the Wilmington office was Bert DiClemente, long time State Director, Norma Long who did scheduling, Tonya Baker, who headed the project work and Kevin Smith who worked Kent and Sussex Counties for years. Three of the longest and best serving staffers were Dennis Toner, Tom Lewis, and Terry Wright. Then good people had been attracted to good people, so the existing Biden staff was extraordinary. Part of hiring, you learned—I spoke a lot to congressional chiefs of staff and I was on the Congressional Management Foundation advisory board, and I would say, “If you are right 70 percent of the time you are in the personnel hall of fame.”

I was very fortunate, it was a great staff when I got there, and then the new people I hired, especially Jeff Connaughton, whom I had known for years, that was easy, he was just fabulous. Kathy Chung, who was my scheduling secretary, I said in the *Washington Post* that the single most important thing a senator can have is a good scheduler, and Kathy Chung is one of the truly great schedulers there. Someone who had been the First Assistant United States Attorney for the Eastern District of Pennsylvania, Geoff Moulton, who teaches out in Widener law school, came, and he was great. There was a whole bunch of people, so I really had the advantage of a great staff. It just made all the difference in the world. You get a great staff and the advantage is, one of the things is

they're very smart. Basically, hiring Senate staff is wonderful. The people you get to choose from are just remarkable, especially the number of people who were drawn into government by Obama. I was just a young person when John Kennedy came into office. I've heard the stories, but Obama had something like 250,000 applications and resumes in two weeks or something like that. So the quality of the people who decided, "I'm going to come to Washington and take part in this," was just great.

The way a great staff works, there are different models. My students ask me about what it was like to be on the staff and I say there are a number of different models. The two extreme models are one: "We're all in this together. I may not believe in 100 percent of what the senator believes, but I'm a staff person and I figure that if I move the ball down the field for the senator, that's going to move all of the issues, and there may be some issues I don't agree with." The other is: "I'm going to come and when I don't agree with the senator and I'm going to try to change the senator." Well, we were always in the first category, just because of who Senator Biden is—there wasn't a whole lot of movement. Anybody who wanted to do that, they'd better bring the biggest bulldozer they ever found. We always had a very cooperative staff. Then the trick is getting people whose basic approach is not, "What do I think about Issue X, pros and cons?" It's "What would the senator think about the pros and cons?" There's no way that a senator can stay in touch with everything that's going on in their office, but you do have good managers and they do understand what it is that you're trying to do, and they do it. That's the quality control part of the puzzle. I was very accessible. I used to get in at eight o'clock and leave at eight o'clock, so if somebody had any questions, a legislative correspondent or anybody else, they could come to me. I tried to be extraordinarily accessible on a regular basis with everybody.

What you learn on the Senate staff is you keep doing things over and over again. Every time you start a speech, you don't start with a clean piece of paper. You start with what the last speech was on this, and what that was all about. They've got records of what I said in the hearings, at the press conferences, and when I met with press. I learn a lot from meeting with the press, especially the financial press. I went up to New York a number of times and I met with everybody from Andrew Ross Sorkin to Gretchen Morgenson with the *Times*, plus people on Wall Street, in the exchanges, investors, mutual funds people, brokers, everybody. I learned a lot from the press people because they know what's going on. When I used to be on the Broadcasting Board of Governors, when I went to a country, one of the first groups I met with were the U.S. press people in

that country. I remember in Beijing, I landed and the first thing I did was leave the airport and sit down for lunch or dinner with a half a dozen reporters from the *Washington Post*, *New York Times*, *Wall Street Journal*, *Business Week*, Reuters, and say, “Guys, what do you think is going on in this country?” Before I met with the U.S. embassy, before I met with the Chinese government people or anybody like that, those were the guys I met with. When I went to Wall Street, the same thing. I’d want to meet with the press people at Reuters, of the *New York Times*, or Bloomberg, I would meet with them to find out, “What do you think’s going on with the up-tick rule?” Or “What do you think about too big to fail?” “What do you think really happened with derivatives?” “Why do you think none of these people are going to jail?” It was very helpful, and staff would be with me all the time.

So speeches evolved. You don’t just give a speech and then three months later write a new speech. You’re developing all along that line. It’s tough in the beginning when you’ve got to write the first speech. You sit with staff and say, “Okay, we’re going to do this speech.” As a senator, you are intensely engaged in that process. What happens in a good office is the fact that the senator is there is really positive because you now have a touchstone. You’ve got your compass. You know where north is. I say one of the hardest things about presidential campaigns is there’s so many smart people involved. Even the most trivial decision, not just because people are turf conscious but just because there are so many different positions, it’s hard to move forward. The advantage of being a senator is—it’s like the Lincoln cabinet, everybody’s got a vote, but if it’s 11 to 1, and the 1 is the senator, I wins. That’s the way it has to be. That’s the way my office was. That’s the way Senator Biden’s office was. That’s the way most senators’ offices are. You listen back and forth, but in the end everybody knows who’s the boss. So when you first get started on an issue, you are intensely involved in it, but as it goes on you can do more and more things. Okay, we’re on the road on Issue X, and now it’s just correcting as we go along. Now I can work on Y. So X is at stage 2, Y is at stage 1. Then X is at stage 3, Y at stage 2, now I can pick up Z. That’s the way it works.

I read every speech before I gave it. There’s a famous story, I don’t know if it’s apocryphal, but I heard it from so many different people years ago. There was a Senator [Joseph] Montoya of New Mexico. He got crosswise with his speech writer, and he was famous for not reading his speeches beforehand. He was giving a speech in his home state, New Mexico, and got halfway through the speech, turned the page and read: “You’re on your own now, you SOB.” So, I went over every speech before I gave it.

But the staff people I had were so smart, and so on the program, and so understood the role of staff that we maybe did 40 or 50 op-eds, and more speeches than any other freshman. The only way it could work was if you had really good people who understood the program. When you've got the arbiters helping you, like Halie Soifer, who I hired for Foreign Relations, was amazing Sherman Patrick, they were great. One of them traveled with me to Afghanistan, and Pakistan, and Iraq, all the places I went. They knew exactly what it was that I was doing. That doesn't mean that they wrote the speech totally. They put new things in it. It had to be their ideas in it, too. But they were so great that in every one of these areas I was able to turn out a lot of speeches and a lot of op-eds.

**RITCHIE:** When you picked up those extra two committees, did you also get additional staff for them?

**KAUFMAN:** No, I didn't. They were committees that didn't have staff. But it was not a problem. By the way, I was the first Delawarean to serve on the Armed Services Committee. The fact that I was on Foreign Relations and Armed Services was really helpful. They really compliment each other. The other committee that compliments that area is Intelligence. But I had a detailee from the Defense Department, a guy named Jeff Colvin, who was first class. He just went over and took Armed Services. The committee picked it up and it worked out very well.

[Interview interrupted by a report on the extent of the earthquake]

**RITCHIE:** I wondered with all the technical issues dealing with finances if you were able to tap into your own staff for that?

**KAUFMAN:** Well, finances, as soon as I began to see that I would be working a lot in the financial area, I hired John Nolan, who had worked on Senator Biden's staff, and then worked on the House bill and came over and worked for me. Then there was a fellow named Josh Goldstein, who was getting ready to go to law school. He came in and did a fantastic job. Again, the quality of these people was so high that we could do much more than I ever thought we would be able to do, and do it well, and without any foul-ups. In the press operation, Alex Snyder-Mackler had been Joe Biden's press secretary in Wilmington. He came down to be Communications Director, and then we hired Amy Dudley to be Press Secretary, and Ted Goldman; a great team. Amy is now the vice

president's assistant press secretary. Anyway, we just started out with a good base and then I was fortunate enough that the people I hired turned out well.

**RITCHIE:** When you spoke on the floor, did you get much feedback? Did people respond to the speeches you gave on the floor?

**KAUFMAN:** Yes, much more than I thought. It goes back to the question I've had to answer so many times. People say, "When I turn on the television to the senate, there's nobody there." Well, the floor is the place where you make the record. It's extraordinarily helpful to give a speech on the floor that you can then distribute to the press. Like right now, if I just wrote something and sent it around, well, you're a reporter and you get it, why would you pay any attention to that? If you know me, and the rest of that, that makes a difference. But most of the time you have to be at a venue. You have to be at the National Press Club, or you have to be at Georgetown University, or you have to be someplace in New York. But in the Senate, you just go on the floor and give a speech, and all of a sudden it's on television, it's out there, it's in the record. If it makes any sense, there's a good chance that the press is going to report on it. Now, since the federal government is so big and the Congress covers so much that what you have in the media are people who just follow certain parts of the government, which is kind of axiomatic, so you may give a speech on the floor and nobody is interested in it except that person on Reuters covering Glass-Steagall a year before Dodd-Frank comes out. But it's an incredible place to put down something on the record. The bad news is that if you say X and it turns out to be Y, you can't go back and say it was Y. That's the reason why people will use it. They can use it, and they can use it a year from now. A year from now they can go back and pick out the speech you gave.

One of the powerful things I had was—for instance, I did a number of speeches on high-frequency trading. High-frequency trading was a financial issue that I got involved in after following along on short selling and the rest of it. I began to learn about this high-frequency trading. It used to be there were two stock markets. All the stocks were traded in eighths, and you used to sit in a broker's office and watch the tape come across, up an eighth, down an eighth. Then what they did, I think was in '97, they went to a decimal. Digitization could move things much faster. Then NASDAQ [National Association of Securities Dealers Automatic Quotations] came on and more and more trading was done on computers so not as much trading was going on on the market floors. The people who started using computers to trade were the traders. For people who

wanted to invest, the big banks started investment banking operations and started hiring PhDs who developed algorithms that could take advantage of trades, and now we're up to something like over 50 percent of all the trades are these high-frequency trading, when they trade three or four thousand trades in a mini second. Ninety percent of the trades are canceled. No one knows what's happening. We've gone from two markets to 50 markets. Some of these markets are what are called "dark pools." There couldn't be a better word for them because we have no idea what's going on in those things. You can trade big money.

The high-frequency traders say, "We increase liquidity." To some extent, generally they have increased liquidity, which means that it's easier to make a trade. But nobody knows, because there is so much trading going on, and because the Securities and Exchange Commission and the Commodities Futures Trading Commission have not put in the equipment they need in order to monitor the trades. They don't know what's going on with these trades. There are all kinds of allegations that these algorithms allow them to see trades before other people see trades, they're working under that advantage. There is a lot of controversy about flash trading, or exchanges, where they are letting traders for an additional price see trades before anybody else can see them, which the SEC said they were going to eliminate, but they still haven't eliminated. There is a thing called colocation, where because you are dealing with high-speed computers, the shorter the time is that you can learn about the trade, the more you have in order to take advantage, or not take advantage, or decide to sell and buy low, or go into one market and buy and sell in another market, before other person gets to it. That's not all bad. That's called arbitrage. That's okay. But if you're using electronic means and colocation—what colocation says is, "I want my computer to be as close to the market computer as I can, because I can find out faster in the miniseconds that it takes for the information to travel if my computer is right next to the computer where the trades are being made. If the other one is down the street, I'll find out first." In these markets there are all kinds of incentives. Since there are fifty-some markets all trying to get business, there are incentives to those who trade in volume. It is a classic "rush to the bottom". It's alleged that some of those incentives give them an unfair advantage. There is a lot of anecdotal evidence that people who trade in the markets believe that these aggregate traders have advantages. Now, the reason why there isn't an uproar about it is that there is very little profit—there's like a penny on a sale or something like that, and most of these people who are engaged in it, it gets passed along to their customers. In the end, the person who is getting hit is the retail investor, the small investor.

My basic statement on this, which has never been challenged, and I've done the press and everything else, is that wherever you have a lot of change, and there's been massive change, from practically no trades by computers—in fact no trades at some point—to over 50 percent of the trades being high-frequency trading, trillions of dollars in trades, three or four thousand a second, so there's a lot of change. And if you have a lot of money in these things now, massive, amounts of money. And you have no transparency. No one knows. SEC knows some of the information, but they don't really know what's happening, and they admit it. They don't know what's happening in these things. Without transparency you cannot have regulation, therefore finally there is no regulation. That's what happened with derivatives. You had this massive explosion of derivatives, a lot of change, trillions of dollars. The U.S. government said, "You cannot monitor or regulate this." And the whole thing blew up. I'm just as worried about high-frequency trading.

On May 6, 2009, we had a flash-crash, which is a mini-crash. The market crashed 900 points in a very short period of time. There have been a number of minor flash-crashes since then. One of the things I've done is I've created jobs: When I started expressing my concern about this, the high-frequency traders got together and set up a high-frequency traders lobbying group, which is growing by leaps and bounds because so many people are involved in high-frequency trading. But it's very risky, to my way of thinking, with lots of money, lots of change, no transparency, and no regulation, it's very, very risky. I'm absolutely convinced that if we don't do something about it, there's going to be a major flash crash, not just a minor flash crash.

In recent weeks there's been a lot of volatility in the market, and I think the volatility in the market, to a large extent, is caused by three things. One is the high-frequency traders. Two is the market structure, so many more markets, and a race to the bottom between the markets. All the markets are trying to get this high-frequency business so they lower the rules and they give them advantages in order to get the business. And then finally there's the elimination of the up-tick rule and the allowance for naked short-selling. I'm absolutely convinced these guys again will come out and drive the market down, when they get the opportunity.

**RITCHIE:** You mentioned the lobbying group. There must have been some pretty intense lobbying by a variety of groups on these issues. What was it like being a senator during the lobbying campaign?



**KAUFMAN:** It was really easy because they didn't lobby me. Essentially, they knew I was a lost cause. I wasn't really lobbied by just about anyone. Goldman Sachs never came in and lobbied me. They wanted to come in a few times, but it was kind of half-hearted. Not even Senator Biden's office. First off, I was only there for two years, and they knew in two years they weren't going to turn me around. I wasn't going to change.

[Interview interrupted by a phone call]

**RITCHIE:** You were talking about lobbying.

**KAUFMAN:** Yeah, here's the thing about lobbying. Monitoring who comes into a senator's office to do lobbying, that's not what it's about. In my opinion, the real power is not what's happening in Washington. What's really grown is grassroots lobbying, or sometimes astroturf lobbying. For instance, cap and trade. Cap and trade was not killed, in my opinion, in Washington. Cap and trade was killed by a nationwide, very expensive media campaign. The same thing with healthcare reform, I don't think most of it was Washington lobbyists. It was run out of Washington. People understood the issues, and the back and forth. But what was really powerful, just like the "Harry and Louise" ad was big against the Clinton health plan—it wasn't as big as people thought it was, but that was more effective than Washington. The ads were out, and the one I saw and went "OMG" was a cap and trade ad which I can talk about later.

One of the great things about the Senate, as I said before, is knowledge, and every Tuesday we would have a meeting of the Democratic senators called the Democratic caucus, just about every Tuesday. The Republicans would have a meeting of the Republican caucus. And, every Thursday we'd have a meeting of the Democratic Policy Committee. Byron Dorgan ran that. He was in the leadership. They would have speakers come in and talk to us. A lot of times during healthcare reform we'd just meet as a caucus. I was interested in STEM education, and I think STEM education is important because that's where the jobs are going to come from. Bill Clinton came to the caucus and said that—as Bill Clinton can, nobody in my opinion can understand and articulate policy issues better than Clinton—Clinton said, "Science, Technology, Engineering and Math are important. The real challenge of this recession is not just coming back," he said, "but when you look back over the last 10 years, the vast majority of job growth in this country has come in housing, finance, and consumer products." And he said, "Because of the crash, unfortunately we're not going to need all the residential carpenters we've got

in this country probably for my lifetime. Finance is not coming back. And consumer products isn't coming back because people have started to save because they're afraid of losing their jobs. Where are the jobs going to come from?" I've been using that and I don't hear anybody coming up to me afterwards and saying, "Boy, you're really wrong about that."

Then we had a meeting and John Doerr came. I don't know if you know John Doerr, but he's from Silicon Valley. He's a venture capitalist, and he made gazillions, he was on the ground-floor of a whole bunch of big companies, Google, and I think, Yahoo! He said, "You know, the Internet was pretty big," and everybody laughed. "I believe that clean energy jobs will be three or four times bigger than the Internet. There is just a gigantic opportunity for financial development and jobs, so I'm investing heavily in this." I started reading about it and there's a lot of information out there. Some people say it's not going to be as big as they say it's going to be. Let me tell you something, it is the biggest thing I know of where there are going to be jobs created. This is a big thing.

Then we had a fellow named Shai [Agassi] who is an Israeli, who is developing an electric car—not just a car but a whole system. He gave a presentation and talked about how he was going to use just present battery technology on an electric car. The way he was going to deal with long-distance travel was instead of gas stations there would be things that would look like gas stations. You would drive into the gas station, and you would spend just as much time as you would at a gas station. They can't recharge your battery then, but they could take out the battery and replace it with a new battery and you can drive away. Then he was going to put charging stations, kind of like gas stations, downtown and also along the road. So if you have a 40-mile radius with an electric car, you could drive down to work, 35 miles, plug it in and come out at the end of the day and drive home, and you'd be covered. You can imagine how many jobs that would create if you had to have all those new batteries, and all those new gas stations. That is a big economic development thing. He said he had been working with people in China, and in San Francisco. So I was like, "Okay, the guy must know something about what he's doing."

The great thing about the Senate is you meet all these world leaders. Not long after that, maybe a month and a half later, there was a delegation from China, a defense delegation, and they had luncheon with some members of the Foreign Relations and Armed Service Committees. I sat next to the chief aide to the leader of the delegation.

The guy I was sitting next to was pretty important himself, because he was on the State Council in China, which is what really runs China. So we were talking back and forth at lunch and I said—no leading question—“What are you doing about electric cars?” He said, “Oh, we’ve got this great program, we’re going to have these cars with batteries and you’re going to set up stations on the highways . . .” He went on to describe Shai’s system. Now, I don’t know if it’s going to work the way Shai thinks it is. I don’t know whether it’s going to work the way John Doerr does, but my basic approach is that’s where jobs are.

One thing that Doerr said was, “You’ve got to have a price on carbon.” He said, “This is a free market, but if people are allowed to continue to use carbon fossil fuels with impunity, and pay no price for it, we’re not going to be able to compete. Because we’re not going to have certainty. When we build a plant, we have to plan on that will be oil and gas prices do not crash in price. We need a carbon tax on oil and gas. A lid on how much emissions you allow. And that’s going to help create jobs for the middle class in new environmentally sound industries.” He convinced me. I don’t know what the exact thing is, but we’ve got to have a tax on pollution.

**RITCHIE:** Of course, that was part of the energy programs that Jimmy Carter was promoting in the 1970s.

**KAUFMAN:** Exactly. Oh, cap and trade was invented by the Republicans. It was a market-based reform. It’s really funny, it’s the same thing with healthcare reform, we signed onto their market solutions. A lot of people think we should have gone straight with healthcare with single-payer, and fought for what we believed in, but we get caught in the middle and alienate everybody. That being said, I’m at home one day, and I don’t watch much television at all, mostly sports events. I’m watching some sports event and this ad comes on. There is this nice middle-class looking guy. He looks at the camera and says, “You know, I just don’t understand Washington. Here we are in recession and they want to tax our electric utilities. And you know the utilities are just going to pass it on to me, and that means I’m going to have to pay more for electricity. I don’t know what Washington is doing. Fight the tax on electric utilities.” That’s how they killed the carbon tax and cap and trade.

This whole system of public relations firms has built up. The amount of people who are being hired and paid for, who are smart and dedicated, to stop any kind of

regulation of the finance business could fill rooms and rooms and rooms. The other problem is, on the other side there is nobody. One of my Duke Law colleagues, Kimberly D. Krawiec, did a study on lobbying of the SEC. She found that 93% of the lobbying was done by Wall Street and other financial institutions and 7% by the AFL and other public interest groups.

When I used to go up to Wall Street, it reminded me of the inner city sign, “No Snitch.” Tee shirts. They’ll tell you off the record, “I’m really glad you’re doing something about the up-tick rule.” “Well, why don’t you say something?” “Oh, I can’t say anything, they’ll come after me.” Or “It’s really great about what you’re doing about high capital standards, but I can’t say anything about that. I can’t get my bank mad at me.” So you have this incredible imbalance in the war for information. It isn’t just the Heritage Foundation and Cato versus Brookings. It’s just millions of dollars that are being poured into college campuses, hiring people, hiring academics—I don’t think any of the academics are necessarily prostituting their ideas, but if you’ve got five academics and one will write that high-frequency trading is a good idea and four of them won’t, which one gets the funding? There’s nobody funding studies that say high-frequency trading doesn’t work, there’s nobody funding them, zero. There’s nobody funding studies on the fact that we should do something about too big to fail banks, there’s no money on that.

There’s one operation in town, called Better Markets, led by former Dorgan staffer, Dennis Kelleher where they are trying to do something about controlling regulations, but that’s like three or four million dollars against hundreds of millions of dollars. And that’s just the battle over the regulatory agencies. There was an article in the paper not too long ago that the Commodities Future Trading Commission’s lobby is usually empty, but since Dodd-Frank passed it’s full. It’s not full of people arguing against Wall Street, it’s all Wall Street folks. It’s just a totally one-sided fight, and these regulatory agencies are required to go through process. In fact, I saw one ruling of the SEC was reversed by the courts because they didn’t do enough process. Well, when you send in a whole bunch of very smart attorneys, they’re going to make it very difficult for the regulatory agencies to work. That’s what I think is going on.

By the way, with the *Citizens United* decisions allowing corporations to pour unlimited funds into races, now it’s about campaign financing, which I think is really scary. Up until now, I think it’s been much more about grassroots public relations,

change people's attitudes at the grassroots, then have them come back to their member of Congress and tell him.

**RITCHIE:** One of the things about Glass-Steagall was that it created two separate entities, commercial banks and investment banks, and they used to each have lobbying operations against each other. So when they first proposed repeal of Glass-Steagall in the '80s, there were a lot of securities lobbyists who were opposed to the deal because that meant that commercial banks were coming into their territory. Once they merged, you lost the countervailing force.

**KAUFMAN:** Yeah, they were countervailing forces.

**RITCHIE:** Even the senators from New York used to take sides with either the banking or securities interests. Senator [Alphonse] D'Amato filibustered against repeal of Glass-Steagall in the '80s and then as chairman of the Banking Committee in the '90s he tried to get it enacted.

**KAUFMAN:** A wonderful place, isn't it? Washington is a wonderful place!

**RITCHIE:** When you mentioned cap and trade, I thought you might want to talk about your environmental initiatives in the Senate.

**KAUFMAN:** Yes, and since I wasn't on the committees, and was so tied up with everything else, most of my environmental work was built around Delaware issues. I think you could say my votes were pro-environmental. I was for putting a tax on pollution and the rest of those kinds of things. But the big things for me were the National Wildlife Refuge System, and trying to build that up. Delaware is an important part of that. I was involved with White Clay Creek. When I was on Senator Biden's staff we got the DuPont Company to put up a whole bunch of money and we set up a way to protect White Clay Creek, and we got together with Pennsylvania. I wanted to make that the Wild Clay Creek into a National Wild and Scenic River. So that was another piece.

I had a big fight with Philadelphia on dredging the Delaware River. My understanding is that most rivers that are boundaries between states, the states split it right down the middle. Not the case here. Delaware controls the entire Delaware River bed. The Port of Philadelphia, primarily, but some other ports up the Delaware wanted to

go in and dredge the Delaware deeper to allow bigger ships on up the river. In order to do that, our position was—before I came—that the Natural Resources and Environmental Control office in Delaware had to determine the impact on the environment. They took quite a while to decide what they were going to do, and the Army Corps of Engineers went ahead. Senators [Robert] Casey and Specter from Pennsylvania had a section of the appropriations bill with money for dredging the Delaware River, clearly not something that I wanted to do. So I went to Senator Inouye and introduced a proposal to eliminate that, and I was successful.

One of the interesting things with Senator Specter, who I hold in the highest regard, we used to ride back and forth on the train together. Talk about someone who does what they think is right, it's Arlen Specter. But after I did that, Senator Specter came to me. He was upset with me because I had put in my amendment and I hadn't told him and Senator Casey. I said, "We're friends, but if I remember correctly, you and Senator Casey and your staffs never contacted my staff to tell me you were originally putting in for the dredging, so I figured that you would see what I was doing in response." It was just one of those great little things between two senators. You talk about civility, we just talked it through and came to resolution. If the Senate was like they say it is, he would have been shouting at me and I would have been shouting at him. I like Senator Specter and I think he's smart as hell. Anyway, that's how it worked. But then the Corps of Engineers said they were going to go ahead and do it even though we stopped the funding. It was one of those bureaucratic situations that went back and forth.

**RITCHIE:** How was it resolved?

**KAUFMAN:** I don't think it was resolved until this day. I don't think they've started dredging yet. I haven't read about it.

**RITCHIE:** You were also interested in wind energy.

**KAUFMAN:** Yeah, and I worked with the University of Delaware. Delaware put in a gigantic wind mill down at Lewes, on the Lewes Campus. I had worked with Blue Water, which is an outfit that wanted to build a wind farm off the coast of Delaware in the Atlantic, which is an ideal place to build it because the shelf goes out so that you don't have to dig so deep, and there's a lot of wind. So I worked on that and tried to get that done. That's turned more into a business problem than a regulatory problem. That is,

that the state got NRG, which is our local power company, and Blue Water to join together, and now it's a problem of finance. But I believe that alternative energy, clean energy, is really the place for the jobs. As Doerr said when he was here, the good news is that all these—he made a list of wind, geothermal, and all of these things that were growing. He said, “The bad news is, we're not in the game.” Something like one of the top ten companies in each one of these things, we have one, maybe two corporations, so we have got to get the government involved in helping do this. There was money in the stimulus bill, the Recovery Act, to help develop energy.

**RITCHIE:** I would think any Atlantic Coast state would want to take advantage of wind energy.

**KAUFMAN:** Well, especially here. There are places where you just can't do it. On the West Coast, from what I understand, there aren't as many good places, but right along here it's ideal. Of course, Google is putting in this [undersea power] spine that's going to run down the coast. One of the problems is there's great places where you can develop a lot of energy, but they are far away from the places where you need the energy. The beauty of this thing is you're right next to the user. They're going to build a spine that runs down here so that you can get the energy in from the windmills easily. There is a loss as you move it, the amount of energy degrades.

**RITCHIE:** You also got involved in offshore oil drilling as an issue.

**KAUFMAN:** Yeah, I did. My basic approach is no offshore drilling, especially off the Atlantic Coast. Basically what happened was the president came out in March 2010 with a plan where he wanted to open up the Atlantic Coast and the Gulf of Mexico to offshore drilling. My approach is that just doesn't work. My approach was that the risk of drilling off the shore is just too great. This was before the big oil spill. I wrote a letter to Interior Secretary Ken Salazar that said the problem with drilling off the coast was the fact that you could have a spill, and really for Delaware, tourism is a major economic factor, so I'm opposed to drilling off the coast unless someone convinced me that we could do it an absolutely safe way and not have any risk. That was my position. Then I signed on—I remember Secretary [Ken] Salazar called me on that. He said, “I think we can protect Delaware.” I said, “If you can protect Delaware, it's up to the state. But I am absolutely opposed right now to drilling off the coast of Delaware.” And then when BP [British Petroleum] hit, talk about having made the right argument! I had no idea that it

would happen this quickly, but it really helped in term of slowing this down.

My argument with BP was really, it's an engineering argument, it's the same argument that people say we don't need to regulate Wall Street because it's going to cost too much money. The cost of the meltdown was trillions of dollars, and you're talking about nickels and dimes you're going to save on regulations. That's the same thing with offshore drilling. We don't know what's going on on those drilling platforms in the Gulf of Mexico. We don't know if there's another piece of equipment that's bad.

One of the big things that really concerns me for the country is regulatory capture, where the regulators are being captured by the industry, and no one was worse than the offshore drilling agency in the federal government, where you hired people from the oil business to oversee it. It's clear that they didn't try to get independent employees. . It's clear that all kinds of inducements were made to people not to regulate the platforms. There wasn't really inspection of these things. So I'm not for opening another well off the coast until we know that it is truly safe, that somebody other than the people that gave us BP are out there inspecting it. And I have no trust in the—I mean, talk about outrageous, when you read about the programs—and this is not just anecdotal evidence or something you hear on the Internet. This in fact was documented by the Congress, that the program to deal with a spill, they just took the one they had for the North Sea and put it in a different binder and passed it in for that. There was no real planning if in fact you have a spill. But even more important to me is there is not enough protection in terms of inspection. Every house in America, before it is sold, you have to go in and have an inspection. But nobody is checking to see if the batteries are working on the offshore drilling platforms. So that was my argument on that.

**RITCHIE:** Was there much of a debate in the caucus over this? Because you had the senators from the oil-producing states.

**KAUFMAN:** Oh, yes. Senator Landrieu and Senator Menendez had a really great little back and forth on that, on the liability caps. Oh, no, this issue is not a party issue, this is a regional issue.

**RITCHIE:** I suppose it almost doesn't matter who it is, if you know senators are from a particular state you know what position they are going to take.



**KAUFMAN:** That's true. As I think has been mentioned several times, where you stand is where you sit. If you're from Louisiana and you're concerned about jobs in Louisiana, therefore you want the drilling to go forward. If you're from New Jersey you're worried about tourism jobs, so you're more interested in making sure there aren't any spills.

**RITCHIE:** I'm curious about the debates that take place in the party conferences. How much does that influence what goes on on the Senate floor?

**KAUFMAN:** Well, it depends. One of the great things about being in the Senate was the caucus, where the senators meet and talk about issues. It was one of the high points of my entire time in the Senate. One of the great surprises to me, which I didn't really appreciate when I was chief of staff, because I didn't spend that much time around senators when they were just senators, but they are very funny, good to be with, thoughtful, whether you're having dinner with somebody, just the two of you talking about anything, or standing around, five or six people on the floor talking. It's a very unusual environment. You are in an environment where you are scheduled from morning to night. But the Senate is the Senate, so it doesn't work the way your schedule wants. If they decide to put three back-to-back votes at two o'clock in the afternoon, you're basically on the Senate floor for a while. You may go off to make some calls, but you find yourself for a period of time together on the Senate floor, and they are just good company, all of them.

The caucuses, every Tuesday you get together. We met in the Mansfield Room. All of the Democratic senators come. We hear from the historian, which is always interesting. Then Harry Reid has the agenda. If there's a big issue, like healthcare reform or Dodd-Frank, that will take up a big portion of it. It's just a great break in the day. It usually takes about two hours. There's two kinds of senators, ones who find a chair and sit down and stay there for the entire term of the congress, and others that each week move from table to table working the crowd. I would sit. I used to sit between Jon Tester and John Kerry. Senator Inouye used to sit at our table. Mark Udall. Kay Hagen a lot of times. Jay Rockefeller for a while.

It was so interesting, I didn't follow it, but there was a period where—I don't know if it was just a coincidence or not—but Senator Kerry and Senator Rockefeller used to sit at our table and there was a lot of back and forth between the two of them. They're

both enjoyable people to have a lunch with. I can remember when someone was kidding Senator Rockefeller and told the story about some senator who was on a Codel, a congressional delegation trip, and Senator Rockefeller was standing there with an attache case. Somebody said to him, “Why are you bringing the attache case? What’s in it?” And Rockefeller said with a deadpan, “Cash.” When we had the clean energy debate, Senator Rockefeller was from West Virginia and Senator Kerry was pushing hard for clean energy. I think Senator Rockefeller said something that Senator Kerry didn’t agree with. All of a sudden, Senator Rockefeller wasn’t at the table anymore. But that was the exception, we just had a great time. And as I say, it was great for a break in the day.

The same thing for the floor. Senator Biden told me early on, in 1973 when we were talking about senators, he said, “There’s a reason why every senator was sent by his state and if you spent a long enough time with them you’ll see it.” And it’s true. A guy like Jim DeMint, who I don’t agree with on just about anything, Senator Kerry had a dinner at his house for the Foreign Relations Committee and I sat next to Senator DeMint for an hour and a half to two hours and I enjoyed our conversation. He’s from South Carolina and my sister teaches at the University of South Carolina. So I just found one of the real pluses of the Senate was the members. They talk a lot about “my good friend” and all that, but it really serves a purpose. One of the big things that you learn in the Senate is that politics does make strange bedfellows. You may be fighting with someone one day and the next day seeking his support. Senator [Mark] Warner and I were working together on this high-frequency trading and the same day that we gave a speech together on that he gave a speech opposed to Brown-Kaufman. One day you may be in favor, the next day you may be opposed. It’s important to maintain good relations. But they’re just affable people. Essentially they are people who enjoy other people and want to be with other people. They’ve had incredible experiences.

I told you earlier that at the Senate spouses have a dinner every year. One year, I sat at a table with four conservative Western senators and their spouses, and they started talking about rodeos, and it was just fascinating. I had been to some rodeos, but they started talking about the politics of it, and how you handled it, and it was absolutely fascinating. Mike Enzi is a senator from Wyoming whose office was right across the hall from me. He had just gotten reelected and he was talking about the fact that every weekend he goes home and travels around Wyoming. I said, “Well, it must be nice to get home to Gillette every weekend,” that’s where his home is. His wife said, “No, we only get to Gillette once a month.” He said, “We fly to a portion of Wyoming, we go around

that district, and then we fly back to D.C.” This is a guy who has just been reelected. He’s not doing it for reelection. That’s the way he views his life. When you talk to senators, you find out what makes them, and it’s nice in a very busy day to take a break with some interesting people and stand around and talk.

I had met Sherrod Brown when I was traveling with Joe Biden, when he was running for vice president. We had a bus for two days through Ohio. For a lot of that time, Sherrod Brown, who I had never met, was on the bus. Sherrod Brown is like Paul Simon, he’s written a lot of books, and he just knows everything about everything. One day I was on the floor when the up-tick rule was on my mind. He’s on the Banking Committee, so I went up to him and said, “Hey, Sherrod, I really think we ought to do something about the up-tick rule, that they removed it.” He looked at me and said, “What’s the up-tick rule?” I started answering, and then I started laughing and said, “You mean there’s something you don’t know something about, Sherrod?” One of the other senators said, “Come over here, come over here, there’s something Sherrod doesn’t know about! Sherrod doesn’t know anything about the up-tick rule.” [Laughs] I said, “This is incredible, Sherrod!” He’s kidded me about it ever since. It’s just small things, but we’ve all had experiences where you work with somebody and you just enjoy seeing them.

It wasn’t just my party. John Barrasso is the other senator from Wyoming. He was originally born and raised in Reading, Pennsylvania. God, I just really liked him. We got along together. I enjoyed seeing him. Senator [Mike] Johanns, Senator Risch, they’re just good people. I used to go to the prayer breakfast from time to time and would see them. One of the things that was great was I liked going to Mass once a week. I would go on Sundays but then go to daily Mass once in a while. My basic feeling is I like to go someplace where you can say “do unto others as you would have others do unto you,” and nobody laughs. “Be your brother’s keeper,” and all the rest of that. I’d go to Mass and Senator Voinovich would be there a lot of times, Senator [Sam] Brownback, who was a convert to Catholicism. They are just a good group.

Especially having Tom Carper as a colleague—I said my greatest accomplishment was making Tom Carper a senior senator. Tom Carper is a wonderful public servant and a great elected official. He was treasurer for many years. He’s been elected in more elections than anyone in Delaware history and I’m sure he’s retired the trophy. He was our treasurer, and I knew him back then. It was 1974 and he was getting his MBA at the University of Delaware, and he was working as treasurer for a really

great political science professor, who has died in just the last few years, Jim Soles. Jim was running for Congress against Pete DuPont and lost, but made a good race, and Tom was his treasurer, so I met Tom there and then Tom was picked to run for state treasurer. He wasn't even at the convention, he was down at the beach. We didn't have a candidate. It was supposed to be a sacrificial lamb. We got Tom and he ran and won time and again, then Senator Biden and I helped talk Tom into running for Congress against another good guy, who I've become good friends with and a big supporter, Tom Evans, who was a congressman and former chairman of the Republican National Committee. Tom Carper ran against him and got elected to Congress. Then in 2000 he ran against incumbent Bill Roth, another great senator, so much integrity, so smart. He went to Harvard law school and Harvard business school and was chairman of the Senate Finance Committee. But Tom is just a wonderful person.

One time he was at the prayer breakfast and said something that I'm sure he won't mind my repeating. He went on and on about the Golden Rule, doing unto others as you would have them do unto you. And I want to tell you, after he said that—that was about 2009—I could not think of a single case where that wasn't evident in his behavior, as I remember back and from that moment on. He's just remarkable, and he's indefatigable. He gets a lot of respect from his colleagues, and is just a wonderful person to work with.

**RITCHIE:** How closely do two senators from the same state coordinate?

**KAUFMAN:** Oh, it varies all over the lot! Oh, my God, and it doesn't necessarily have to do with being from the same party. And in fact, being from the same party sometimes can be a problem. It can be tough to be from the same party, because you're both trying to go after the same constituents, so it varies a lot. A lot of times there's back and forth on the staff level. For instance, there's going to be a post office that's going to open up. You've been working to get the post office there, and you want the credit, but the other senator wants the credit, so there's always this credit problem, which frankly always is harder on the staff than on the members. When Senator Biden first came in and was there for a while, I was having some problem keeping the staff focused on the fact that we weren't opposed to Senator Roth, even though we were Democrats and he was a Republican.

Senator Biden called a staff meeting and said, "There is one person in the state of

Delaware that I know I'm never going to have to run against and that's Bill Roth. It's a firing offense for anyone here to not cooperate with Senator Roth and Senator Roth's staff." So we had a wonderful relationship. But the Delaware delegation, we've always had it great—they call it the Delaware Way. We always get along, with Congressman [Mike] Castle, he's a Republican, and Senator Tom Carper and me, for the two years I was in, a lot of the press releases were joint press releases. But there are also a lot of stories in the Senate, when I was there, of two Democratic senators or two Republican senators that just really, really didn't like each other and were quite open about the fact that they didn't like each other.

My favorite was North Dakota, Kent Conrad and Byron Dorgan, Kent Conrad married Byron Dorgan's chief of staff. Now, that's pretty close! So as many different senators and states there are, there are that many different approaches. But Delaware has a long tradition of cooperation. When it comes to issues that help Delaware, there is no party division.

**RITCHIE:** That makes a lot of sense.

**KAUFMAN:** Well, a lot of these things make sense, but they don't always happen. Now, the caucus is a place where you go for strategy. The whole time, for the two years I was there, there was a real battle in the caucus on how we should proceed in one regard. The leader and a lot of the caucus believed—and both of these things make sense—that we needed 60 votes and what we needed to do was how we get our 60 votes. At several periods during that time we needed a Republican, at least one or two Republican votes, for instance on healthcare reform, on Dodd-Frank. We went through a lengthy process on healthcare reform. We had the Gang of Six and they met, three Republicans and three Democrats, they went on and on and on. One of the reasons in the end, in retrospect, why healthcare reform turned out to be so unpopular was that for a long period of time, for about six months, we were trying to make a compromise, therefore we were not saying anything bad about what the Republicans were doing. The Republicans were just beating the mortal devil out of us. Even at the end, we went away on the August recess. Mike Enzi and Chuck Grassley were both on the gang of six committee and there were reports in the press about Enzi and Grassley just ripping us apart on all kinds of things. We came back to the caucus and there was a move afoot to reconstitute the Gang of Six. We were saying, "Whoa. Why do we want to reconstitute the Gang of Six?"

Then we went through the whole argument about the public option. There was an argument that what happened on healthcare reform was that when the numbers of people who disapproved of healthcare reform started to go up, Mary Landrieu and a number of those who were more moderate said, “Look, we’ve got to do away with the public option. We’ve got to get the independent.” Bernie Sanders got up, and said, “Wait a minute. If you look at why our numbers are going down, it’s not because the moderates are turning away from it. It’s because our people are turning away from it.” He said, “If you’re out there and 65 percent of the people—not just the Democrats—think we should have a public option, and you’re opposed to the public option, and another 60-some percent are opposed to taxing Medicare benefits, and we’re for taxing Medicare benefits, that’s why the numbers are going down.” That’s what Bernie said, which I think turned out to be true. I remember one survey, it was like 42 percent in favor of healthcare reform, this was near the end, and 46 percent opposed. But of the 46 percent opposed, 17 percent were opposed because they didn’t think it went far enough.

So there was this constant battle about what should we do. One of the reasons why we passed so much legislation was because the leader kept us to the 60 votes. The problem was, some of us in the caucus were concerned about the quality of the legislation. Clearly on Dodd-Frank, there was a lot of concern about that. But also on healthcare reform, that we should have had more of the Wyden-Bennett things in it, we should have had maybe the public option and the rest of that in. See, what happened was, the Republicans would load it up. There were loads and loads of ideas on healthcare that the Republicans put in, especially during the HELP Committee mark-up. I think there were 245 Republican amendments, so there were plenty of Republican ideas in there. In fact, the “death panels” on which we got beat up terribly, which had nothing to do with death panels, that provision was introduced by a guy I worked with a lot and liked a lot, and that’s Johnny Isakson, who I think it’s fair to say would describe himself as a conservative senator from Georgia. He put it in. It had nothing to do with rationing, but we got killed on it, and it wasn’t our provision.

We had a number of arguments about what the strategy would be. There were a number of us, more and more as the year went on, who said we should put forward a bill that’s a Democratic bill and if we don’t get it passed, that’s okay. It’s better for us to pass a good bill—and obviously that was my concern and a lot of concerns about Dodd-Frank. I said, “The Republican negotiations have got to be stopped.” About in February 2010 I got up at a caucus, this was when there was a jobs bill up. I got up in the caucus and said,

“We’ve got to stop these negotiations with the Republicans at a certain point. It’s like Lucy and the football. They keep promising on healthcare, Dodd-Frank, jobs bills, they keep saying ‘Let’s just negotiate a little longer.’ Meanwhile, they’re beating us up, and time is going, and we’re taking their amendments, and they end up not voting for it.” On the stimulus bill three Republican senators voted for it. One of them was Specter who became a Democrat. Healthcare reform it was zero. Dodd-Frank, they voted against it.

So the argument I made, and it wasn’t just me, it was a number of senators, was that we ought to just put the bill up and do it. We actually tried it on a bill. We had a jobs bill that was proposed—everybody said we want to do a jobs bill. Senator Baucus, who was chairman of the Finance Committee, who carried those negotiation, came to the caucus in March and said, “I’ve sat down with Senator Grassley and we’ve come up with a compromise bill on the jobs that is not just going to create jobs but it’s going to have a whole lot of other things in there, tax extenders and the rest of it.” This is what the Republicans did—they would negotiate and then they would beat us up for putting all these other extraneous things in the bill. You could just see it coming again. The caucus just erupted. “Look, we need to do just a jobs bill.” The White House had come out and said they endorsed the Grassley-Baucus bill before the caucus had even seen it, so people were pretty upset about that. They said, “Let’s just go with a bill that eliminates everything else and creates a job bill.” My good friend Sheldon Whitehouse put out a Lucy cartoon, with the Republicans promising to hold the football. We actually passed the bill. We picked up five Republican votes and it passed.

Harry Reid wasn’t leader when I was on the Senate staff, but man I’ll tell you, in terms of putting things together he did an absolutely incredible job. That’s the only reason why we passed so much legislation. He did it. I remember on the healthcare bill, we got down to the end and he literally educated himself on all these issues, figured out where the compromises were possible, where we could make it work. He’s a truly great legislator. But there were a number of us in the caucus who thought that just like the jobs bill we should put the public option in there and get the Republicans to vote against it. It’s really extraordinary the number of Republican candidates for president, and pundits on television, and senators, who have called the healthcare bill “socialism.” It may be a lot of things, but it doesn’t even have the public option anymore. They basically took the talking points for the Hillarycare bill, which wasn’t socialism either—socialism is when government controls the factors of production, that’s a public health plan, that’s what they do in England. Which, by the way, my daughter who has had three children in

England thinks the English system is great. I do, too. It's mostly done with midwives and they actually come to your home. It's a much better system than what we have. Socialism would be if all the hospitals were owned by the government and all the doctors worked for the government. We've gone the other way. We've got the worst of all worlds. We've got this crazy system we have now that's based on insurers, but yet lots of the American people call Obamacare "socialism." So maybe we should have stuck with the public option.

I definitely think we should have stuck with Brown-Kaufman Amendment to Dodd-Frank, if we had put back Glass-Steagall, if we had done what a majority of Democrats think, and if we had gone with some of the bipartisan issues, like on healthcare reform, if we had really implemented Wyden-Bennett—We passed a lot of legislation, and there was an ongoing fight over should we have stuck more to our guns on these issues and maybe not passed quite as much legislation. Although there were those of us in the caucus who thought we could have passed the same amount of legislation, it would just be better.

**RITCHIE:** Was Senator Reid essentially trying to find the center of the caucus, to get everybody on board?

**KAUFMAN:** No, what he was doing—that's kind of it—but he was trying to get the 60th vote. His strategy always was that. I can remember after we had had this debate for the entire two years practically, we were all the way at the end, I can't remember what the issue was, and Sheldon Whitehouse got up and gave an impassioned plea for us sticking to our guns, and Harry said, "But, Sheldon, where are we going to get the 60th vote?" So even after all that discussion, it was basic approach.

**RITCHIE:** The problem was that nobody on the other side wanted to be the 60th vote.

**KAUFMAN:** That's right, but the point is for a long time we had enough votes. We had 60 votes. And really the moderates drove it. The Ben Nelsons and the Evan Bayhs and the Joe Liebermans. When I first came, Jeff Connaughton and I were having this conversation and Jeff was saying, "I can see what's happening. We've got 60 votes. The key to success in this Congress is going to go to the moderates. You ought to be a moderate so you can get to say what's in these bills." I said, "Geez, but I'm not a



moderate.” Jeff said, “Yeah, that’s good.” But Jeff was right on the strategy, it just would not work for me. I’ll never forget when we were doing the stimulus, they had a group of moderate senators who were sitting down and talking about the stimulus. I went to my first meeting and it was being run basically by Joe Lieberman and Susan Collins. There were about 14 or 15 senators and they were talking about \$200 or \$300 billion. I came to the second one and Susan Collins said, “We just can’t support a stimulus over \$300 billion.” We had a \$2 trillion hole in the economy. Even \$800 billion wasn’t enough to fill that hole. I sat there and I thought, now I’ve got three courses of action here: one, I can go along with them; two, I cannot go along with them, and then tell them what I think; or I can walk out. And I walked out.

I imposed what Vice President Biden used to call the “Disraeli Rule.” There was this famous story that a new member of the House of Parliament came to Disraeli and said, “Mr. Prime Minister, do you think I should speak tonight in the House of Commons?” And Disraeli said, “Better people wonder why you didn’t speak than why you did.” That has really helped me over the years. Many times when I’ve been getting ready to say something in public or on TV, I think its better they wonder why I didn’t speak than why I did. So I got up and walked out and that was the end of Ted Kaufman, Moderate.

One of the things that I found when I first came to the Congress, and teaching about it, is that you have to understand how compromise works. You have to understand about logrolling. I’ll help you on this bill if you help me on that bill. You understand that people in particular positions can exert influence on a group, because I need Sam, or Mary, or Harry’s vote, and they say, “For my vote I want this, that, or the other for my district.” That’s part of the process. Bismarck was right, neither sausage- nor legislation-making should be seen in public. It’s a very messy process. I did find that after 30 years my ability to see the larger good was slowly disappearing. Several deals went on during the Dodd-Frank bill—this was in the newspaper, so I’m not saying anything out of school—Senator [Scott] Brown just sat with Massachusetts’ banks, so when it came to capital requirements, they’re determining what the capital requirements in the Susan Collins amendment was because the Massachusetts Brown said, “I won’t vote for it unless you do it.” And of course the agreement with Ben Nelson and Medicare, and ethanol being put under the Agriculture Department instead of Energy. You see that stuff and I can understand why people get upset. But it is the legislative process and it’s always going to be like that. As long as you have a democracy, you’re going to have to

do it.

I just felt that I had done enough. My 35 years of participating and trying to deal with it was enough. But it was disturbing. As I said earlier about civility, sometimes you'd be more upset with the Democratic senators than with the Republican senators. But when the Democrats are in control you're trying to get the 60 votes, and if you're 59 or 58, or if you're 52 and 53 and you're not doing a filibuster, you can do it. It looks a lot like extortion. I just wasn't into it. It's interesting how different senators take different approaches. What I supported—there was a discussion early on about the filibusters, how do you get the 60 votes? Someone in the caucus, who had been on the House side, said that Tip [O'Neill] had a rule that on procedural votes you voted with the caucus. On the Substance of the issues, nobody could put pressure on you, but on procedural votes you voted with the caucus. I thought we should institute that rule. When it came to a vote on a filibuster, if you didn't want healthcare reform that's fine, but you had to support the caucus on cloture on a motion to proceed to healthcare reform bill and things like that. I really think that was the way to proceed, but there were a number of senators that whenever there was a filibustered bill was they had some deal that they wanted to make to make it go. But it's a lot like our criminal justice system. If you don't have compromises you're not going to move forward. Therefore you have plea agreements and all the rest of this kind of thing. And it's just not pleasant to watch. It's just like sausage. It's better if you don't have to see it being made.

**RITCHIE:** I'm just noticing it's about 20 to 4:00. We have a lot more to talk about, especially filibusters. Shall we pick it up there tomorrow?

**KAUFMAN:** Sure. Maybe we could talk about filibusters, but I'd also like to get through this list of legislative issues. I think we pretty much got through restoring confidence in government, and I think we got through clean energy and the rest of it, STEM education. We could do a little bit on that. Healthcare, I don't know whether we want to do any more than we've done. We did the transition. I want to talk about impeachments, and obviously want to talk about Supreme Court nominations. Defending America's national security, that's the part. Maybe we ought to start with that before we do the filibuster tomorrow. Defending America's national security and defending human rights are the last two items on my list. I think that will probably be good. And then I think we've pretty much covered the issues—oh, and the other one is federal workers.

**[End of the Sixth Interview]**

*Photos from top to bottom:*

Senator Ted Kaufman with the Dalai Lama, and Senators John Kerry and Harry Reid.

Senator Kaufman in a military helicopter in Afghanistan.

With Senators Carl Levin and Jack Reed at a shura, a meeting of local Afghani leaders.



**NATIONAL SECURITY**  
**Interview #7**  
**Tuesday Morning, August 23, 2011**

**KAUFMAN:** We're starting today on national security?

**RITCHIE:** That's right.

**KAUFMAN:** Let me ask you this, and see if you think we ought to. One of the things that amazes me is the ability of the human mind to be a computer. We can all think about things, and talk about them, and strategize, but many times you just leave it up to your mind to do the organization and it works out very well. The example I give is when Ed Meese was up for attorney general, Biden was chairing the Judiciary Committee. He announced that he was not going to make a decision on Meese until the end of the hearings. He never really liked the judgmental part of nominations. If you read the stories, he didn't look on the Bork nomination as an accomplishment and we didn't crack any champagne bottles open after it was over. It was a personal tragedy for Bork. He told the staff that his plan was not to announce on Meese until the hearings were over. So we had the first day of hearings, Meese was there and he brought his family, and gave his opening statement. Then there was a break for lunch. We all went to Senator Biden's conference room where he had a big table. The staff sat around and talked about the hearing, what was going on, what the progress was. We went over some of the charges against Meese, conflict of interest and if he had been involved in a couple of things, and how important was his conflict of interest if he was going to become the number one law enforcement officer in the country as opposed to the secretary of the treasury. We just talked about these things with the understanding that he wasn't making a decision yet. We got up, and I walked all the way back with him to the Meese hearing, so he had no time to do anything. We walked into the Meese hearing and he gaveled it to order and spoke extemporaneously for maybe 15 to 20 minutes about why he was going to oppose the Meese nomination. He was so good, he was so articulate, that Meg Greenfield printed his entire statement in the *Washington Post* the next day, without any changes. This had all been done in his mind. He had organized the speech, laid it out, the grammar and the words that he used, he just gave it, right off the top of his head. Do you think that's worth including?

**RITCHIE:** Oh, yes, definitely.

**KAUFMAN:** Okay, where are we now?

**RITCHIE:** We said last time that we would start today with national security and human rights.

**KAUFMAN:** Yes, I was on the Foreign Relations Committee, I had spent a lot of time on those issues. After I had left Senator Biden's office I was 13 years on the Broadcasting Board of Governors. I had traveled around the world, not to the spots where you want to go. I mean, when I went to Africa I went to Bamako, Mali and I went to São Tomé, and I went to Angola. I went to Kenya, but I didn't go on safari and didn't see any animals. I went to Botswana, we had a transmission site there, I didn't get to see beautiful Botswana. I actually went to China four times, and the Great Wall is right outside of Beijing, but I never got to see the Great Wall. My basic approach was that whenever I was traveling without my wife I just wanted to pack as much into my travels as I could. That was the same way with the Broadcasting Board of Governors. So I traveled all over the world and had some pretty good ideas about what was going on and I was really looking forward to serving on the Foreign Relations Committee.

The other really good thing that happened to me was Jack Reed, who is the senator from Rhode Island. He went to the Harvard Law School, has an MBA from Sloan School at MIT, was a Ranger, 82<sup>nd</sup> Airborne, and a wonderful person. He and Sheldon Whitehouse, the other senator from Rhode Island, you couldn't have two better people, smart and with the highest integrity, and great friends. Jack Reed is a great friend. We did a lot with so many of the people he went to high school with back in Cranston, Rhode Island. When Obama went to Afghanistan and Iraq, he asked Jack Reed to go with him. Jack and Carl Levin—Carl's head of the Armed Services Committee—and John Kerry and Dick Lugar on Foreign Relations were the Senators I looked to on foreign policy. I went to Jack when I first got there and said, "Jack, the next time you're going to Iraq and Afghanistan, I'd really like to go with you." I went with him on three trips to Pakistan, Iraq, and Afghanistan. Then I went back to Iraq on another trip, so I went four times to Iraq, and three times to Pakistan and Afghanistan. The second series of two trips I took overseas were all built around the Middle East.

Let me talk about Iraq, Pakistan, and Afghanistan first. I had a wonderful series of briefings by a number of people, one of whom before I did any traveling was John Nagl, who helped write the *Army Field Manual*, which had talked about counterinsurgency. He

had written it with [David H.] Petraeus. And I talked to a group of people, including the author of *The Accidental Guerilla*, [David] Kilcullen, an Australian. I became a real advocate for counterinsurgency. Just to show here, Kilcullen and the *Army Field Manual* document that we tried all sorts of different approaches, not just us but the British and the French, and everybody else who tried to deal with an insurgency, which is essentially an internal terrorist attack against a government. Historically the U S would use what is called counter-terrorism, which is what you would do—go out and try to find the terrorists and you kill them or put them in jail or move them out or try to get rid of them, which had some unfortunate side consequences. In Vietnam it was the famous: “Burn a village in order to save it.” We talked a lot in Vietnam about winning their hearts and minds, but our strategy was such that for a lot of reasons, which anybody who is interested can read *The Accidental Guerilla* or *The Army Field Manual* and you’ll get a pretty good idea of why it didn’t work. So Petraeus and Nagl bunch of other guys sat down and worked through this counterinsurgency strategy.

Counterinsurgency strategy was very different from counter-terrorism. It sounded the same and there’s a lot of misunderstanding about it. If I could do one thing in national security I’d force everyone who has spoken on national security at least to read Kilcullen’s book, because it’s not nation building. It’s nothing to do with that. What they came up with, which I think is sheer genius, which we really first saw in the surge in Iraq. When we were going down the tubes in Iraq, and things looked terrible, we put Petraeus in charge. Petraeus went to Iraq and started counterinsurgency. The way counterinsurgency works, as opposed to counter-terrorism, where again when you find the insurgents you either kill them, put them in jail, or drive them out, counterinsurgency said no, no, no. The terrorists are a problem, but really it’s not about us, it’s about the government and the insurgency. It’s like a campaign, think of it, it’s almost like a political campaign, where what we’re trying to do is to convince the people in a country that they are better off with their government than they are with the insurgents. In most of these cases there aren’t a whole lot of individual insurgents.

Usually, if there is an insurgency, the government is not doing a very good job. I told my wife when I got back from my first trip to Iraq and Afghanistan and Pakistan. When I met with [Nouri Kamil Mohammed al-] Maliki, head of Iraq, and met with [Asif Ali] Zadri, head of Pakistan, and met with [Hamid] Karzai, head of Afghanistan, I didn’t expect to find George Washington, but I expected to find someone a whole lot better than those three. All three of them, it’s very difficult to convince the people in Iraq,

Afghanistan, and Pakistan, that their leader is the best leader they can have, but that life is a matter of alternatives. Clearly, we have made a lot of progress in Iraq, but basically it's almost like a political campaign. . Your first objective is to Clear the area—there's a little shorthand called Clear, Hold, Secure, Build. Basically, your first objective is to go to a town or an area and clear the area of terrorists. Now, we did a lot of that in Vietnam, we did a lot of that in Iraq. But we would clear and then we would leave, and the terrorists would come back in. The effect was such that if you were a leader in a town—this was especially true in Vietnam, we got better in Iraq and Afghanistan, but the results in many cases were the same—we would clear an area and we would leave, then the terrorists would come back in and kill anybody that worked with us. That is why the second objective is to Hold the area.

What you had to do was make sure you had enough troops, and that meant a lot of local troops, to clear an area and then hold an area. Then you could start not nation building but you start a lot of things that people misconstrued for nation building. You start the third objective and that is to Build. You could start economic development. You can start building up an area until people say, “Oh, hey, this government is working for me. I support them as opposed to the Taliban.” When we were first in Afghanistan, and even at the end, most polls showed that only six percent of the people supported the Taliban. These people had lived with the Taliban, they knew how bad the Taliban was, but they thought two things: one, that the Karzai government was even worse; and two, that eventually the Taliban would take over because the Karzai government couldn't fight them. So therefore they didn't want to be with the government and then have the Taliban come in and they get killed. It's kind of like, “You Bet Your Life.”

The way this worked was, I remember one of the key things Petraeus said when he went to Iraq for the surge was: “Out of the Humvees.” In the past, we had forward operating bases (fobs) like what we had in Vietnam, and then we'd send out troops out in Humvees and armored vehicles patrolling an area. There was no way you could really find out what was going on here, and it led to all kinds of mistakes, killing civilians. It was kind of what would happen to police operations in the United States. I remember in Los Angeles during the O.J. [Simpson] and the rest of it, the police had an attitude: We're just here almost like an occupying power. People said: No, no, you've got to get out into the community, you've got to start community policing, you've got to find out what's going on, you've got to win the community over. Well, that's very similar to what was proposed by Petraeus and Nagl and others in this counterinsurgency. I became



convinced that counterinsurgency was important.

Now, two big points that had to do with Afghanistan. One of the first things when I came to the Senate was that President Obama was going to have a reevaluation of Afghanistan, so I got involved in that. Senator John Kerry had a series of hearings, wonderful hearings, on Afghanistan. I traveled to the area. My concern when I came back from the area, first off in Iraq, I felt good about Iraq, I knew what we were doing. We had 600,000 Iraqi security forces. They had been well trained. I traveled up to Kirkuk and met with the Kurds. I met with General [Raymond] Odierno, who was in charge in Iraq. I met with the other generals. I met with Maliki and most of the leadership in Iraq. I also saw Senator Biden's son, Beau, who was with the 261<sup>st</sup> Signal Brigade. I went and met with him, they had a cook-out and I met with all the troops. The American troops are extraordinarily good. I was never a big supporter of the volunteer army, and had some concerns about it, but boy it was the best idea we ever came up with. You met with these military people, from the PFC's right on up to the generals, they were so sharp. They were dedicated. They were looking at it as a job, as a career. It was extraordinary the competence of our troops.

Unfortunately, the military part of this is not the biggest part of the problem. The military part is clear and hold, but then there's the build part of it. You can have the greatest military in the whole world—and we do—the greatest military in history—and we do—but the best words anybody ever said were, “We can't want to get rid of the insurgency any more than the Afghans and Iraqis want to do it.” If they don't want to do it, then there's nothing that we can do. In Iraq we were successful. We won over a lot of the Sunni in Anbar Province. Petraeus did an incredible job. So I went to Iraq and I really got this feeling that the counterinsurgency was working. When you get to the “build” section, we built the largest embassy we have in the world there, and that took a lot of civilian help. There were 600,000 in all the Iraqi forces. We had a very well developed civilian operation, a lot of people from the State Department, a very different story from Afghanistan. But we had real problems with the leadership. Maliki never demonstrated a real desire to bring the Kurds or the Sunnis into the government.

As I said, I went to Kirkuk on one of my trips. Their leadership was so great. When I went up there the first trip to Kirkuk, which is in the Kurd area, there were lots of problems. The Kurds wanted to have a census. Saddam [Hussein] had gone in there and moved a lot of the Kurds out of Kirkuk and moved in Iraqis—that's where 14 percent of

the oil is located. The question is: who gets the land? Is it the people that Saddam moved in, or do the Kurds get it? The Kurds are on a hair trigger. The Peshmerga, which is the military force for the Kurds, which is recognized to be a potent military force because they had fought with the Turks and had fought with Saddam's Iraq army. The leader of the Peshmerga was known to be spoiling for a fight. The first trip I went up there, the Iraqis had just put a new general in charge of the Iraqi army up there, and he was on a hair trigger. The Iraqi mayor of one of the towns had gone up into the Kurd area and almost dared them to have a fight. Guns were drawn. And then you see the brilliance of what Odierno did. He said, "Okay guys, what we're going to do now is on every patrol and at every checkpoint along this disputed area between the Kurds and the Iraqi Army we're going to have a representative of the Kurds, of the Iraqi army, and of the American army, at every one of these positions. The results, when I went back later, were just incredible. He just completely defused the whole issue. And the key to it was that the American troops on the ground—and wherever I traveled, you could tell when you met with Iraqi troops, Afghan troops, troops in the Middle East—I know this sounds a little corny, but you could tell that they looked on these American troopers and thought, "That's what I want to be when I grow up." On that checkpoint, that Kurd, that Peshmerga soldier, that Iraq army soldier, they listened to what those American soldiers told them what to do.

Now, there have been a few examples in Iraq, and especially in Afghanistan, where troops or security forces have shot American soldiers. I'm not saying everything is a bed of roses. But when you went up there you saw how that policy completely changed things. The Kurds and the Iraqis wanted the American troopers up there. They wanted to work with, so it just transformed things. There are still gigantic problems about who gets the land, and who gets the oil, but Odierno had done a great job of defusing that. So I felt good about Iraq. If you look at the counterinsurgency manual, it was working well in Iraq.

Afghanistan is a different story. First of all Karzai, I met with him three, four or five times in Afghanistan and the United States. His planning horizon seems to be three or four days. I can remember before his election we met with him, and he went through what sounded like a campaign ad. He said, there was this young couple, and they were driving outside of Kandahar, and American helicopters came in and fired on them, and the poor woman was found dead with a baby in her arms. He just goes on and on and on. Again, I understand he wants to win the support of his people, but criticizing our forces

and our behavior in order to do it just didn't seem to be either in our interests or in his interests. I said at the time, Karzai is the key. The second thing is corruption, just an incredible amount of corruption. Afghanistan, I think, is 177<sup>th</sup> on a list of 178 countries on the transparency list for corruption. Corruption is rampant and there's no desire to overcome it. I met with DEA [Drug Enforcement Administration] agents, I met with FBI agents, people who are over there trying to help. Every time we tried to get our hands around the corruption, Karzai would let people go. There was one case where we had this guy nailed and Karzai's prosecutor just let the guy go. The guy went to Europe.

There's corruption everywhere. Now, that's not to say there wasn't corruption in Iraq, because there was a lot of corruption in Iraq, but in Afghanistan there wasn't any honest base. We're trying to sell the government. This is like a campaign between the Taliban and the government in Kabul. Wherever you went, people would say, "The Taliban is terrible, but these guys are so corrupt!" You'd go down to Kandahar, which was the key area where we had all the problems with the drugs and the rest of it, Ahmed Wali Karzai, who was Karzai's half-brother, everybody said was behind everything. He's since been killed. And Karzai's brother-in-law, there were all these stories that I heard from a number of different places that he was a state senator, and they found eight tons of poppy seed in his basement. He said it was for planting, but how do you plant eight tons of seeds? Just story after story of corruption. Corruption along the border, our resupply comes in through Pakistan, and the incredible amount of corruption along that trip. So leadership was a big problem in Afghanistan and corruption was a big problem in Afghanistan.

The third problem in Afghanistan is more of our doing. When I got back I went to the State Department, and I said "This is a great opportunity for the State Department." I'm a big supporter of the State Department, and [Robert] Gates, the secretary of defense, was a big supporter of the State Department. He used to say that there are more people in the U.S. army bands than there are diplomats in the State Department. The State Department is key, and when the Department of Defense gets up and says these civilian problems are really important, if you're going to do the "build" section you need civilians out there in the countryside. Right from the beginning I can remember meeting with Jim Jones, the national security advisor, we poured billions of dollars into the civilian effort. I couldn't believe it. When I got on Homeland Security committee, Senator Claire McCaskill had a hearing that I went to, and learned that we spent \$8 billion supposedly training the Afghan police. When you're over there, the Afghan police are a major part of

the problem. They are so incredibly corrupt.

In Marja, where we went in at the beginning of the surge, when we turned this thing around and decided to have a surge in Afghanistan we went into Marja, but the people in Marja said “The Taliban was not good, but they were great compared to the Afghan police who were in here before, who were so corrupt.” The Taliban actually had courts that worked. So that’s the first thing, Karzai and the corruption, and the national security forces, the police and the army in Afghanistan were awful. The police were corrupt and negative. The head of security, Mohammad Atmar, he had lost a leg fighting the Russians. He was fabulous and Karzai ended up sacking him. And there weren’t enough of them.

Basically, the numbers under counterinsurgency said that we should have had 600,000. What counterinsurgency says is you need so many total people on the ground to do the clear and the hold, and we needed 600,000. I can remember meeting with [General Stanley A.] McChrystal—Carl Levin, Jack Reed, and I traveled with McChrystal, when this was being debated, what this was going to look like. We were on his plane, just the four of us and the pilot and co-pilot, for an hour and a half. He went through the numbers, and when you looked at the numbers we needed 600,000 troops and we had 130,000, even after the surge, of the combined force, they call it ISAF [International Security Assistance Force]. We were pushing to have 150,000 to 200,000 Afghans, not fully trained. The training program had been awful. The police training program had been even worse. We weren’t getting support from NATO. Remember, in Afghanistan we had NATO support, that was a NATO operation. In Iraq, that was totally our operation. They said that there were a lot of other people involved, but there really weren’t very many. But in Afghanistan we actually had other people involved. It came to 130,000 troops. Maybe another 160,000 down the road. Three hundred thousand troops. But Afghanistan’s population is probably bigger than Iraq’s, and in Iraq we had 600,000 troops, and we know how dicey security was, even to this moment. How are you going to maintain it with half the troops in Afghanistan?

The argument was made by McChrystal: “We’re just going to concentrate on the areas where the Taliban are. There isn’t much going on in the north and the west.” Well, as soon as we drive the Taliban out of the east and the south, where do they go? All of a sudden we’ve got troubles in the north and the west. I said at the time, “It’s like a balloon. You push one place and the Taliban goes someplace else.” So you had that

whole problem. We don't have enough folks in the security forces.

Then finally, one of the biggest concerns is Pakistan. I met with President Zadari a number of times. I met with the military. I went all over Pakistan. I went up along the border with Afghanistan. If you want to appreciate this country, you've got to fly over this in a C-130 and look down. In what is called the tribal areas along the border, There are real mountains and real valleys. It is very difficult to defend and patrol all these areas. It's extraordinary. I went up to meet with U.S. troops up there—this has been reported in the papers—JSOC [Joint Special Operations Command], special forces - Seals, Tenth Army, Counter folks, 82<sup>nd</sup> Airborne, Elite Army Rangers. But we had a JSOC force there that was training the Frontier Corps. In the Pakistani army there's the army and then there's the Frontier Corps. For hundreds of years the Frontier Corps handled the areas that we were concerned about, which was Waziristan and tribal areas along border with Afghanistan. They were not very well trained. They were not very well paid. And they were the ones who were supposed to look after this area. One of the things we wanted to do was have more training of these troops and upgrade them, which we did. I met with the head of the effort there, Tariq Kahn, and I met with Mohammed [Najmuddin Zenulden Nqshbande], who was the head of the Iraq army unit which came to help reinforce the Frontier Corps.

Clearly, it was a very difficult effort, even if they wanted to, to track down the Taliban. But it was really amazing the change between the first visit and the second visit to Pakistan. On the first visit, it was clear that we had this policy where we were going to give them incentives, but it was all a deal. We said to them, "We'll give you this help, but you've got to go in and start clearing these people out." What the Pakistani army wanted, their main concern was India. They had some real concerns about their ability to stop the Indian army if they ever got into a dust-up. The Pakistani army is, I think it's fair to say, is an almost post-World War I army. It's an army that is built on artillery and tanks, kind of like what we have in Europe but without any of the extra frills. I can remember they had no real communications between the air and the ground - They used cell phones. It was an army that would have a difficult time stopping an Indian army. Clearly, their main defense against India was the fact that they have nuclear weapons. So that's what they wanted to do. Our deal was, "We'll help you with that, but you've got to help us in the tribal areas."

Well, you could tell in the beginning it was like a deal, and like a deal, everybody

was trying to figure their way around it. We were giving them the JSOC troops, were they really helpful there? Then the Pakistanis were thinking we might not actually stay there. We had left so many times before. We had been committed to stopping the Russians, the CIA had been very helpful, but then we had left. Then after 9/11 we came into Afghanistan and we were there, and then another big reason why we should never have gone into Iraq was we had to pull key troops out of Afghanistan. People talk about it as a 10-year war. It wasn't a 10-year war in Afghanistan. A lot of the time between 2003 and 2008, our major priority was Iraq. We had like 23 and 35,000 troops in Afghanistan. So the people were feeling, "they don't care about us." Karzai used to say this all the time: "You don't care about us, you have your own interests. Don't bother me with your concerns. You've got to stay here and that's why you're here, so I don't have to spend a whole lot of time worrying about you guys, because you're here totally for your own interests. You don't care about Afghanistan." And the people in Pakistan felt that way, too. There are clearly members in their intelligence services, the ISI [the Directorate for Inter-Services Intelligence], who believe we are leaving and the Taliban will take over Afghanistan and do not want to do anything to alienate the Taliban. On the ISI one of the things I concluded after making three trips there, was whenever anything goes wrong it's the ISI. It's a little like what we used to think in the '60s and '70s, that the Russians are 10-feet tall. We have a lot of problems in Pakistan and Afghanistan, but the ISI isn't nearly as good as we make it out to be here. There are some anecdotes that I cannot give because of security, about ISI, clearly demonstrating that they were okay but they weren't the geniuses that people make out when they write stories about them.

Where that came true, between my first and second trip—when we met with Prime Minister Gilani and most of the political leaders and the Army Chief, Kayani—it was clear that the Pakistan Taliban had made great advances in the Swat Valley in Pakistan, and literally had gotten within a hundred miles of the capital. So you now had a much more interested Pakistan army and Pakistan leadership in Zadari, in doing something about the Taliban in Pakistan, because the Taliban was trying to take *them* out. So we got them on our side. What we found in the Swat Valley was the Pakistan Army was using counter-terrorism approaches, not counterinsurgency, and their army wasn't really set up to do counterinsurgency. They would come to a town and level it with artillery and tanks and then go in and pick up the pieces. Well, they drove the Taliban out but they alienated just about every civilian in the Swat Valley. A lot of this criticism of them that they weren't helping us enough in Waziristan missed two considerations. One was they didn't have a military to do the job like our troops. They weren't trained to do counterinsurgency. They just barely understood what counterinsurgency was all about.

And their real interest was, “If the Americans leave, and they leave a major military force in Afghanistan, or the Taliban takes over, which is much more logical” (looking at the Karzai government, if we leave I think the Taliban would take over in Afghanistan) “they’re our neighbors, so we’re going to have to have a relationship with them.” So it made it very, very difficult to get them to go after the Taliban.

But when General McChrystal became head of ISAF, he made some mistakes, but McChrystal was very good. A lot of the problems were just coordination. A lack of understanding of what counterinsurgency was. A lack of commitment by the troops to counterinsurgency. I’m not sure how much our military leadership was to blame, there was always a question about that. His predecessor as ISAF head was [General David] McKiernan, we met with him, and he was good but he just didn’t seem to buy into counterinsurgency and I think that’s one of the reasons why they replaced him with McChrystal. But you could tell, on my last trip there, that they were really doing a much better job of communicating what was going on along the border, working with the Pakistani army and the Pakistani troops and the Frontier Corps. Petraeus was traveling to Islamabad more often, meeting with the leadership. The Joint Chiefs was there. Gates was there. It was really a much better, I felt. Part of it was evolution. If McKiernan was still there we may have been doing many of the same things. But Petraeus was perfect. Petraeus was the guy that wrote the book. There’s a great financial investment book by Graham, Dodd, Cottle, it would be like doing my investments with the three of those guys helping me. They invented value investing. But with this, Petraeus is the best there is. Having him there really made a difference.

But I said from the beginning, the problem is the Karzai government’s corruption and its relationship with Pakistan. We don’t have enough troops—600,000 troops in Iraq and we still have security problems, and we’re trying to do Afghanistan with 300,000 troops. One of the things I’m proudest of is that when [Admiral Michael G.] Mullen and Clinton and Gates testified on the surge in Afghanistan, I had them commit that they not only would begin to leave in July 2011, but that we would also under no circumstances increase our troops. There was a lot of back and forth, and frankly, Republican senators were saying, “Well, we’re not really going to leave then,” and “What does it mean?” and the rest of that stuff.

It was hard on the military. The military had wanted more troops, they hadn’t wanted this deadline to leave. A lot of the diplomats didn’t want to leave, they were afraid it would set a standard. My point was it was a stroke of genius because it sent a

clear message to Karzai: “We’re going to start leaving here.” Because I don’t think he was really working to build up the Afghan army himself. A lot of folks in Kandahar, where he’s from, he’s Pashtun, where most of our problems are, they didn’t want a big Afghan army. They wanted the U.S. to stay and keep the Taliban off their backs so they could do the drug trade and all the different things they were doing. They weren’t interested in having a big army because a lot of the Afghan army were from the northern part of the country. They were Tajiks, and the Tajiks and Pashtun aren’t best buddies. It really is true, there’s not much of a national feeling. There’s more allegiance to your tribe. But that was not the only problem. That was a concern, but at this point, that was not the problem.

The other problem I saw when I went there the first time was that we were supposed to have this gigantic civilian surge, and it just never happened. We had people come, but the State Department never could get its head around that. We had very few people State people outside of Kabul to do the build section, which is the key part: clear, hold, secure and build. One of the things you can’t do is to build before we did clear hold secure and build under the old counter-terrorism. We put people out there building a road and here the terrorists were wandering around shooting the people that were building the road. So you had to clear the area. When you look back on it, it was so clear: you had to clear and secure the area and then you could build the road. Kilcullen has a wonderful story about building a road in Kunar Province that demonstrates exactly what we’re saying, but you need the troops in order to clear and hold. When we started the surge, we went into Marja, and into our first effort in Kandahar, and we only had—I think it was 20,000 U.S. troops and 5,000 Afghan troops. We didn’t have the Afghan troops. We had numbers but they weren’t trained and they weren’t prepared. So that was the big thing.

My big concern, the thing that I focused on with regard to Pakistan, Iraq, and Afghanistan, and counterinsurgency, was the civilian part. I talked to the secretary of state Hillary Clinton. I talked to [Anne-Marie] Slaughter, who was doing the state department program review. I talked to everybody I could talk to in the State Department. I said, “This is a great opportunity for you to do this. The military is basically saying there is a component here that the civilian role can fill. Let’s get things up and do it.” Hailie Soifer, who I traveled with me over there for most of the trips, just was great. I remember we came back from our first trip and we said, “You know, what we really need is this corps of people in the State Department who are ready to travel.” Before the military goes into Afghanistan, like the 261<sup>st</sup> that Beau Biden was in, they



train for *months* as a unit, what they were going to do, where they were going, how was it all going to work. The civilians showed up. They were in Kabul. “Hey, my name’s Ted, what’s your name?” “I’m Joe.” “Okay, that’s great, I’m from DEA.” “I’m from the FBI.” “I’m from the Agriculture Department.” “I’m from the State Department.” “Okay, let’s go out there and let’s do a job.”

We have to bring the same kind of rigor to the civilians as we have for the military. There’s got to be training before they go over there. There was some training, but I really pushed hard for an extension of the training program. There was a Camp Atterbury in Indiana, and I went out there, and they had done a great job of building a training program where they brought Afghans over and they played the roles of the leaders in the town. You sat down with them and they went through how you do it. You spoke the language. So it was really wonderful training. My argument was that everybody had to have this kind of training before they went to Kabul. There had to be more of this training. We had to expand it. So we came back and said, “Gee, it would be great if we had this group, and it was big, and they were ready. So just like the military is ready to send their troops in, the civilian troops go in, if you’re committed to counterinsurgency.” We laid it out, and then, Hailie came back to me and said, “It already exists. It’s over in the State Department and it’s called CRS.” [Office of the Coordinator for Reconstruction and Stabilization] It was Biden-Lugar, they did it. So I went over to talk to the folks at CRS. There was no sense of urgency. They didn’t have very many people in Afghanistan or Pakistan. I really pushed to expand this and make it a high priority for the State Department, but never really had much success.

My basic approach to Afghanistan was because of the incredible corruption and lack of ability of Karzai we really had to think hard about what we were doing. Now, a lot of people said we should pull out of Afghanistan. I became convinced that if we did pull out of Afghanistan, within five years there would be a major incident in the United States, like 9/11 or worse, organized and orchestrated out of the mountains between Afghanistan and Pakistan, and that the American people and the government had to be ready to deal with that possibility if in fact we pulled out of Afghanistan this could happen. I am absolutely convinced that the reason why we have not had another September 11<sup>th</sup> attack is because of the pressure that has been put on Al-Qaida and other terrorist organizations over the past 10 years. The raid to get Osama shows how isolated Osama Bin Laden was.

One of the things I'm always amazed when I read in the papers about the Christmas Bomber and the Times Square Bomber, that "We were just lucky, you know, if he blew up his underwear, the Christmas Bomber, if he had done the job right, or the Times Square Bomber, he had the truck, if he knew what he was doing he would have done it." It wasn't just happenstance that they made mistakes. I'm absolutely convinced to the bottom of my being, and it's in the public record, that what happened with both of those guys was they weren't properly trained. Remember on September 11<sup>th</sup> they assembled a picked group of people, they trained them for months, they sent them to the United States, they contacted people in the United States, they had pre-positioned money and passports, they had all that stuff worked out. After 911, We have so much pressure on al Qaeda around the world. The Christmas Tree Bomber and the Times Square Bomber, I'll bet you dollars for donuts al Qaeda leadership told both of them, "Okay, here's some money. I'm going to give you a week of training. I'd give you two weeks of training but then they'll find you and they'll kill you." Because we have such pressure on them. "So we do not have enough time to really train you. We don't want you to contact anybody when you go overseas, because if you contact anybody they'll find out about it and their capture you." Well, the point in all that pressure is what we're doing in Afghanistan.

The unmanned aircraft like the predators, people keep talking about the success of the predators—and I'm not talking about anything secret, it's all on the record that we have predators, which are these unmanned vehicles that can for intelligence purposes travel over different places and also can fire missiles, and has been one of the key things to destabilize the Taliban, Al-Qaida, and others around the world. People say, "Well, we can just pull out of Afghanistan and just use picked groups that will come in, like the Seals that went after Osama Bin Laden, or the predators missiles will do, and we won't have to have our troops over there." I just don't see that. The amount of on-the-ground intelligence that goes into every single attack, like a predator attack or a Seals attack, is enormous. If you don't have the intelligence on the ground, you just can't do the rest of this. Remember when the number of CIA agents were killed at Bagram [Airfield]? This person they were trying to turn blew himself up, he was a suicide bomber, and killed seven CIA agents. All those stories said the CIA agents were in Bagram. They were sending people over into Pakistan. The stories about this latest incident where 30 Seals were killed, they said these Seals operations are going on all the time. It's been in the popular press that these Seals units after Osama Bin Laden, they do these things all the time. You're doing this all the time, but you've got to have the intelligence on the

ground. I just asked someone, “Where would the helicopters have come from to go after Osama Bin Laden if they hadn’t come from Bagram? How far would they have come in order to get there if we weren’t in Afghanistan.

I think the time has come for us to get out of Afghanistan. I think the president is on point with setting a deadline. I think probably it will go bad. And as I said, something bad will happen down the road. But it’s absolutely essential that we leave. There’s no way we can win a campaign with a government like there is in Afghanistan with its corrupt leadership. And by the way, let’s go back through history, I know people have said, “We’ve got to get rid of Karzai.” Well, I’m old enough to remember [Ngo Dinh] Diem. That’s what we did back then. We went into Vietnam, and we had Diem in charge. He was assassinated and it didn’t get us anywhere. We got [Nguyen Cao] Ky and [Nguyen Van] Thieu and all those bad guys. So the idea that there’s a George Washington waiting in the wings to lead Afghanistan, it’s just not going to happen. Now, there’s a lot of wonderful people in Afghanistan that care and fight and do the right things, but in terms of literacy it’s at the bottom, in terms of corruption it’s at the bottom, based on their neighborhood, with Pakistan on one side and Iran on the other. Why don’t we take a break? What time is it now?

**RITCHIE:** Almost 11:00.

[Break in the Interview]

**KAUFMAN:** Here’s my thought on foreign policy is to talk about Middle East travel, not say as much about policy but basically what happened and what it’s about, and then talk about human rights.

**RITCHIE:** Okay. One of the complaints back in the Vietnam era is that congressional delegations would go to Saigon and get briefed by the top generals, and then they would leave and they really wouldn’t know what was going on. It sounds the way you’re describing them that congressional delegations, at least the ones you went on, are very different these days.

**KAUFMAN:** Yes, they are different, but again I worked in a number of different jobs, and think I’ve gotten competent at looking through the dog-and-pony shows. When I worked for DuPont, we would spend days preparing when a top manager came. And

when you meet with the military, they spend days getting ready. These briefings clearly are worked out. Now, a lot of times you're in Kandahar and they don't have a whole lot of time to prepare. They're out actually getting shot at. It's like when you meet a lobbyist, if you haven't figured out how to process data, and consider the source when the source is presenting its position, you're not going to be very good as a member of Congress or a corporate executive.

But, no, traveling with Jack Reed was great. We went right out. We went into the remote, tough, places. And every place we went—this was one of the interesting things—we'd meet with soldiers, military folks from our states. So with Jack Reed we would do Rhode Island and Delaware. When Kay Hagan went with us we would do North Carolina. So we got to meet with a lot of just regular soldiers, and they were pretty straight. The great thing about Codels [Congressional Delegation] is you're incredibly busy as a United States senator. I used to feel that it wasn't just on the ground meeting with people, it was you do your briefings before you go. You meet with the State Department people. You meet with the CIA people. You meet with the think tank people. Before I took a trip to Afghanistan, Hailie Soifer and Sherman Patrick set up a whole series of meetings with ex-military, military, all kinds of people who were involved in AID and think tanks. Like this fellow John Nagl, would talk to me. He'd tell it to me straight. Did he have a point of view? Sure he had a point of view. Then you'd get on your airplane and you'd go over there. You've got these briefing books while you're on the plane, and you sit and read the briefing books. Then you get over there and you talk to the people. We used to do two media events. While I was over there I would do a press conference Q&A back to Delaware, and then on the return, Jack Reed and I and whoever else went with us would do a press conference in the senate press gallery. Also when you got back you would do television shows, radio shows, interviews, and all the rest. And then you would go to the hearings on the issues.

Obviously, there was the famous line by [George] Romney, "I was brainwashed while I was in Vietnam." Those days are done. This is a different world. Let me put it this way: If you are traveling with Jack Reed you meet with people and ask tough questions, and they're going to answer them. You talk to Odierno and ask: "How are things going with Maliki?" Then you go over and talk to Maliki. Then you talk to the press people who are covering both Odierno and Maliki. Then you talk to the think tank people who are there. Then you talk to the former military people who are there. Then you talk to the soldier who's down on the ground. You talk to the general. You take a

helicopter ride with a captain. You go down and get a briefing from the colonels. We had this incredible briefing—I wish everybody in America could have seen it. We had these three colonels when we were down in Lashkar Gah, this was right after the surge started, and this was a “striker” (which is an armored vehicle) battalion. There were three U S marine colonels there who gave us a briefing on what was going on in the town. Oh my God, they were so sharp!

I'll never forget this as long as I live, we had a private first class give us a briefing on a new piece of equipment. It was a computer that was strapped on his chest that tells everybody who is in an operation , where they are in the village, what they're doing. This is a private first class and he's answering our questions and going through this entire thing. It was like talking to a computer geek, except that he was wearing a bullet-proof vest and carrying an M-16. He said he had three weeks of training on how to use it. We all think we're geniuses. We think we can read people and see through it. But I do believe that the kind of Codels I took, just like the trips I took when I was on the Broadcasting Board of Governors, and when I was on the Senate staff, there are so many different people out there that you come away with a flavor of what it's all about.

**RITCHIE:** I've heard from others that Codels are one of the few times that senators actually get to know each other, because they travel.

**KAUFMAN:** Yes, although I think that's a little overdone. You see these people every day. If you're a senator and you don't get to know them, there's something the matter with you. But clearly on Codels you do get to spend a lot of time together on C-130s, on helicopters, on commercial flights, having dinner in restaurants. Now, most of the time you're on a Codel, and you are not actually traveling, you are scheduled on the ground from morning 'til night. Jack Reed and I really got along. As I said, and Jack was the same way, when I'm away from home and I'm not with my wife, I don't want to do any tourism. I didn't want to see a single tourist spot. I wanted to work from when I got up in the morning, early, until I went to bed at night, so I could turn a seven-day trip into a five-day trip. So it was intense. But you are on an airplane for a long time with other members.

**RITCHIE:** Is there any difference if you're traveling on a Foreign Relations Committee delegation with Senator Kerry, or if you're on an Armed Services delegation with Senator Levin? Do they go different ways and have different purposes?

**KAUFMAN:** Yes, they do, and that's what was so great about it. I traveled with Jack Reed and he was on Armed Services and I was on the Foreign Relations Committee. He was the one—he had done it before, obviously he was the senior, plus it was a Reed Codel. He would always ask me, “What do you want to do? Should we do this?” But yes, I think there's a difference. Armed Services wants to know, “How are the MRAPs [Mine-Resistant Ambush Protected vehicles] working?” Whereas somebody else wants to know, “How is the Secretary of Health implementing a program in Kandahar?” That was what was so great about being on Armed Services and Foreign Relations, it's hard to split one from the other, so they overlap.

**RITCHIE:** Did you have to wear flack jackets and helmets and other gear in some of those places?

**KAUFMAN:** Yes. We spent a lot of time in helicopters. We went to the tribal areas in Afghanistan and Pakistan, there wasn't any place we didn't go. But the way things are now, the most dangerous place to be may be in Islamabad, driving down a street, because of the way things are now.

**RITCHIE:** Had you traveled with Joe Biden when he was a senator?

**KAUFMAN:** Yes, I traveled with him on a number of trips. I'm reading a detective novel that takes place in Sarajevo in 1992 and 1993, and Joe Biden and I went there then and went around that whole area. We met with [Slobodan] Milošević and [Radovan] Karadžić. Milošević was head of the Serbian government. Karadžić was head of the Bosnia Serbs. [Alija] Izetbegović, who was the head of the Bosnian government. And [Franjo] Tuđman who was the head of Croatia. So I made a number of trips there.

**RITCHIE:** I was wondering if you noticed any difference between traveling with him back then in the '80s and the '90s as opposed to the traveling you did as a senator?

**KAUFMAN:** It's interesting, my traveling with him—Sarajevo was an exception—but he was chairman of the European Affairs subcommittee so most of the trips were to Europe. What was going on in '93, there were still snipers in Sarajevo. We were flying into Sarajevo and they said they were sending us back because there was firing on the ground. When we left there they said they wouldn't even fly us out because of the firing, so we went out in an armored car through the Serb lines. So that was a lot

like Pakistan and Afghanistan and Iraq. But that's really where I concentrated, that and the Middle East.

**RITCHIE:** When you came back from places like Pakistan and Iraq, would you talk to Vice President Biden about the situation there, as you saw it?

**KAUFMAN:** No, not any kind of a briefing with him. I saw him a lot and did discuss what I thought was going on. He couldn't have been better. He was so proud that things were going well and was so supportive of everything I did. To the extent we talked about Iraq it was that I saw Beau, his son. We'd talk about all these issues, but I didn't come back and brief him. Oh, I guess on one of the trips Jack Reed and I met with him to talk about some things, and Senators Casey, Shaheen and I saw him in Iraq. But by and large, when I talked to him about policy issues, it was just like two guys talking. I didn't brief him. When you're a senator, one of the things that's a good thing and a bad thing is that people are always trying to influence you, trying to affect your decisions, and trying to push their ideas. When you're vice president, take that and multiply it a thousand times. My approach was, if he wants to ask me about something, which he did, he's called me up lots of times and asked, "What do you think about this?" or "What's going on about that?" But I never looked at him as an outlet to achieve my objectives. We're friends. That's the reason I didn't want to become a lobbyist after leaving his office. When I was with him I wanted him to be able to feel we're talking about this as friends, this is not about some agenda I had for a client—that's why I didn't want any clients—or an agenda just because this is the way I want to do it. But he'd ask my opinion about what was going on on the trips.

**RITCHIE:** I guess the reason I asked was because sometimes the impression is that administrations hear the official points of view and don't get to hear dissenting points of view.

**KAUFMAN:** Oh, I guarantee you Joe Biden, after all these years, heard from everybody. I think it's the same with Obama. There's kind of the official point of view, but I'm sure that if you talked to the people, having spent 13 years on the Broadcasting Board of Governors, and getting the feeling of what it's like to be in an administration, I'm sure if you went to the State Department and Department of Defense they would tell you, "Oh, my God, I only wish it were so!" There are so many people that people in an administration talk to about issues that I'm sure it's a cause of frustration to them.

**RITCHIE:** Well, could you talk a little about the Middle Eastern situation?

**KAUMAN:** Yes. I was interested in the Middle East. Senator Biden, from 1973 when he was first elected was interested in the Middle East. I followed the issues and so when I came to the Senate I was interested in the Middle East because the Middle East is an incredibly important part of U.S. foreign policy. While I was Senator, I made three major trips to the Middle East. Two of them were normal Codels to the region. One was when I was invited to participate in a Saban Forum. Haim Saban, a nationalized American, made a lot of money in cartoons and he had set up the Saban Forum, funded as part of a bigger foundation he had. Once a year he would get 40 people— 20 Americans and 20 Israelis—to get together, alternating location, from year to year, to talk about how we can better accomplish peace in the Middle East. It was a great honor. I was invited along with Senator Joe Lieberman and Senator Lindsay Graham, the three of us went. The House delegation was Howard Berman, chairman of the House Foreign Affairs Committee, and Nita Lowy, who is the Appropriations Chair. That was a number of days, and we spent most of our time in Israel and the West Bank.

What I wanted to do was trying to, as quickly as possible, but over my two years, find out all the different opinions in the Middle East. So I traveled—I made a list here—to Israel, the West Bank, Saudi Arabia, Egypt, Jordan, Lebanon, Turkey, Syria, the Emirates, Iraq, Pakistan, and Kuwait, and of course Iraq and Afghanistan. I'm sure I've left something else out, and between that and their visits to Washington, I had the chance to talk to all of the leaders of those countries, because it's all tied together. I don't want to get into a whole discussion on the Middle East. We could spend another two or three days just talking about the Middle East and what went on, but it was fascinating. I really had good folks to travel with. I took two of the trips with Bob Casey. Frank Lautenberg came on one of the trips, and as I said, Lindsay Graham and Joe Lieberman. I traveled with Congressman [Timothy] Walz. We went to Syria together as part of these trips. I traveled with Senator Shaheen, the senator from New Hampshire. So I traveled to all of these countries and tried to get a view.

The one big policy change that was absolutely fascinating to me. In all those years, coming on to 40 years, that I have been involved, whenever I talked to leaders from the Middle East, from the Arab countries and Israel, the number one issue for the Arab leaders always was—and also when I talked to others—the number one issue was Israel, peace, and “We've got to do something about Israel and the Palestinians.” On my



recent trips the number one issue everywhere had changed to Iran. I came out of this whole process feeling that we had an excellent opportunity for peace, and I'll just go through the list: One was I knew Obama and Biden were committed to peace. I really felt [Benjamin] Netanyahu was committed to peace. I had known Bibi for a number of years when he was prime minister before. I met with him, oh, my gosh, between Israel and the United States I must have met with him a half a dozen times. I had some candid conversations with him. I thought his administration, [Ehud] Barak, the Defense Minister and former head of Labor party, I think they wanted peace. [Tzipi] Livni, leader of the opposition, wanted peace. I thought that we were very fortunate with the people we had on the ground. Secretary of State Hillary Clinton, she understood this thing. Joe Biden probably knew more about the Middle East than anybody else. And then the president appointed George Mitchell, whom I had the highest regard for, to cover that area. I used to say when I was in Israel and the Middle East, "I'm half Irish and if you think that the problems with the Jews and the Arabs are difficult, let me tell you that the problem in Ireland between the Protestants and the Catholics is just as deep, and went on for a long time. I never thought I'd see it solved, and George Mitchell played a major role in solving it." So this was a guy who knew what he was doing, and he had already done a big study on the Middle East previously in committee. So he knew the Middle East as a senator. But George Mitchell is not a young man, so I figured he thinks he can do this. He already was in the pantheon of great negotiators because of what he did in Ireland. He didn't take this in order to not get a settlement. So coming in, I thought he would really be positive.

Then the thing that really, I thought, could make it go was that when senate colleagues and other people traveled around they would come back and say, "You know, when I sit down with these Arab leaders, the first thing they want to talk about is Iran, not Israel and the Palestinians, behind closed doors." And that's what I found when I went over there. People for the first time put Iran as the biggest threat—nothing concentrates the mind like the prospect of hanging—Iran having nuclear weapons upset everyone. It's really amazing, you traveled to Israel and they were saying, "If Iran gets nuclear weapons they are going to come after us." I will bet you dollars to donuts that if Iran gets nuclear weapons the first nuclear weapon will be against Saudi Arabia because of the Shiite-Sunni conflicts. These Sunni countries were very concerned about Iran getting nuclear weapons, and they knew we were not going to have a united front against Iran until we solve the peace treaty.

So I really thought this was a great opportunity for peace. I still believe that if it

wasn't for the Goldstone Report, we were moving very well. Then Judge Goldstone came out with his report and accused the Israelis of doing bad things.<sup>1</sup> Then the Arabs stopped negotiating. The hardest thing is getting a Palestinian leader who has the political support of enough in the Palestinian area to come forward, and that's what Abu Mazen had done. What happened with the Goldstone Report that was so damaging was that when it came out, and we were making such progress in my opinion, Abu Mazen went and talked to number of Arab leaders and said he'd like to downplay this so they could get negotiations going. He received assurances from a number of Arab leaders that that was okay. Well, I don't think anybody predicted that all hell would break loose. So the Arab leaders then pulled the rug out from under Abu Mazen. Abu Mazen was discredited with the Palestinians, he was discredited with the Arab leaders, and therefore there wasn't anybody from the Palestinian Authority to deal with.

You know, he and [Salam] Fayyad, who is the main technician there, just had done some great things. To give just one example, it's one of the keys, I thought: One of the big problems when you look at the Middle East is going to be everybody agrees we've got to have a Palestinian state; the Israelis and Palestinians want a Palestinian state; we solve the problem of the West Bank, that's where the Palestinian state should go, and Gaza; and the Palestinian authority has the authority of both locations to negotiate something. But how are you ever going to deal with the Palestinians on the West Bank for security? The big problem is the Israelis aren't going to want this force on the West Bank to be heavily armed and the rest of it. Well, what happened was there was an American general named [Keith] Dayton. He went over there and built up a Palestinian security force with the support of the Israelis, which is extraordinary.

I did not realize when Operation Cast Lead occurred, when the Israeli army went into Gaza, they pointed out to me, the Palestinians and the Israelis, that it was the first thing you would have thought would have been a restart of the Intifada on the West Bank, but it never happened. The reason it never happened was because the Palestinian Security forces, trained by General Dayton, working with the IDF, the Israeli Defense Forces, had headed the whole thing off on the West Bank. They are building 5,000, 6,000 troops, armed, on the West Bank. When I met with Dayton, I met with Fayyad, they said, "Its working and the Israeli Defense Force thinks this is great." I'm going, "Wait a

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<sup>1</sup>In 2009, Richard J. Goldstone, a South African jurist, led a UN Human Rights Council investigation of the conflict in Gaza and filed a report that accused both Israel and the Palestinian organization Hamas of having committed war crimes.

minute, I don't believe this." And by God, when I met with Netanyahu and I met with Barak, the defense minister, both of them said, "Oh, yeah, the Palestinian Security Force is great." So there were a lot of things coming together that were almost unique. But then the Goldstone Report really set things back. Abu Mazen began talking about retiring. He's the same age I am, I can understand. He said, "I'm 72 years old, do I really need to put up with this kind of aggravation anymore, especially if the Arabs pull the rug out from under me?" And there's nobody to negotiate with. If something happens to Abu Mazen, no matter where you are, by the time you get another political leader—Fayyad does not have the political support to be able to negotiate this—that there was no leader. So if you lose Abu Mazen, who are the Israelis going to negotiate with? There isn't anybody. It would take years for somebody to build up the political base, because the Palestinians are clearly split, and that's not even counting the problems with Hamas.

So there were a lot of things coming together, and then we had the Goldstone Report. And one of the examples that we were still on the negotiation track, I say, was when we had the Turkish flotilla and people were killed. Any other time in the history of the Middle East, the negotiations would have stopped dead. There was a lot of back and forth, but the negotiations still went on. But, unfortunately, a lot of things have changed, and one of the big losses is George Mitchell.

I'll tell you this one George Mitchell story. I'm in the Foreign Relations Committee and we have this briefing from George Mitchell. George Mitchell comes in and the first thing he says is, "Ah, Ted Kaufman, my favorite senator." I had known George and worked with him when he was majority leader and I was with Joe Biden. He said, "You want to know why you're my favorite senator? Because you and I are the only United States senators in history who ever were chief of staff for a senator and then took the senator's place." He had been chief of staff for Ed Muskie. He had then been appointed a federal judge. He came back and took Muskie's place in the Senate. I took Joe Biden's. I left Joe Biden's staff and then came back and took it. So that was a nice thing for him to say. But when he said he was going to retire, we lost a lot.

But we had some great candid meetings with [Racép Tayyip] Erdogan from Turkey. I met with [Bashar] Al-Assad in Damascus. Congressman Walz and I spent a great deal of time with Assad. I met with [Rafic] Hariri in Lebanon. Met with all the leaders and came back thinking we had a chance. But I remember I came back from my first trip and I met with a group from the Delaware Jewish community. I finished all this

optimism and then I said, “When you’re most optimistic on the Middle East is when it’s most dangerous. That’s when things go bad.” My favorite story is one I’ve heard from so many different people with different versions. The one I heard was there’s a dog and a scorpion and they come to a river. The river is flowing and the scorpion can’t get across. So the scorpion says to the dog, “Can I ride on your back when you swim across the river?” The dog says, “No, you’ll sting me and kill me.” The scorpion said, “Why would I do that? Then I’d drown too.” So the dog says okay and they’re halfway across when the scorpion stings him. The dog said, “Why did you do that?” And the scorpion said, “This is the Middle East.” The Middle East doesn’t always go where you want it to go. But maybe now that I’m kind of pessimistic, this may be the time that we actually do something.

The hearings I had, the people I met in Washington, all the different think tanks and the ability to talk to them—one of the great things about being a United States senator is everybody returns your call. It’s just extraordinary the ability to marshal information.

**RITCHIE:** You said earlier that everybody tries to shape a senator’s opinion.

**KAUFMAN:** Yes, exactly.

**RITCHIE:** I would assume that on Middle Eastern issues you must have had a lot of people trying to influence your positions.

**KAUFMAN:** Yes, but it’s very difficult, because I had such a depth of knowledge and such experience. When you talk to many of these people who care about these issues, it’s just not a fair fight. You have the advantage of so much. When I talk to people about Afghanistan, most of them don’t have even a portion of the information you’d need in order to make a decision. Not to say that they don’t know, and not to say that they’re right and I’m wrong. But when you start to talk about the Middle East, people just don’t have the access to information. Now, this can build up chutzpah, but you have to be careful not to fall into “I know everything and no one else knows anything.” I don’t believe that, but on some of these issues it’s a little like why members of Congress do so well in town meetings. A senator dealing with a constituent in many, many, many cases has the advantage, although I’ve learned a lot of listening. I’m not saying you know everything, but when people try to influence you, you’re likely to know

the most. It's like in the old days—and I just saw a little piece of this in North Carolina when I was in school—they have the old country fairs. All things are going on at the old country fairs, and one of the things is that somebody would come to town and set up a boxing ring and they'd have a professional boxer. They would invite people up to box. "If you can stay three rounds with Harry, you get \$100." It's as much of a scam as throwing three rings around the bottles. The boxer weights 150 pounds and these 250 pound lumber jacks go in the ring. They dance around for a while and then pow, pow, it's over. That's kind of the way this is. When you spend all your time in Washington going to hearings, reading books, getting staff, you're getting briefed, you're getting information from all these different organizations, and then you come home and some guy who reads the *Sunday New York Times* is now going to tell you about what you should be doing.

Now again, on certain issues you really do know a lot about it. This sounds like I don't think that you should listen to what other people say. Look, my knowledge of the Middle East was great, and most people's knowledge of the Middle East is not great. But when we were doing healthcare reform there were loads of people who read the *New York Times* on Sunday who gave me ideas about what we should be doing on healthcare. It's just that there are a few issues that if you make yourself an expert on it's hard to get good advice. But there are still plenty of experts that I talked to. Every one of these trips I would talk to think tanks, and academics, and people from the community, and people from Delaware. Every time I took one of these trips, when I came back I would meet with folks from the community and talk to them about it. But you do have just incredible access to information.

**RITCHIE:** There's a political truism that people rarely vote for somebody because of a foreign policy issue.

**KAUFMAN:** Right.

**RITCHIE:** But, on the other hand, do you hear a lot from constituents on foreign policy issues?

**KAUFMAN:** Yes, I hear from groups. You hear from the Greek community. You hear from the Turkish community. You hear from the Jewish community. You hear from the Arab community. There is that. But, no, foreign policy, one of the things—it's

interesting that you say that—I've watched so many presidents now, working in the Senate and reading about them in the past. They all gravitate towards foreign policy. They all do. I predict you will see President Obama, if he is re elected getting more involved in foreign policy. The reason they do is really simple, and it's the reason why senators gravitate towards foreign policy. When it comes to foreign policy, as president you can speak in big broad strokes. You can let yourself go. It's like painting on a gigantic canvas. Because most of the electorate doesn't know that much about foreign policy. They know so much more about domestic policy. You start painting big broad strokes on Medicaid, and you're going to hear from somebody who says, "Wait a minute, in Section 4, Article 3, it says in fourteen days, seven, green, blue, right." You know. Whereas you can say, "What we need to do in the Middle East is deal with the Palestinian problem." So it's not that most Americans are not concerned about the Middle East, it's just that they're so concerned about domestic policies.

One of the things early on I learned was that if you want to find out what a constituent is concerned about, start with the issues that are most important to him. If you say you're going to alter the path of the highway to go through this person's home, you've got their attention. Joe Biden used to say that it was so much more difficult being on the county council than being a senator, because the issues that you deal with have such a direct effect on people. I learned that during busing, when we had two-thirds of the students being bused in different directions to achieve racial balance. People did *not* want to talk about foreign policy, they didn't want to talk about anything except busing. Now they want to talk about jobs, which is at it should be: jobs, jobs, jobs. People all over the world are focused on local issues. When I went to Pakistan, Iraq, and Afghanistan, the people said on polls that the number one problem was not enough jobs. In all three it was the same as in the United States: jobs. If there's one thing you could do in Afghanistan that would just turn that thing around on a dime was if you could get the unemployment rate down. The same thing is true in Pakistan. Bad things are driven by the fact that people don't have jobs. Now, in many countries people say, "Why are we so concerned about your country and you're not concerned about us?" It's because what we do in the U S directly affects their lives. What's going on in China, although becoming more important, is not as important to Americans. The Chinese leaders just don't understand why we don't have more coverage of China, why the *Washington Post* and the *New York Times* don't have more stories about China, because they've got stories about the United States in all their newspapers all the time. Why don't we have more? Because China doesn't have that much direct influence on the U S . Now, with economic

issues, China's getting more involved, and with the balance of payments and those things.

But, no, it's not that people aren't interested in foreign policy. They're interested in foreign policy. But they're much more interested in putting food on the table, what happened to their kids, what happens to their job and house. That what drives most Americans, and what drives most politicians to do foreign policy is that it's just a lot more fun when you can make big broad generalized statements at a town meeting and not have people bring you up short by explaining how Medicare 237 works or what we should be doing about AMTRAK, something like that.

**RITCHIE:** I just remember Senator J. William Fulbright who was chairman of the Foreign Relations Committee for years but he also was very concerned with chickens in Arkansas, and made a big deal of chickens

**KAUFMAN:** Hey, Joe Biden, you said the two things. Chickens are Delaware's biggest agricultural product, and he was chairman of the Foreign Relations Committee. One of the big things he always talked about was that Russia was blocking our chickens from coming into Russia. When he went to Russia, one of the issues he talked to [Vladimir] Putin about was "What are you doing to my chickens?"

**RITCHIE:** Well, that's one of the things that keeps a senator in office, because people vote on chickens more than they vote on foreign policy issues.

**KAUFMAN:** Well, yes, but one of the things I believe from the bottom of my being is that especially in smaller states they vote on the person, and their character. What they're looking for is candidates with the character who will do what they think is right. The polling data show that when you ask Americans who they think is in charge in Washington, they don't say the president, and they don't say the Congress, they don't say the Supreme Court. They say interest groups. So you can have the greatest ideas in the whole world. You can have all the greatest positions in the world. And you can say all you want about chickens and the rest of it. But if the people believe that when you go to Washington that you're not tough enough, that you're not smart enough, that you're not committed enough, that you're not going to stand up to the interest groups, they're not interested. And they're very good about picking that out and seeing that. One of the things that I think is true is that it isn't your position on the issues that's important, it's

how you deal with the issues. And it's not just for the president. I'm talking about real character. I'm not talking about whether you're cheating on your wife or cheating on your husband, that can really hurt you. But it's really the character to stand up for what you believe in—I can remember Jesse Helms, when he ran against the governor —

**RITCHIE:** Oh, yeah, [Jim] Hunt.

**KAUFMAN:** Governor Hunt. David Sawyer, who has since died, was a brilliant media guy. He came and gave us a presentation on what the race was going to be like, and how difficult it would be to beat Jesse Helms. One of the things he said—I don't know if it's true or not, but he was smart and I believe there's something to it—but he said, “A lot of people think that Jesse Helms opposes having a Martin Luther King holiday and is successful in North Carolina because of racism.” He said, “Well, there are racists everywhere, but why the Martin Luther King holiday works for Jesse Helms is because it says to everybody in North Carolina: ‘I am going to take this position. This is not the position that people in Washington want. This is not the position that people in the country want. I have the character to stand up to all those interest groups, all those powerful people and say no, I don't believe in this.’” Sawyer said that's what made Jesse Helms so unbeatable, is that the people in North Carolina were convinced that Jesse Helms would never be pushed around by an interest group, and he had the internal character to do what he thought was right. I think that is what gets people elected. Now, at certain times you can have an issue. Like right now, you vote to go into Iraq and it turns out Iraq's bad. There are all kinds of different issues. But I think a lot of it is they know that Washington is a tough place. They think that most people who go to Washington for the first time are honest, but that Washington corrupts them. If you're trying to figure out why people vote, a lot of it has to do with: “He or she may have a lot of good ideas, but do they have the character to carry it through?”

**RITCHIE:** For a long time there was a slogan that politics stops at the water's edge and there were more bipartisanship in foreign policy. Is foreign policy more partisan now?

**KAUFMAN:** Well, The Kerry-Lugar Bill on aid to Pakistan passed and I think just about everybody voted for it. You saw it raise its ugly head a lot with the START [Strategic Arms Reduction] treaty. We had hearings and we had the major secretaries of state that were alive and the national security advisors that were alive and their only



criticism was that maybe it wasn't as big a treaty as it should be, but nobody thought it undermined the security of the United States. Henry Kissinger came, [Brent] Scowcroft came, all the Republicans, and they said it would be potentially very damaging not to pass this. It's not that great a treaty, but as the old argument Joe Biden used to make when he was pushing the SALT II treaties, this is a process. You pass these treaties, but if you ever get off the tracks, putting them back on track would be terrible. Even Ronald Reagan, who came in thinking the "Evil Empire" and all the rest, realized how correct it was that we should have these treaties. So it just seemed to me when you went to these hearings, Republicans and Democrats, in terms of the policymakers, they were all for it. But there was a group at the Heritage Foundation and in the right-wing of the Republican Party that just seized on the START treaty and started talking about what the Russians were saying about the START treaty, and what was not in the START treaty, and tried to turn it into a whole battle about our nuclear configuration. I sat there incredibly frustrated. And then I watched the Republican senators, one after another, vote against the START treaty.

By the way, I am sure the Democrats have done it too, but I have not seen it. Now, we had some kind of partisan blow-up over the AWACS [Airborne Warning and Control System], I think it was a pretty partisan vote back in '81 or '82. But it does really stop at the water's edge. I think Kerry and Luger are great. Luger supported the START treaty.

It gets to another issue. One of the things that is going on in the country, and we went through it in the '70s, when I got involved, and that is there is a left-wing of the Democratic Party that would just go crazy. They'd come up with an idea and say, "This is it and we're not going to negotiate." That's where we are today with the Republicans. I get the feeling that the communications system that has built up around Rush Limbaugh and Glenn Beck, and [Bill] O'Reilly and those guys. Some issue will come up, like that mosque in New York at the 9/11 site, that's been around for years and then all of a sudden somebody decides that they're going to do it, and they're going to go on the TV shows and the radio shows and talk about it. I remember they went after Lindsay Graham for something, the Republican from South Carolina. I guess he was involved in some negotiations on cap and trade, what we are going to do about it, and man, all of a sudden, in South Carolina there were committees voting to throw Lindsay Graham out. I think right now the Republicans in the Senate—and I don't question their motives—but it did seem they were being influenced by this incredible megaphone that was being blasted

into their districts. I think that's what happened. That's the only way I can explain the START treaty because it doesn't make a whole lot of sense any other way.

**RITCHIE:** Did you find much division in the Foreign Relations Committee? Or were the members pretty much internationally minded?

**KAUFMAN:** Oh, yes, they were good. A lot people who, when you looked at their voting you would say were conservative, starting with Luger, who is conservative, but on foreign policy issues has been pretty bipartisan. Then there is Johnny Isakson, who is a great guy I really like a lot and respect a lot, a smart guy. Bob Corker is the same. Just going down the whole list, John Barrasso, Senator Risch, Johanns, just a great group of smart committed guys. By and large very conservative, but very bipartisan on foreign policy. Now, take a shot at the president? Yes, but that is definitely not a partisan issue. Being critical of the president on Afghanistan, on the surge or any other things. Yeah, but look at the Democrats. There wasn't a single thing Bush did on Iraq, except going in that the Democrats supported.

Now, there are a lot of conservative senators on Foreign Relations, but not real conservative. The thing that was interesting at the end was that Senator [James] Inhofe got on the committee. Senator Inhofe can be very difficult. At one point we were talking about the START treaty. We had had a series of hearings which I thought were extraordinarily good in terms of the majority picking some witnesses and the minority picking others. But Inhofe was upset because he said they couldn't find anyone to testify on the START treaty that was opposed to it. I'm sitting there thinking, "Yes, that means maybe the START treaty is a pretty good idea." And Inhofe is complaining that they couldn't find anybody to testify against it. Talk about turning everything on its head! All those Republican national security advisors came in were for it, all those Republican secretaries of state were for it. We couldn't get a secretary of state or national security advisor of either party that would come forward and say that defeating the START treaty was a good idea. So, yes, every once in while you have those kinds of things, but Senator Inhofe is one of a kind.

**RITCHIE:** It's interesting when you mention some of the senators from the different states. I'm thinking about the two senators from Georgia, [Saxby] Chambliss and Isakson. When Senator Biden came to the Senate, they would have both been Democrats, but their politics would have probably been pretty much the same. The

conservative Democrats were replaced by conservative Republicans. He would have had to work with conservatives in his own party, while you worked with conservatives in the opposition.

**KAUFMAN:** Yes, but what it did was—I think I talked about this before—it allowed the Democratic Party to become much more of a consolidated party. So, yes, we lost Georgia, but we picked up Pennsylvania. When you look at the breakdown. The southern states are red and the northern states are blue. The Democrats have done pretty well in that trade. We gained a lot more north of the Mason-Dixon line than the Republicans did south of the Mason-Dixon line.

**RITCHIE:** Most of New England, for instance.

**KAUFMAN:** Republicans used to be strong in Pennsylvania. Senators Arlen Specter, Hugh Scott and [John] Heinz. So yes, Georgia is a conservative place. But here is the other point—it's an interesting point that you raise—but when we were doing Dodd-Frank Wall Street reform, I went and talked to some of these southern Republicans. Back when there were southern Democrats, they would have been against Wall Street. The same thing in the west, Wyoming and the rest of those states, they didn't trust Wall Street banks. I thought maybe we could pick up some votes there for Dodd-Frank and for Brown-Kaufman, because basically the Brown-Kaufman bill said we ought to slim down these big Wall Street banks. And there were very few people in Georgia who were in favor of big banks. But I could never get Johnny Isakson to vote aye on Dodd-Frank. The votes may have seemed like the same, but I think it was a different place. You still have the regional concerns, too. Like energy, there's incredible regional concerns. It doesn't matter who is the senator from West Virginia they're going to be using more coal.

**RITCHIE:** The Armed Services Committee has always had a strong contingent from the South, because that's where all the bases are.

**KAUFMAN:** Exactly.

**RITCHIE:** When Mendel Rivers chaired the House Armed Services Committee, every branch of the services had a base in his district.

**KAUFMAN:** Exactly. Oh, no, that's right. That's the way it went. That's the way they liked it and that's the way they kept it. Now, it starts to change when you don't get these people getting reelected from the South. That's another difference. When the Democrats were in charge, the Solid Democratic South, you had Mendel Rivers, and Strom Thurmond, and these guys get the seniority and be able to run the committees and make sure to bring home the bacon.

**RITCHIE:** Now there are more contested elections in the South.

**KAUFMAN:** Yes, but as I said before the other day it turns out there are getting to be less and less contested elections around the country. More and more primaries are contested, and but there are less general election that are contested, but it's a disturbing trend. Shall we break?

**RITCHIE:** Yeah, I was thinking that one of the things I'd like to talk about are the Judiciary issues like impeachments and nominations.

**KAUFMAN:** Sure, and I'd like to take a few minutes to talk about the Internet Caucus, the human rights issues, and then we get into those. We've also have to do the federal workers. The impeachments—it's amazing how they got senators who are incredibly busy to actually sit down and have a trial for a district court judge, and *loved* it. McCaskill loved being a judge. I sat there and I listened and it was absolutely fascinating. But you know for hours after hours these men and women that are on four and five committees said okay, and they came.

**[End of the Seventh Interview]**

*Photos from top to bottom:*

Ted and Lynne Kaufman with President Jimmy Carter and Senator Joe Biden.

Senator Ted Kaufman with President Bill Clinton

With President George W. Bush

With President Barack Obama at the White House for the signing of the Fraud Enforcement and Recovery Act, May 20, 2009, with Senators Amy Klobuchar, Patrick Leahy, and Harry Reid, and Representatives John Conyers, John Larson, and Robert Scott.



## THE MOST EXCLUSIVE CLUB

### Interview #8

Wednesday Afternoon, August 24, 2011

**KAUFMAN:** One of the things on national security that was reflected in what I did on the Senate Foreign Relations Committee really played off of my experience on the Broadcasting Board of Governors. That was: What should we be doing to increase public diplomacy? What should we be doing to increase freedom of the press? I think that when you look around the world, and you look at the countries that are in trouble, one of the things they all have in common is a high level of corruption. I had determined for myself that the single biggest way to eliminate corruption is a free press. If a country has a free press, it's very difficult for corruption to survive. And if they don't have a free press, it's impossible to stop corruption. So when I was on the Foreign Relations Committee I worked on pushing what I learned on the Broadcasting Board of Governors.

I had a number of resolutions. Most of my concern was centered on Iran and China, two countries that are notable in the lack of a free press. I had a bill called the Voice Act, which basically came up with ways for people to get around the blocking of the Internet by Iran. I had done a lot of work on the Broadcasting Board of Governors on unblocking the Internet in China. China is very sophisticated at blocking the internet, and spends a lot of time and money, with help, by the way, from American corporations like Cisco and Yahoo and Google trying to control content on the internet. As a result, it is hard to access a number of international websites. But we spent a lot of time on the Broadcasting Board of Governors on ways to get around it, with proxy servers and other methods. So we wanted to do the same thing with Iran, and this gave them money to do that.

I also set up, with my co-chair, Senator [Sam] Brownback, the Global Internet Freedom Caucus. It was bipartisan: Senators Durbin, McCain, Lieberman, Johanns, Casey, Barrasso, Menendez, Risch, and [Roger] Wicker, which covers the political spectrum. It definitely covers the parties. The whole idea was: How do we promote Internet freedom? I really feel good about what I was able to do on that. The other area—

**RITCHIE:** I was going to say that what's happening in the Middle East this year was driven by social networking, the fact that groups can organize is quite remarkable. It's the first electronic revolution, essentially.

**KAUFMAN:** That's absolutely right. Now, you'll have a hard time in China, because China blocks all these things. I'm sure these dictators will work harder and harder at controlling it. But clearly, finding out ways to use the Internet, and get phone message communications and all the social networking is like what Madison wrote in the Federalist Papers #10, that liberty is to factions what oxygen is to fire. If you have a lot of liberty, you're going to have a lot of factions—what we now call interest groups. The oxygen feeds the fire and liberty feeds factions, which is why you have this growth of interest groups, which people are not happy with a lot of times. But in an environment like Iran or Egypt or Libya, it's the growth of factions and the ability of the factions to communicate that's the key to success.

The other thing I did work on was the Media Shield law, which essentially said that if you are a journalist, you are protected from having to reveal your confidential sources. When they sat down to write the Media Shield law, there was a major controversy. Senator Feinstein and Senator Durbin both spoke in the Judiciary Committee about the fact that “these bloggers shouldn't be considered journalists; we have to define what a journalist is.” I was able to point out the fact that when you look around the world, one of the things these dictators do is to use their definition of who is a “journalist” to control who has access to the public and while some do not lock everyone up in jail, they put in libel laws, so that if you are a reporter and you write something, they can go to court and take away all your money and drive you out of business. It could be a slippery slope to start limiting who is a journalist. So we were able to get a compromise. The point I made to them was that in 1776, if you went to a street corner in Boston, you'd find loads of broadsheets by Thomas Paine and others, and they weren't like today's professional journalists; they were more like today's bloggers. There were no rules. They had a free exchange of ideas. You want to have a situation where the government cannot come in and penalize people for disseminating information.

Now, if a person breaks a security clearance, or if a reporter or a blogger goes in and actually does something that breaks security, they should go to jail, no questions asked. But there's a difference between the person who breaks the law by going around the security regulations and the person who disseminates that information. When you had the Wikileaks, someone in there did something illegal. But the next day when the *New York Times*, *Washington Post*, *LA Times*, and every other paper in the world wrote about it, they're not the problem. The problem is the security breakers. That was my approach and that was the approach that carried the day, and I was really happy with that.

Then we had a hearing about public diplomacy and international broadcasting. We had a number people come and testify. We had three wonderful people who had been involved with the Broadcasting Board of Governors, and were undersecretaries of state for public affairs. Karen Hughes, worked in the George W. Bush white house, and was undersecretary of state, Jim Glassman, who was Chair of the BBG board and then went on to be undersecretary, and Evelyn Lieberman, Director of Voice of America, deputy chief of staff in the Clinton White House, who was Joe Biden's press secretary and a good friend of mine, who went on to be the first undersecretary for public affairs.

The nice thing about Broadcasting was it was bipartisan. It was the Helms-Biden bill that set it up, or Biden-Helms, and with some notable exceptions—some *really* extraordinary notable exceptions—it was a very bipartisan board.

**RITCHIE:** One of the unique features of your years as a senator was that you did regular speeches on the floor about civil servants. I wondered how that came about?

**KAUFMAN:** That was one of the really great things of my term. What happened was I had worked in the Senate for 22 years and then 13 years on the Broadcasting Board of Governors, and I was absolutely impressed with the federal employees. I remember when I was at Wharton somebody did a study and they found out that the academic credentials for federal employees were almost absolutely identical to the academic credentials for corporate America. I worked for years for DuPont, and I worked for the industrial division of American Standard, which is another big corporation, and I found that by and large the federal employees were as good as the corporate employees. I think the denigrating of federal employees was started during President Reagan's term. He was for small government, which was fine, and I don't think he ever did it, but some people when they criticized the federal government said it couldn't do anything right, then went on to say that it was because of the federal employees. They said Federal employees aren't any good, they couldn't get any other job, and federal employees were paid so much less than private sector employees, how could they be as good? You know those kinds of things. What I found was most federal employees want to make a difference more than they want to make a lot of money—not that they couldn't make a lot of money. People started denigrating the federal employees.

One of the big differences between Democrats and Republicans is what we think the role of government is. I think it's fair to say that Democrats think it has a greater role



for government than the Republicans, and that's okay, we can argue about that. But when people denigrate federal employees, when I knew as a fact they were every bit as qualified as people I met in the private sector, it made me very unhappy. When people asked me about it, I said, "What's really great about being a United States senator is that I got to scratch some itches." Because for years this had bothered me. What I did when I came into office was to say, "You know what I'm going to do? I'm going to spend the next two years, once a week I'm going to go to the floor and I'm going to talk about the great federal employees. What I'm going to do is create a mosaic so that people can see the depth. I don't want to just talk about the Nobel Prize winners. I don't want to just talk about the highest accomplishments. I want to give a broad view of people and the sacrifices they've made, and how they want to make a difference." So that's what I did.

There's a young man, Adam Weissmann, who came to me right out of the University of Chicago, who helped me with it. He was incredibly helpful in how we'd do it. What we'd do is we'd contact Max Stier's organization [Partnership for Public Service] that talks about public service, and they had a thing called the Sammies Award [Samuel J. Heyman Service to America Medals]. We started using Sammie Award winners as example. Then we decided to call the federal agencies and ask them, "Give me the name of somebody. Who do you think is the person in the Treasury Department who personifies this?" I'm not talking about the most accomplished, or the one with the most degrees. If you look at it, in the end I did 100 federal employees. It was one of the most enjoyable things I've ever done. I scratched my itch and I got to talk about these great employees. The problem was, I could have—if I ever went on my own personal experience I could have done *thousands* of federal workers. If people heard their story, and heard what they did, and how innovative they were, and how smart they were, and how they gave up the chance to make a lot more money because they wanted to make a difference.

**RITCHIE:** Did you ever hear from any of them?

**KAUFMAN:** Oh, my, yes, I heard from just about all of them. And I also heard from people around them. People would stop me in the street. And then when I left, I passed the baton to Senator Mark Warner, who is now, I understand still doing it. But once a week I would go down to the floor. I had a picture of the federal employee. I would contact them and their families so they could watch it. It was another example—when somebody does something like that, people usually attribute it to some

kind of political motives. But with me they knew I wasn't running for anything. There are so many good things about being a senator. The ability to just do a small thing that really made somebody happy, it's an extraordinary blessing.

**RITCHIE:** What I liked about it was that it seemed to be the antithesis of the Golden Fleece approach—

**KAUFMAN:** Yes, exactly.

**RITCHIE:** Who's ripping off the government, what's going wrong. I read the *Congressional Record* every day and it was nice to see something so positive.

**KAUFMAN:** Yes, it was, and as I say, federal employees, as a group I find them to be the opposite of the popular impression. I think a lot of the pejorative image comes from politicians. It's in the tradition of [Texas Governor] Rick Perry saying that [Ben] Bernanke is a traitor. There's a lot of things that Bernanke's done that I don't agree with, but I'm absolutely convinced that he gets up every day trying to figure out how he can make the world a better place. He makes incredible sacrifices. I'm sure financially he could do a lot better than he is now, and he wouldn't have to put up with a lot of this aggravation. I'm opposed to the demonizing of people, on both sides. I taught a course for MBAs and law students on the relationship between government and business, and one of the things I tell them is—most of the MBAs are going to be in business: "You're going to be in business and when your CEO comes in to meet with a federal employee, too many of them come down with the attitude they're federal employees because they couldn't get a real job in the private sector, and they're making a pittance so they can't be good." I said, "That shows." I've sat in a lot of meetings with top executives, and some treat federal employees like that. And the problem is, the federal employees are sitting there thinking, "This guy, for \$5,000 he'd run over his grandmother, he cares about nothing but profits.." I said, "When a federal employee sits down with a corporate employee, sometimes it's like two different cultures getting together." There's a lot of truth to that. On both sides there's some prejudice, but the vast majority of federal employees and corporate employees just take things as they come and understand them.

**RITCHIE:** Well, I guess the flip side of that positive assessment is that you, as a senator, also served on two impeachment committees of federal judges who were being removed. Could you tell me a little bit about the impeachment process?

**KAUFMAN:** Right. Judge [Samuel B.] Kent was the first one. He threw in the towel. It was kind of sad. Most Americans do not realize that you have to impeach a federal judge, that a federal judge cannot be fired for anything. The House of Representatives has to have an impeachment bill and the Senate has to determine whether they're guilty, like what happened to Clinton as president. So if you have a district court judge who wants to hang on long enough—Kent had pushed it—the House had to impeach him and send it over to the Senate. I was put on a committee to hear evidence. It used to be the entire Senate would sit and hear the evidence in any impeachment, but what they decided to do to help that process of fact-gathering, not in any decision-making, they would set up a committee to gather the facts, and then give a report to the Senate on the facts. No opinions, no recommendations, just “These are the facts as we see them.” It was a good idea and clearly maintained the spirit—and the letter of the law—on the Constitution.

I was kind of looking forward to being on the Kent committee, just because it was so different, but after the House came over and read the bill of particulars on the floor—which must have been humiliating for Kent. God, I can't imagine. Just sitting there listening to it, I was embarrassed. He decided to resign.

Judge [Thomas] Porteous was a different case. Judge Porteous was the second one, and he decided to fight this thing all the way through. So there was a Porteus Senate impeachment committee, I was selected for it, and we started to meet. I talked before about how incredibly busy senators are, so many committees, so many things to do, and really important issues, and Lord knows in this Congress we dealt with a lot of important issues. But it was amazing to me how the senators took it so seriously. They sat there for hours listening to what could have been a standard criminal court case that goes on in every district in the country, in the world probably. Did Judge Porteous do some things that would qualify as being impeachable offenses? Could he be thrown out of office for this? What were the guidelines? It was exactly like a court case. Senator McCaskill from Missouri was the Chair and did a fabulous job. She was a former prosecutor and she absolutely loved being a judge. You could just see it in her. When I looked around the committee, just about all of them except me had been former prosecutors, either state prosecutors or federal prosecutors. But when we went through it, it was fascinating. And the attendance of the senators was incredible. We sat for hours, and hours, and hours on the case. Unfortunately, I left office before we even made it to the final report.

**RITCHIE:** And in that case they did have a trial on the floor.

**KAUFMAN:** Yes

**RITCHIE:** One of the judges impeached in the 1980s, Walter Nixon, challenged the issue of whether or not the Senate could appoint a committee to hear evidence. His argument was that the Senate as a whole should hear the evidence, which of course would take up an enormous amount of time. But the Supreme Court upheld the Senate's right to have the evidence taken by a committee.

**KAUFMAN:** Well, a lot of what we heard was challenging what is an impeachable offense. It had nothing to do specifically with Judge Porteous, but just what are the rules? One of the defense lawyers was a prominent professor [Jonathan Turley]. I thought, "This is not a good strategy." He spent a lot of time "educating" United States senators on what their responsibilities were in the impeachment process, especially a group of senators who were lawyers and had practiced. At points I was amazed that more senators didn't take offense. But people took it very seriously. The discussions were excellent, and it was fascinating.

**RITCHIE:** One of the more ambiguous phrases in the Constitution is "high crimes and misdemeanors."

**KAUFMAN:** Exactly.

**RITCHIE:** During the Clinton impeachment trial, the J. P. Morgan Library in New York had on exhibit one of the working drafts of the Constitution that the framers used in their debates, and that phrase "high crimes and misdemeanors" was noticeably absent from that first draft. At some point they added that in, and it seems to suggest that the offense has to be serious but it can cover a really wide range of actions.

**KAUFMAN:** That reminds me that when I took psychology they talked about IQ tests, and what IQ tests actually test. The best definition I heard, after a lot of discussion— people used to talk about this alot—was "What IQ tests test is what IQ tests test." And that's it. "High crimes and misdemeanors" are whatever you, an individual senator in an impeachment process, decides are high crimes and misdemeanors. That's the definition. It's like so many things in the Constitution, like war powers: Corwin's

quote that the President and the Congress have "an invitation to struggle for the privilege of directing American foreign policy." To determine what are their roles in the declaration of war and the conduct of war. It is like that with impeachments. You read all the evidence and it's all interesting, but in the end you're not writing a law. It's a matter of House members determining whether or not someone did something bad enough to impeach, and what makes the standard of high crimes and misdemeanors. I think it's the same with the Senate. When the senators sit around, in the end they judge whether they're going to find the person guilty or not, and part of whether they're guilty is what your view is of high crimes and misdemeanors. The members spent a lot of time thinking about it, I think largely because of the Clinton impeachment. But it was fascinating and it once more reinforced in my mind the genius of the founders, that they came up with a process. They figured out what to do about federal judges, and essentially for 200 years it's worked.

**RITCHIE:** It's one of the few cases where there's a different requirement for the House and the Senate. The House can impeach someone by a simple majority, but the Senate needs a two-thirds majority to convict. The impeachments that have succeeded in removing someone from office have been those that got an overwhelmingly bipartisan vote in the House. So even going back to Thomas Jefferson's day, it's never been a useful tool for partisan politics.

**KAUFMAN:** Well, it was pretty partisan against Bill Clinton!

**RITCHIE:** Yes, in the House it was a party-line vote, but that wasn't enough in the Senate.

**KAUFMAN:** I don't remember what the vote was, but I don't think we had a party-line vote.

**RITCHIE:** It was 55 on one vote and 50 on the other, but I meant in order to be successful in the Senate you have to convince members of both parties of someone's guilt.

**KAUFMAN:** Oh, yes.

**RITCHIE:** Well, as a senator, in addition to voting on removing people from

office you also get to put people into office, and you participated in two Supreme Court nominations. I wondered if you could tell me about your role as a senator in those two.

**KAUFMAN:** Sure. One of the reasons I picked the Judiciary Committee was to be involved in all the Supreme Court nominations. I think Joe Biden was on the Judiciary Committee for all the Supreme Court nominations except [John Paul] Stevens. Big change in the process just in the 30-some years from when I first started. It's funny, when you go through the process you start thinking back to what it was like when you started. The examples I used to bring home the differences in so many places—first I told the story about Rehnquist, when he was up for Chief Justice and came around for his meeting with the *chairman* of the Judiciary Committee and there was no press. There was just him and some person from the Justice Department. So that was a dramatic change. I can remember Senator Biden has a picture of him taken with Sandra Day O'Connor. Again there was no press, and he had this sport coat with Strom Thurmond and him on the steps of the Supreme Court with O'Connor in a sport coat that looks like a horse blanket. Clearly, he had not dressed for the press when he met with Sandra Day O'Connor.

Obviously, I was very involved in the Bork nomination and the Thomas nomination, and all the rest of these, so when it came time to do the nomination hearings, I came with some really strong views on how I thought I should proceed on the committee. The biggest thing right off the bat was I felt that—we talked about Korologos's law, didn't we? He had done a bunch of Supreme Court nominations. Tom is a friend of mine. By the way, "friend" is a term used in Washington usually for an acquaintance, or a good acquaintance. Tom and I served together on the Broadcasting Board of Governors and he is someone I consider to be a friend. He's a very partisan Republican who worked in the Nixon White House, but he also shepherded probably more nominations, not just Supreme Court nominations, through the Senate than anybody in history. He did all the Supreme Court nominees for the Republicans for a while, including Bork and others. Anyway, as I said earlier, his rule was that if the senators are speaking 80 percent of the time and you're speaking 20 percent of the time, you're in great shape. If you're speaking 50 percent of the time and the senators are speaking 50 percent of the time, you're in danger. If you're speaking 80 percent of the time and they're speaking 20 percent of the time, your nomination is dead. Coming out of that, I think that changed nominee's behavior in several ways.

When I worked with Senator Biden, I sat through hours and hours and hours of

sessions preparing questions for nominees. I just finally said, “There are no ‘gotcha’ questions.” The reasons there are no gotcha questions is because it’s not like a court of law. Too many people watch a Supreme Court nomination hearing and think: “Why don’t they make that person answer that question.” But there is no judge. The chair is one among equals and cannot instruct the witness to do anything. And cannot instruct the members of the committee to do anything except the length of time they’re speaking. My strategy was: first, I felt where we made our mistake on the court was we had been so focused on this drive, which started by President Reagan, to use the court for ideological ends and advance social issues by appointments to the court because he couldn’t advance those social issues in Congress during his eight years as president. So we got into this back-and-forth on ideology, and we had peopled the court with a very narrow segment of our society. We were doing much better in diversity in terms of having more women on the court, and we had the first Italian American. Then we had Clarence Thomas take Thurgood Marshall’s place. We had a number of breakthroughs in diversity in the normal definition of the term, but these were all people who had spent their vast majority of their lives as judges. In fact, I think four or five of the nine went to Harvard Law School and took the same course from the same teacher. In the Clinton administration, when the president called up Senator Biden, Senator Biden said, “I hope you take a hard look at some people who have held elected office.” There have been some great Supreme Court nominees who have held elected office, Sandra Day O’Connor being one of them, and we should be looking at more people like that.

I was really struck when I saw the campaign financing decisions. They just showed no understanding of how things worked in the real world. Those Supreme Court decisions were just *awful* in terms of just what they said about the reasons why they were doing things. I can remember the one in the Republicans versus Colorado [*FEC v. Colorado Republican Campaign Committee*] where Justice [Stephen] Breyer wrote that you could have “independent expenditures” by parties. The idea that a candidate is independent from a party shows a complete lack of understanding of how the process works. The candidates are picked by the party and then they meet with the party on a regular basis. Every campaign in America has coordinated campaigns of all the members of the party up for election in that cycle. For an important part of the campaign, the candidate is sitting down with the party making decisions. How the party could run ads that are independent of the candidate is just bizarre. Then there’s Citizens United [*Citizens United v Federal Election Commission*], the idea that corporations are people and therefore they should have the right to speak, and not understanding the corrupting

power of this, which earlier courts had recognized. So I felt it was really important and when President Obama called me—he was very nice, he called me as part of the process before he made his decision on both Supreme Court nominations, where he eventually picked Sotomayor and Kagan. I told him in both cases that I thought it would be good if he picked someone with broad experience, and that I hoped he would not pick a circuit court judge. See how successful I was! But that was my approach.

I also viewed the hearings a little differently than anyone else. I was very concerned about the business decisions that were being made by the court. A lot of people talked about a lot of different things, but at the Sotomayor hearings, on the first round of questions I was the only one that talked about business. I think [Herb] Kohl mentioned something about anti-trust, but mine was all about business. Interestingly, by the time we got to Kagan, a lot of the senators wanted to talk about business, but I was the main one to talk about it the first time around.

The other thing was I took a totally different strategy in questioning. One of the great things about my Senate service was getting to question people like Al Gore, and Jimmy Carter, and former secretary of state Jim Baker, and Zbigniew Brezinski, and Madeleine Albright, former secretary of state, and many many more. It was a great experience. One of the things that I had become disturbed about—and Senator Biden was criticized during the hearings for talking too much—you can put a timer on every U.S. senator and find that the Korologos rule is extent, the senators talk for 80 percent of the time, or 90 percent of the time if you give them a chance. I've watched senators talk so long that they never asked a question. I just felt that there was another way to do it. I told my staff when I first got there, "In all hearings, in all questions, I do not want anything that talks about me or how much I know. I want to ask short questions and if a question is more than a sentence, it's suspect. On opening statement, I can lay out what I think, but then when it comes to questions it's all about the facts." It was extraordinarily successful for me, for what I was trying to do, because what I found was because of Korologos' rule, if you asked them questions they gave you short answers. They could filibuster, and Supreme Court nominees do filibuster, which is why senators want to find gotcha questions. But my clear opinion is that now, no matter what you ask a Supreme Court nominee, they will not filibuster. I remember Senator Specter, a former prosecutor, would try to cross-examine Supreme Court nominees. Even so, you can't pin them down because they don't have to answer the question. There's no judge that says, "Okay, Smith. You have to answer that question. What's the answer to that question?" You don't



have to take the Fifth Amendment, you just don't answer it, or you talk about something else.

My rule was: Ask short questions, and a series of them. Several people told me that I set the world record because when I questioned Sotomayor, in a half an hour I asked 19 questions. The next closest was like 8 or 10 questions. Then we got to Kagan and I asked 21 questions. I was not trying to ask a lot of questions, but it really worked for me because I think I got answers to my questions, which is really what the process should be about. When you cut through all the rest of it, that's what the process is all about. And then what was really wonderful, I got a chance to chair the hearings, late in the hearings. I ended the Sotomayor hearings. I also practically closed down the Kagan hearings. That was great. Sotomayor I didn't know beforehand, but I thought she was an incredible selection. Elena Kagan I did know. Whenever Senator Biden did a Supreme Court nominee—I think I said earlier that it was Chris Schroeder who I teach with was hired for the Bork Hearings and one of the nominees we asked Elena Kagan to come and work for the committee. I'm trying to remember which nominee, but she came and she did staff work just like Chris had done on Bork. I was very impressed with her, everything that I ever saw that she did. She was really the ideal choice to be a Supreme Court nominee. I just wish that both she and Sotomayor had some kind of Sandra Day O'Connor elected experience. But it was a great honor to participate in it and I think we got two great Supreme Court justices out of the process.

**RITCHIE:** You said that you asked questions about business. What was it that you were trying to find out?

**KAUFMAN:** Well, essentially what happened was it had kind of slipped below the radar that during the Thomas nomination there was a lot of talk about the "takings clause." You could see where the court was heading, if you listened to what [John] Roberts and [Samuel] Alito talked about. What happened was when they actually got into office, even though all of the justices said they would adhere to *stare decisis*, which is adherence to precedence, they just started turning around business rules one right after another. There had been an anti-trust act having to do with price maintenance that had been the law of the land for 95 years. They just turned it around! They didn't gather any new data. They just had the votes, so they did it. They were moving to be much, much more business friendly. Citizens United is a perfect example, where they said corporations have a voice, but there's a whole series of decisions they have made where

they have broken with precedent in order to put a thumb on the scale for business. Lilly Ledbetter, the woman who was a victim of discrimination, which I think was pretty clear. They decided it on some procedural issue that when you read it, it just doesn't make any sense. You just have to really believe that people running a corporation have special rights and privileges. You know, I'm a corporate guy, but I don't believe those exist. The thumb on the scale in favor of business was pretty clear in the Roberts and Alito court. As I say, by the time we got to Kagan, I was all the way down at the end questioning, it was clear that when senators said what they were going to talk about, a whole group said they were going to talk about what Kagan's position was on business issues.

**RITCHIE:** At nomination hearings, there are other people who want to speak, often in opposition. Does that ever affect the outcome? Is it useful?

**KAUFMAN:** Oh, yes, I think hearings are useful. Look, you were asking me earlier about going overseas and getting brainwashed like George Romney did. I think one of the keys to be successful at just about anything, but especially in being a legislator, senator or House member, is you need to be able to search out both sides, or all sides (on many issues today there are more than two sides, so it isn't like the old days when you could just have two people come in and talk). There is nothing better than having a debate about an issue. First of all, when you have A in support and B who's opposed to it, when A speaks, and they think they're the only one talking to you, there's a temptation not to tell you anything wrong with their position. But if A knows that after they leave, B is going to come in and you're going to talk to B, then they have to put in B's arguments. So even if you just listen to A and don't even listen to B, I think if you're going to be successful in being an arbiter and taking positions on things, all you have to do is listen to A carefully, and if A thinks B is coming in, and they'll give you both sides of the argument. But it's always a good thing to bring B in.

One of the great things about the hearing process is every hearing is balanced—and this again is because of the turnover between Republicans and Democrats—I think years ago on the House side, if the Democrats were in charge they'd just have people who supported their position come in, but now it's pretty much set in the senate committees that the minority would pick some of the witnesses and the majority would pick most of the witnesses. I think the key to success is that you have people come from both sides. Now, both sides, one of the big problems we have in the country are that's more than both sides. All too often on issues there are very powerful interest groups in

Washington that are interested in one side or the other, but you really need somebody there representing the broad swath of the American people. I think the American people are right when they get upset about Washington because some of these issues seem to be so esoteric, but when you look at it, there's two people arguing, but there's a third party, the bulk of the American people that are going to be greatly affected.

A lot of the arguments we've had on the concentration of media, there's been an argument between the studios and Hollywood and the TV networks over things that went on for a while. The question is: did those arguments have an impact on the American people? The answer is great impact, but by and large, outside of the elected officials, the American people weren't in the process. Many times there are more than two sides to an issue, but clearly the strength of the hearings system, and the strength of Sotomayor and Kagan's hearings, was issues were discussed. The big issue for the Sotomayor hearings was that Republicans wanted to talk about was the New Haven firemen. The fireman came down and they were very good, and when both sides finished talking about it, both sides, you pretty well knew the issue. A lot of it has to do with lawyering. There are a lot of lawyers in the Congress, and what goes on at a typical trial really is a model of how senators make decisions on issues. They hear testimony from both sides and then they make a decision.

**RITCHIE:** Judicial candidates are always loathing saying how they might rule on anything. They skirt away from what a lot of senators are trying to find out. What kinds of things do you actually look for? What criteria do you look for when you're considering someone to be a judge?

**KAUFMAN:** Well, I think it really varies. First off, it should be that way. You shouldn't have Supreme Court justices testifying on how they might rule. That's why I say the gotcha question process doesn't work. It wasn't right in the "old days" when the supreme court hearings were not publicized and there was nobody watching, and it isn't right now. We just spend way too much time on this. Most members are going to be able to figure out whom they're for and who they're against just by who makes the nomination. A Democratic president makes the nomination, there's a good proportion of Democrats who are going to support it and a good proportion of Republicans who will not. That's just the way it is now, in the whole judicial process. It's gotten so twisted around.

This is a representative democracy and the members do represent the people. It isn't just about reelection, they *should* represent the people. But the parties have such starkly different positions that in our society today that as soon as a Republican president announces his nominee, most Democrats in the country decide they're opposed and most Republicans think they're for the nominee. Like I said with the Thomas nomination, that whole thing we went through with Anita Hill, I never found one person who changed their view. Not one person I ever met thought that Thomas was guilty and had previous to Anita Hill thought Thomas should be on the Supreme Court or thought Thomas was innocent and had previously been opposed to him being on the court. So you're caught in this whole maelstrom which really didn't change people's opinion.

The first thing is most members have pretty much decided before the first day of the hearings. Now, they don't announce how they've decided. It's like a judge, they do want to wait and listen to the testimony, at times. But they've pretty much decided. A lot of the time is spent by the people opposed to the nomination asking tough questions, and a lot of the time spent by people supporting the candidate helping the candidate answer those questions. I think first off the person has got to have intellect—this has got to be a smart person. Two, the person has got to have integrity. You can't have integrity questions about a Supreme Court nominee. There's got to be some discussion of their feelings about the processes of the Supreme Court, and the role of the Supreme Court, just like with all nominees, that's part of the process, too. If you think the Supreme Court is just another political position, and that you should basically listen to your party members on how to decide on the Supreme Court, then I would have a hard time voting for someone who expressed that opinion.

This is a little off track, but somebody said the hearings are an incredible opportunity to educate the American people on the role of the Supreme Court, which is really not understood by lots of folks. It's a very esoteric thing. I think that's really good, but in terms of trying to pin down people's positions on the issues and how they're going to vote, I don't think that's a legitimate role for the committee. And since the process doesn't allow that to happen, it doesn't matter what I think! As I said, I just don't think you can pin down someone, although a lot of time is spent trying to do that.

**RITCHIE:** One thing about the nomination process, there's been a trend lately, not just in the Judiciary Committee, that a nominee will get very large support in the committee, maybe close to unanimous in the committee, and will come out and when the

Senate eventually votes on the nominee the vote will be 90 to 10 or something like that, but they'll still have to file cloture to get the nominee up for a vote. Has that become a distortion of the process and is there some way that could be fixed?

**KAUFMAN:** Oh, absolutely. The 111<sup>th</sup> [Congress] was just the worst case. It was like the old days in college basketball, before we had the 24-second clock, we went through a period when coaches thought, "I am out-manned. The other side has got better players than I do. So if we play for 10 minutes we've got a better chance than if we play for 40 minutes. If I hold the ball, don't move the ball, play slow, I can increase the chance that I can win." Basically, what the Republicans decided was (and Democrats had done this, too, Republicans just took it to a fine art) "Look, if I hold up every judicial nominee, at a different point in the process, at the end, instead of 800 nominees get approved by Obama, 650 nominees get approved." So the basic approach is every single judge is held over. There's a rule that was based on the need sometimes to hold a judicial nomination over for a week for a hearing because you need more information. Well, that went out the window in this session. The Republicans just held everyone over.

It does build a certain cynicism if you're not careful. They would say "Well, you know, I haven't had a chance to look at this—." They've had this thing for weeks. So they hold them up in committee, and hold them up on the floor. Most Americans think the judges are being held up for ideological reasons. No, every judge is held up. There are a few that they really fight about, like [Goodwin] Liu, who was nominated for Court of Appeals, who withdrew because they held him up for so long. And Democrats have held up Republican judges who withdrew, so that's been going on for a while. But it is automatic that they use every opportunity to slow things down, and as you said it was a joke in terms of the fact that you had judges that were reported close to unanimously out of committee and then held for weeks and months, and then when the vote comes its 100 to 0. People who had the holds on them eventually voted for them. It's totally an artifice. We should change the rules. Now, not the "nuclear option," but there should be some process whereby judicial nominees come to a vote. I haven't spent time on it. If you gave me a couple of days to think this through and talk to a lot of people I think we could come up with an idea that would still keep the protection of the minority party but would move judicial nominees forward.

**RITCHIE:** The discussion of nominations raises the larger question of filibusters, which consumed a lot of time during your two years as a senator. Can you talk

about the frustrations of filibusters?

**KAUFMAN:** I said earlier but I think it's worth repeating that what I think makes our system of government work, one of the keystones to it, is the role of the Senate. One of the most important ideas is that we are a government that protects political minorities. We protect ethnic and religious minorities, and all kinds of different minorities, but we also protect political minorities. There was a move not too long ago to spread democracy around the world, followed by the idea that we would have lots of elections. Well, democracy is not just about elections, it's a lot more than that. It's about all the different civil rights and liberties. You can't have truly democratic elections without freedom of the press, freedom of assembly, and all those things. So we had a whole series of elections that weren't really democracy. They were elections but they didn't deliver full democracy. These dictators were setting up elections where 90 percent of the people vote, but nobody really votes. Or what happened in Gaza, where the majority gets elected and then says, "Okay, now I can just beat the hell out of the minority." And by the way, in some cities in the U.S. you can have the situation where the mayor gets elected and then doesn't worry about the minorities. But we have protections of our civil rights and liberties, and we have a Supreme Court that enforces that kind of social gain.

But now I'm talking about political minorities. The place where political minorities are protected in our country is in the Senate. In fact, the way they are protected is through the filibusters, the fact that you have to get 60 votes means that you have to go to the minority party on a lot of things and get their support, which I think is a good thing. First off, it's good because it keeps our system of government going. I also think the quality of legislation is better—practically better—if you have both the majority and minority participating in it.

But there are loads of things growing out of the filibuster that aren't really the filibuster anymore. It's like the mutually assured destruction that we had during the nuclear security age. We were never going to use nuclear weapons but it was threat of nuclear weapons. Clearly, that's what's happened to the filibuster. It isn't the filibuster; it's the threat of a filibuster. There are very few real filibusters anymore. But I think what are grown out of the filibuster are the rights of the individual, which are extremely important for the Senate to maintain. Just as a sideline, we hear all the time that the House passed 300 bills during the 111<sup>th</sup> Congress that were never really considered by the Senate. I'm a Democrat, but I think it's probably good that some of those 300 never

saw the light of day. It's good that the Senate, as Washington said to Jefferson, is the saucer that cools the hot tea of the House.

There's a whole bunch of things that have grown out of that that remind me of the Byzantine era, or the Forbidden City in China, where they had these rules and rules and rules. Nobody knew why they were doing things; they just were doing them because they had always done them. Some of the holds definitely fall into that category. I don't think there's any real reason why a United States senator should be able to place a secret hold on anything. I want to maintain the rights of political minorities, but I don't see where that fits in. It's something that developed. Back when we had the filibuster, one senator would say, "Okay, I'm going to go to the floor and filibuster." They'd say, "Please don't go to floor and filibuster." He'd say, "Okay, I won't filibuster if you pull this down, but I don't want them to know I did it." Well, you could see someday that happened. Some case, some time that happened. Harry said, "Well, Sam did that, I'm going to do the same thing Sam did. I don't like this person. I don't like this confirmation. I'm going to hold everything up."

Ron Wyden has done a lot of thinking on this, Senator Wyden of Oregon. He had a number of proposals that I supported to deal with secret holds. As I said, there are proposals out there that can deal with that while maintaining a 60-vote requirement for cloture. Now, you could also change, and I do not think it would hurt, motions to proceed, and some of these other motions. But I'm still not sure about that. I think what's coming is that at some point there will be a caucus-enforced rule on procedural motions, what I said earlier that Tip O'Neill did, and what I believe, and if I had been in charge of the Democratic Caucus I would have really tried to push, especially when we had 60 votes, that every member had to vote with the caucus on procedural motions. On the substance underlying the bill everybody could vote whatever they wanted to, but on the motion to proceed to a bill, if the caucus decided that's what they wanted to do, then all 60 senators in the caucus would be required to vote that way in order to remain members of the caucus. Because without the caucus you don't get your committee chairs; you don't get your committee assignments; you don't get anything. You owe it a lot. There were a number of senators that were quite vocal about the advantages that were distributed by the caucus should be held hostage to some behavior that took into account the needs of the hostage, so that one or two senators couldn't extort things from the caucus in order to get their votes on procedural issues.

**RITCHIE:** I heard some grumbling among some of the senators that the Democratic Conference was spending a lot of time discussing filibuster and other procedural issues. Was that your feeling?

**KAUFMAN:** What do you mean? In terms of the concept of what we should do about the filibuster?

**RITCHIE:** I suppose so. I wasn't there in the discussions, but somebody complained "That's all we talk about."

**KAUFMAN:** Well, yes. I think the junior senators, the freshmen and sophomore class, there was lots of grumbling. I think some of the senior senators were like, "Come on, guys." People imply that somehow the senior senators are more in the hands of the interest groups, or something like that. No, no, no. As I said, my rule was that nobody could vote on a rule to change the filibuster until they spend two years in the minority. Some of the stuff that some of the junior senators were saying—like Tom Udall, he was an intern in Senator Biden's office in 1973. I think the world of Tom Udall, but on this issue, I'd say to him, "Tom, God forbid you pass this rule." I told Chuck Schumer this, too, when they were talking about the Rules Committee and making special rules. I said, "Chuck, the odds are that in the next two to four years there will be a Republican Senate and you will rue the day that you gave Mitch McConnell a [Tom] Harkin solution that changes everything. You're going to rue the day that you ever passed this thing. I'm not appealing for what I think is right, I'm just saying: Get ready fellow! Be careful what you wish for." That's what I felt with the freshmen. It was all good, as I've said time and time again, what a great group of people, one of the finest group of people I've ever been associated with, the freshmen Democratic senators, and the Republican senators as well. But when it came to the filibuster, there was a lot of talk about wanting to do something about the filibuster. If you were of my opinion, and the opinion of Dan Inouye, I'm sure, or some of the other senior members—Dan's just a gentleman, I never heard anything from him.

Dan Inouye, I've just got to tell you this one story, when Senator Biden was running for president in 1987, we talked about having honorary co-chairs for his campaign committee, somebody from the House and the Senate, since he was a senator. He asked Peter Rodino to be the House honorary chair, and he asked Dan Inouye to be the Senate honorary chair. When he came back after he met with Inouye, a congressional



medal of honor winner, and he said Inouye said yes, I said, “You know, senator, if you don’t do anything else in your career, the fact that you can say that Dan Inouye thought that you should be president of the United States is something you can carry with you for the rest of your life.”

But I think some of the senior senators were saying, “Come on, guys, we shouldn’t do away with the filibuster. That’s not what we should be spending time talking about.” But there was not a lot of discussion in the caucus about that. Maybe there was a period when we had a lot of discussions in this whole area. I remember we had one caucus where we spent a lot of time talking about the holds. Ron Wyden and others talked to us about that. But I wouldn’t say the caucus spent too much time on it. I don’t think we spent nearly enough time on instituting the procedure that you had to vote with the caucus. Now, there was a lot of bad feeling when it came to the filibuster with individual senators holding the caucus up for whatever reason they wanted.

**RITCHIE:** A lot of—or I guess all of the scenarios for breaking the filibuster, on both sides, have involved having the vice president come in and making rulings since it takes a simple majority to uphold or overturn the ruling of the chair. That scenario requires a willing vice president—

**KAUFMAN:** Yes, I think the vice president’s role in just about any of these things hasn’t changed. But I think that Tom Udall is right, not in the context of the filibuster but in every other way—and this is a great argument to have around a roaring fire on a cold night—but I think each Congress is independent. In each Congress you start out, if you have nominees that haven’t been approved, you send it back to the administration. If you have laws you start over. Every Congress, you start with bill 1, bill 2—S. 1, S. 2, S. 3, S. 4. You start out from scratch at the beginning of each Congress, so the idea that the rules go throughout, I think there’s a case to make that that’s not the case. Now, clearly the vice president would have to be complicit. Because there would have to be a vote on the floor. It’s a ruling from the chair, right?

**RITCHIE:** Yeah.

**KAUFMAN:** Then somebody would make a point of order and there would be a vote. So, yes, you’d have to have the vice president.

**RITCHIE:** I just wondered what you thought the political price would be for any vice president who stepped in to do that. To be the willing tool to break precedent.

**KAUFMAN:** I don't know. A willing tool—it would depend on how artificial it was. I think on nuclear option there would be a big price to pay, because everybody felt that was a total artifice to do it. I think with Udall's proposal, it would depend. It would be interesting to see where public opinion would go on that. It would depend a lot on the context. If it was like Roosevelt trying to change the constitutional alignment by stuffing the supreme court, I think any VP that got involved in the matter no matter what the process was it would look bad. If it was done in the context of a specific case, like the nuclear option was, I think there would be a price to pay. But what does a vice president care about the price? Unless they're getting ready to run for president. I mean, what would Dick Cheney have cared about doing the nuclear option?

**RITCHIE:** Whereas when Senator Byrd used Walter Mondale to break the post-filibuster cloture, which ultimately had to be done or it would have destroyed any orderly progress, but some of the senators were furious and Mondale sort of apologized for doing that, even though what he did was very necessary at the time. It seems like it would require some serious thought on the part of the vice president before taking that step.

**KAUFMAN:** Well, I'm trying to think what was the issue they wanted the vice president to vote on? There was something else. It was an issue in the 111<sup>th</sup> Congress, and I don't think it was on the filibuster.

**RITCHIE:** It might have been one of the healthcare votes.

**KAUFMAN:** Ah, the reconciliation. Yes, the healthcare bill, I think if the vice president had voted on that, there was a price that would have been paid. That was an issue I was concerned for the vice president that he would be in the cross-hairs if in fact they had gone that way. Whenever you vote in public, there's a chance of political repercussions.

**RITCHIE:** It's a peculiarity of the vice presidency that while they have gravitated to the White House and become assistant presidents, they're still constitutionally the president of the Senate. There are still things that draw them back.

**KAUFMAN:** But very few. You're right, but it's really how amazing how few. What's fascinating, since you raised this question, is how seriously they take swearing in new senators. I worked on the staff for 22 years, and then for years I followed it and taught about it, and when I sat down with the secretary of the Senate to schedule my swearing in, she said, "We've got to check Vice President Cheney's schedule." I thought: What? I understand that Vice President Cheney would be there at the beginning of a Congress when you were swearing in lots of new senators, but it never occurred to me that V P Cheney would be swearing me in. I figured it would be maybe the president pro tem. I said, "Good Lord! When will that be?" She said, "It will be on Friday." I thought, "You're kidding. You're going to go to the vice president of the United States and say in three days I want you to come down here and swear in this new senator? And he's going to stop everything else he's doing and come down and swear in this new senator?" I thought that's never going to happen. But God bless America, it is a great country [chuckles]. And he could not have been nicer at every step in the process. He came over and met with my family and got his picture taken, just did everything right on my swearing in. I think that was his last official act, because he hurt his back over the weekend and the next time anybody saw him, he was in a wheelchair at the Inauguration. But I know Vice President Biden, whenever there's a swearing in, he's here.

One thing I wanted to say about the healthcare reform: the healthcare reform bill, we talked a little bit about the substance, but it was really a historical experience for anybody who has studied the issue, and I have studied it for years. When you've studied it and taught about it, you realize how many other people have tried to climb Mount Everest and never made it up to the top. This was a legislative Mount Everest. The fact that I was there when they did it, and that it was full of history, and then the fact that it was Christmas Eve and we had been in session for the second longest time continuously in the history of the Senate, and there was another length rule that we had broken, and that we were sitting at our desks in the chamber. We needed all 60 Democrats to show up and as I remember it was a bad day from a weather standpoint and we were concerned about it. If one of the senators didn't make it, we weren't going to have the votes. It was great for me. Vice President Biden was in the chair. I had goose bumps on my goose bumps. When they called off the names of the senators, it was just an incredible experience.

I had seen the vice president just before that and he said, "Would you come home with me?" Because it was Christmas Eve and we were going back to Delaware. I said,

“I’ll come along.” He said, “Well, look, I’ve got to stop down at the White House before we go up on Air Force 2. So I’ll see you down here right after the vote.” To go through this momentous event with a friend and then ride down to the White House, he had to see the president about something and asked me to come along with him and be in the Oval Office the day we passed healthcare reform. Clearly, the president was very happy with the Senate and I got the advantage of all that: “You did a great job.” Then go out to Andrews Air Force base and fly home. It was incredible.

**RITCHIE:** Whenever there’s a major event, they like to have the vice president in the chair, even though it’s not going to be a tie vote, and was clearly not going to be a tie vote, but having him in the chair has a lot of symbolic significance. But one difference between Biden and Cheney is that Cheney used to come to the Capitol every Tuesday to sit with the Republican Conference.

**KAUFMAN:** Yes.

**RITCHIE:** How was it that Senator Biden chose not to do that?

**KAUFMAN:** Well, it was interesting. One of the advantages of being in the transition was that there had been some discussion of that and they pretty much decided that that’s not what they wanted to do, the president-elect and the vice-president-elect, but then before they could say anything publicly, the Democratic caucus said, “That may be fine, but we don’t want that to happen. We love Joe Biden”—and they did—“but this is just wrong, it violates the separation of powers.” But I think it reflects the differences between Democrats and Republicans. One of the things that is fascinating to me is I get asked for my opinions over the years, because of my experiences, by the press for different things. We’ll get along fine, they’ll be asking me various questions, and then they’ll say, “What do you think the Republicans are going to do?” I always say, “I don’t mean to be anything except honest with you, but I’ve learned over the years, I don’t understand Republicans. And I like to speak about something I know something about.” Not that I don’t understand them, but they just are different from Democrats, and it isn’t just the issues. Then I came to this wonderful example, which I tell my classes about. I want to make the point to them that it isn’t just about their position on abortion, or gun control, or even the role of government. It’s just they’re hardwired differently. I really believe that. Like liberals and conservatives are hardwired differently, but with Republicans and Democrats it isn’t just the issues.

If you go back and look over the last 60 years and you know a year before the primary in New Hampshire, who is in the lead for the Republican nomination for president, you have got the Republican nominee for president. This year is an exception. [Mitt] Romney may get it, but usually its over by now. It's done. They rally round. I believe it goes back to the fact that the Republicans are a minority party. But if you go back over the same 60 years, with the exception of an incumbent Democratic president, when you find out who is ahead one year before, you have the person who does not get the nomination. You can go back and look at 1980, Jimmy Carter was not ahead. Kennedy was ahead a year before the New Hampshire primary. With the Republicans, Ronald Reagan ran in 1976, he was not ahead, Gerald Ford was. In 1980, Reagan was ahead, Bush wasn't. In 1988, Bush was ahead when he got his chance. You go through the list. In 1996, Bob Dole was ahead a year out. George W. Bush was ahead. And I always say: We Democrats form our firing squads in a circle. All those jokes. The cowboy philosopher—

**RITCHIE:** Will Rogers.

**KAUFMAN:** Will Rogers said, "I don't belong to an organized political party, I'm a Democrat." I subscribe to all of that. Democrats are party contrarians. We just don't rally around the party, and the Republicans do. I think that was part of it. They just naturally thought—this is the perfect example, "Why *wouldn't* the vice president of the United States sit in the Republican caucus?" I'll tell you what, it wasn't going to happen in the Democratic caucus.

**RITCHIE:** But the administration has used the vice president a lot in terms of its congressional relations, hasn't it?

**KAUFMAN:** Not the day to day relations. What they've done very wisely is they've used him on the very important things. But, no, the whole two years I was there he only came to the caucus maybe twice, three times. So he's involved, and he talked to people in the caucus. But if you could get his schedule—and I don't know this—and where he spent his time, you'll find that he spent a lot of time with senators he liked, and had senators over to his house for dinner, but they're all his buds.

**RITCHIE:** I wasn't thinking in terms of his going to the conference, but he's been sort of a mediator, hasn't he?

**KAUFMAN:** On big issues. He was a big mediator on the stimulus bill. He was in healthcare reform, clearly. So the big issues he has, but it's not like a lot of people thought he would be, or could be, he spent a lot of time on things other than the congress. If you look at the amount of time he's working, you could say, "Okay, how much time are you spending on Iraq?" "How much time are you working on the stimulus bill?" "How much time are you spending on the Middle Class Task Force?" I think you'd go way down the line. You'd say he's done some, but it hasn't been anything like—let me put it this way, if he wasn't doing so many other things he'd spend more time on it.

**RITCHIE:** I was thinking about during the debt-limit issue, it seemed like every time I'd try to go down a corridor in the Capitol, the police would say, "You can't go down there because the vice president is coming." He was coming up pretty regularly.

**KAUFMAN:** I think the debt limit thing, he was very involved especially in the end of that.

**RITCHIE:** I was wondering if it was his talent to get people to sit down at the table and talk to each other.

**KAUFMAN:** Oh, yes. I've said many times, and I've done a lot of interviews about him, especially since he's become vice president, and when he was running for president. When he was running for president in 1987 and you were out in Iowa and New Hampshire working on the campaign, people would say, "What's the biggest reason why Joe Biden should be president?" I'd say that I had never seen anybody in my entire life that could go into a room with people with disparate positions, find out where the common ground is, and move the group to accept the common ground. No one. Not even close. Look at what he did in Iraq, with the Kurds and the Shiite and the Sunni. Or look at what he did with Strom Thurmond and Jesse Helms, two very, very conservative senators. With Strom Thurmond he passed a whole series of crime bills, but other things too. With Jesse Helms he passed the Broadcasting Act, the Chemical Weapons Treaty, and so many other things. A lot of it was attributed to his intellect, his understanding of the issues, and how he worked on issues. But he also had the ability to sit with someone for hours. I remember how he and Jesse Helms went through the Chemical Weapons Treaty word by word. He would say, "Well, what about this word, Jesse?" And Jesse would say "No, I can't accept that." Joe would say, "Well, can we replace it with this? Or maybe with that word? Or maybe we could do this." The whole time I watched him, he

never once compromised one of his principles. And of course with Strom Thurmond and Jesse Helms, both of them asked that he be one of the people to eulogize them at their funerals. You can't get any more basic proof of somebody's ability to work with someone of a different political persuasion.

I think the key to Joe Biden, in addition to his intellect and his understanding of the issues, is his word is his bond, which I think is the single most important thing on the Hill. It was known among his colleagues that once you shook hands with Joe Biden he would never break his word.

I bring my students up to meet with members of Congress, and lobbyists, and staff members, and media people. Without prompting from me, every time they'd listen to maybe 15 people and two, three, five people would say, "You know, on Capitol Hill, your word is your bond." You could absolutely count on Joe Biden if he gave you his word. And the fact that he was smart, and his ability to sit with people and go through the issues, is the reason why I think he's so successful. And the ability to put himself in other people's shoes.

**RITCHIE:** I was at the McConnell Center recently to speak and he flew in that day to be the luncheon speaker. First it was interesting that he was speaking at Mitch McConnell's Center. Second, it was the day that Mubarak resigned, so he was a half an hour late in getting to his speech, because he was on the plane dealing with all of that. When he came in, the first thing he said was, "I would *love* to tell you what just happened, but the president is going to speak in a half hour and I think it would be better if I waited until then."

**KAUFMAN:** [Laughs] Yes!

**RITCHIE:** Well, I'd like to ask you about the unusual campaign for your seat, when it came up for election in 2010. It was the most -watched campaign in the country, and I'd like to hear about it from your perspective.

**KAUFMAN:** Well, one of the things—I don't know whether I've talked about this—but while Senator Biden was running for vice president, after he got selected by Obama, he was also running for reelection as the United States senator from Delaware. Valerie and I were both very involved in those races. There were TV ads we ran. We did

our brochures. We did all the things that we normally do. It was kind of interesting to be involved in two campaigns at the same time. Another interesting fact of history—that the only person who cares about is me—you know, they always say “vote early and vote often,” but in Delaware that year I got to vote for Joe Biden twice. Everybody in Delaware got to vote for Joe Biden twice. But I was one of only three people who got to vote for Joe Biden three times, in that I was one of the three Electors from Delaware. So I got to vote for him for the Senate, I got to vote for him for vice president, and I got to vote for him for vice president as an Elector from Delaware.

**RITCHIE:** Do the Electors actually meet in Delaware?

**KAUFMAN:** The Electors actually meet. It’s a very nice deal, very historic, we take pictures and everything. It was a historic year for me! And do you know who his opponent was in 2008? Christine O’Donnell.

**RITCHIE:** Oh. I didn’t realize that.

**KAUFMAN:** So I had a master’s degree on Christine O’Donnell when she tried to run for the senate against Tom Carper in 2006. I got a Ph.D. when we ran against her in 2008. In 2000, when Bill Roth ran for reelection, I had counseled all his advisors that Bill shouldn’t run. He wasn’t in good health at that point and it was a bad year for him to run. I just thought he could go out undefeated. I think he had actually lost for lieutenant governor one time, years ago, but basically he was at the top of his game. That’s when I learned that one of the positions it’s impossible to retire from is chairman of the Finance Committee. There’s a 19th-century quote that the only thing you need to run the country is to be chairman of the Finance Committee and a letter from the president. Have you ever heard that one?

**RITCHIE:** No, I haven’t.

**KAUFMAN:** It’s just like Frank Church and the Foreign Relations Committee. He couldn’t wait two years to take it. He had to get involved right away and wound up losing his seat in the process. I thought the same thing with Mike Castle. I thought Mike shouldn’t run. Just to let you know what a small state Delaware is, when Mike Castle first ran for the Congress he ran against a former lieutenant governor, S.B. Wu, who was a professor of physics at the University of Delaware. That was his main job but he had



been lieutenant governor, and he ran against Mike for Congress. Whoever won that election, whether it was S.B. Wu or Mike Castle, their wife would have worked for me in Joe Biden's office. Katie Wu, S.B.'s wife was one of the first hires I made, and not long after that I hired Jane DiSabatino, who went on to be Mike Castle's wife. So it's a very small state and by and large we all like each other.

I did not think Mike should run for the Senate. I just didn't get it. I really did think that he could lose. The conventional wisdom was he was going to win, and he was going to win easily. But what happened was the Republican Party really had shrunk in Delaware. It used to be, up until 2000, if you knew how the presidential race went in Delaware, almost to a tenth of a percent you would know what the result was nationally. It was a microcosm of the United States. Then it started moving, when the South started going Republican and the north started going Democratic. There was a major movement, registration went from basically 35 percent Democratic and 33 percent Republican to 47 percent Democratic in 2010. The Republicans were down to 29 percent. The same thing went on in Pennsylvania, where I think 600,000 people changed their registrations from Republican to independent or Democrat. All the suburban districts, Montgomery County and Chester County, that had been solid Republican for generations, now are Democratic districts. And that's what's happened in Delaware. So Castle was starting out with a very low base. And I don't think he had a real rationale for why he was running, why he was leaving the House where he had a more senior position. I just thought he would have a problem.

I thought Chris Coons could beat him, and I told everybody I met that Chris is really a great candidate, a wonderful person. He's smart, he went to Yale Law School and even more important politically he went to Yale Divinity School. When he gives speeches he can pull out quotes from the Bible faster than anybody I've ever seen—good quotes, I mean, not doing it for effect, but he's very effective. So I thought Mike Castle could lose anyway. I also thought that in the primary Christine O'Donnell could win. So I was not shocked when she in fact won. The way she won was the turnout was low. It was higher than normal, but still a small percentage. It was a small percent of a small percentage. She got, out of 29 percent registered Republicans, I forget, it was a 20 percent turnout, which is a gigantic turnout, but not a very big turnout. All the enthusiasm was on the tea party and the right wing.

In the same election we had Michele Rollins, whose husband was an icon in the

state, with more money than he was ever going to need. She was a moderate Republican and she ran against a conservative Republican candidate from Sussex County, and she lost too for the nomination. The Republican Party in Delaware has gotten very, very, very conservative. Then, whoever wins the Republican primary has an uphill battle. We Democrats hold just about all the statewide offices. We have two senators, the congressman, the governor, lieutenant governor, the county executive of our largest county. Delaware is one of the bluest of the blue states. I think I saw something the other day that it was the tenth bluest, the tenth most Democratic state in the country.

In terms of Christine O'Donnell, as I said, I got a Ph.D. in Christine. I'm trying to think of something charitable to say. [Long pause] Well, to quote Disraeli, it's better that people wonder why I didn't speak than why I did.

**RITCHIE:** Well, did you need to run much of a campaign against her in 2008? She became the issue in 2010, but in 2008 were a lot of the negatives that later came up about her known?

**KAUFMAN:** No, the point is Joe Biden always maintained a lead. I remember in that first re-election he got 58 percent of the vote, and after that even more. He's incredibly popular in Delaware for all the reasons we talked about. And then you have a state that in 2008 was already Democratic by a big number. No, you have to run a campaign, and you have to run an aggressive campaign because you can't take anything for granted. You surely can't take the electorate for granted. Now, they understood that he was running for vice president, and that worked great for him. One of the things about Delaware is they were so incredibly proud that somebody from Delaware was running for vice president. The whole process was embraced by the vast majority of Delawareans. They just thought it was great. The majority of them liked Joe Biden a lot to start with. And one of the reasons why I say a majority because so many people come into the state that didn't know him, didn't know his history, didn't know much about him. But, no, I wasn't worried that he wasn't going to get reelected to the United States Senate. But I must say, I felt even better about his possibilities when Christine O'Donnell got the nomination.

**RITCHIE:** I hadn't realized he was running simultaneously against Christine O'Donnell and Sarah Palin.

**KAUFMAN:** Yes, exactly.

**RITCHIE:** So Chris Coons won the election. Did he turn to you for advice on how to be a senator?

**KAUFMAN:** Yes, he did. We met a number of times during the campaign. One of the big issues for me was staff. I had my entire staff, it was a fabulous staff, and that's something I know something about, good congressional staffs. So one of the main things I was concerned about was to say, "Look Chris, hire anybody you want, but I think this is a really great staff, take a hard look at them." In the end he did, and he hired just about all of them. Now, a number of them had left the senate. Jeff Connaughton was my chief of staff, as I said, an incredible guy. He decided he'd move to Savannah, Georgia. Jane Woodfin, my legislative director who joined the Biden senate staff 15 years before, retired from the senate. She was a real pro did a wonderful job. Norma Long did all a great job scheduling up in Wilmington; she retired. Tonya Baker, who did all project work in Wilmington; she retired. Terry Wright had worked with me for years, an incredibly talented individual; he retired. The state director up here, John DiEleuterio, was a wonderful person. All my staff were all stars.

John DiEleuterio reminds me of the culture shock for me to be a United States senator. I still, to this day, when somebody says "Senator," I look around for Joe Biden or some other senator. John is a wonderful person and many times traveled with me to events in Delaware. I was speaking to the American Legion in Dover, Delaware. I was the keynote speaker, so the master of ceremonies started introducing people and said, "John DiEleuterio, state director for Senator Kaufman." And when he said "Senator," I was convinced the next word was going to be "Biden." Even when I called the Wilmington office, Mary Ann Kelley would answer the phone "Senator"—and I was sure she was going to say "Biden's office." But she would say "Senator Kaufman's office." Anyway, it was a great staff. Alex Snyder Mackler who was a Biden staffer was a perfect Communications Director and went to Law School, My press secretary Amy Dudley was absolutely incredible. She went to work for the vice president. And Kathy Chung, this über scheduler, went to work for Senator Mark Udall. But Chris Coons was smart enough to pick up the vast majority of the rest of the staff.

**RITCHIE:** When you left the Senate I began to hear you interviewed on the radio because you were chairing the TARP commission. How did that come about?

**KAUFMAN:** That was great. Again, my rule was extant, about October, two months before my term as senator was over, Harry Reid called me and he said, “Ted, Elizabeth Warren is leaving.” She was the chair of the congressional oversight panel for TARP. When they passed the TARP, they knew with all that money, forecast to be \$750 billion, that there was going to be a lot of people watching what was going on. Therefore they decided what they wanted was a lot of different oversight. So they set up three different oversight operations. One was the General Accounting Office, which had special oversight. Then they set up the special inspector general, Neil Barofsky. And then they decided to have a congressional oversight panel on the TARP, to be made up of three Democrats and two Republicans. Originally, they had one member of Congress, Congressman [Jeb] Hensarling [Republican from Texas]. And Elizabeth Warren was the chair. The way it worked was the Senate majority leader picked two members, the minority leader in the Senate picked one, and then Speaker and the majority leader in the House picked a second one. So Elizabeth Warren was the chair, very famous and somewhat controversial to the Republicans. Reid said, “Elizabeth Warren is leaving, would you take on this responsibility? It will go beyond your time as senator.” So I agreed to do it, and it was fascinating.

I’ll tell you what, I hold Elizabeth Warren in very high regard. When I got there, I thought, okay here I come in the door, they’ve been in business for two years, they have a whole staff and I don’t get to pick one staff person, I know how important staff is and how I depend on staff. This is going to be a great opportunity in some regards, but it’s coming to the end of the road and God only knows what this is going to be like. I got over there and it turned out she had picked a great staff. Naomi Baum was the staff director, she used to work in the Senate Banking Committee and was just incredible. Right down the line, a great bunch of people, and she put together a great system. The first round of members—there had been quite a bit of turnover on the Republican side. The two Democrats had been there from the beginning and then the two Republican were semi-recent appointments after the two Republicans, former Senator [John] Sununu and Representative Hensarling left. But they had a whole great system and had done some great work. Every month they had at least one hearing and at least one separate report. They had done some 20 of these things.

I was chair, and I got to chair some hearings. It was really a funny kind of a thing. I went back to the Senate and what they used to do was every time you had a report you would go up to the Senate gallery and do a statement that would go up on You Tube. We

met in the Senate Banking Committee room, and it was just like a Senate hearing. It was really a nice thing to be doing, and I really think it did some good, because the staff was so good and the other members were such a great bipartisan group. Democrats and Republicans working hard in the Joe Biden model of trying to figure out how to work something out and still stick with their principles. We had unanimous votes on just about everything. Everything was done by consensus while I was there. There wasn't a vote—I can't think of a single time that there was a vote that wasn't five-zip. It was really a good experience. I learned a lot, and it built on a lot of things I had learned with Dodd-Frank, about my concerns about the financial system and how bad it was.

One of the interesting things that was that when anybody came to testify, or the members of the committee talked about the biggest banks, it was just assumed they were too big to fail. You can have all these people talking on the floor, and talking about “we have this resolution authority,” but *nobody* believed it. It was just clear that nobody believed that you could take Citibank and if they were in some kind of deep trouble just resolve them out of some kind of system living will and all the rest of that, and resolve all the problems across all the borders they had in the size of the bank. And clearly the market still gave them favorable treatment on their interest rates, which demonstrated that the market thought they were too big to fail. They thought there was not a whole lot of risk there, or less risk than with the smaller banks. So it was a great experience.

We went through the whole HAMP program [Home Affordable Modification Program], the home mortgage program, and I found out how really bad the situation was, in much more detail, what went on in the mortgage market in America and follow-up on the Permanent Subcommittee on Investigations hearings on the terrible things that were done by mortgage brokers, people who securitized mortgages, Wall Street, the whole crowd. The stuff they did was just absolutely outrageous. So it was kind of a decompression moving from the Senate to the commission. And they went out of business on April 4<sup>th</sup>. Basically, the rule said that six months after the TARP stopped—when the TARP stopped they still kept their programs going but they couldn't really make any new innovations in their programs. Six months after that the congressional oversight panel went out of business, which was a good move, because they couldn't change their programs so we'd be having hearings on hearings. But it was a great way to become a civilian again.

**RITCHIE:** What was your conclusion about the TARP program itself?

**KAUFMAN:** The TARP program, essentially one big thing that happened and all the discussions were about, as I said before when I looked into Ben Bernanke's eyes and Tim Geithner's eyes in January and February of 2009, it was clear that they were scared to death. So the fact that we were able to keep the entire financial system of the world from coming apart gives it a big plus! Now, most of what we did was evaluate the TARP program as it was instituted, and especially for me the question is: Would it have been better if it actually was a Troubled Asset Relief Program? Remember, originally they were talking about having good banks and bad banks, and then really holding the bankers' feet to the fire. There would have been a different scenario about how the bankers came out of this thing, and the size of the bankers, and all these kinds of things. Would that have been a better system than what they eventually came up with? Which was just basically holding the bankers harmless and paying all the bonuses? Probably, but in terms of providing its number one function of keeping the whole system from falling apart, it did that.

Number two is, which you clearly have to give it credit for, was at some point they were talking about \$750 billion for the TARP program. Then it got down to \$350 billion. It looks like eventually the TARP program itself is going to cost \$25 to \$30 billion. Now, Damon Silvers especially made a very eloquent argument that maybe if we spent more money on the TARP we wouldn't have had so many economic dislocations to the country at large. Clearly, that's true in the HAMP program, which is the program to help the mortgage market through mortgage modification. That turned out to be almost a complete zero. If we had had a more aggressive effort to save housing, or do something about housing, principle reduction or something, I don't see how it could have been done any more poorly than it was done. The thing is we had \$50 billion for housing, one of the major things in this country, and I think we spent like \$4 billion. This should have been all hands on deck to help the housing market, and that clearly was not done. When it came to the HAMP program, I think they deserve a lot of criticism. But the basic idea that cost just a very small fraction of what it was supposed to cost, and it averted a financial crisis, really were the two big things. Based on that it was a success.

**RITCHIE:** You mentioned the other day about Pecora, and that was a congressional investigation by the Banking Committee. It struck me that one of the strengths of the Pecora investigation was that when it was finished you had members of Congress who were in place to actually pass laws to stop what happened.

**KAUFMAN:** Right.

**RITCHIE:** In this case there was a “Pecora Commission,” an outside commission or several outside commissions that were working on this. Was there enough connection between what they investigated and what they legislated?

**KAUFMAN:** Well, we didn’t do—see there are a lot of different functions of the committees. One of the functions is to write legislation, but the other function—which has been overlooked—is oversight. The congressional oversight panel was an oversight committee, it was designed for oversight, and that’s what it did. It was not a legislative committee. So it was totally different from the Banking Committee. No, I think what turned out to be a great disappointment was the actual financial commission that was supposed to look into it. It started too late, it never really got into anything, and it turned into a partisan food fight. But the Banking Committee had I forget how many hours of hearings, hours and hours and hours of hearings to figure out what became the Dodd-Frank bill. I wasn’t there then, but Barney Frank had hours and hours and hours of hearings. So I think there were loads of hearings on the thing, I just think they reached the wrong conclusion. I don’t think it was an institutional structure problem.

I think if they had come to the right conclusion they’d be talking about the Dodd commission or the Frank commission, or whatever it was. It was the Congress working, and again a lot of those hearings—I wasn’t on the Banking Committee and I was getting my feet wet and lots of other things—but they did have a lot of hearings. I know that they considered a lot of different proposals, because remember Barney Frank in the House passed their version pretty early in the process, in 2009, and then because of the healthcare reform, Dodd was working on healthcare reform, one of the key players on that, the actual Wall Street reform bill didn’t hit until much later. So there was a great deal of time, they had hearings and there were meetings. I knew senators like Jon Tester from Montana, who is on the Banking Committee, Mark Warner is on the Banking Committee, and Michael Bennet is on the Banking Committee, and I knew they were going to a lot of hearings.

**RITCHIE:** One of the advantages of being the last chairman of the TARP commission is that you got a lot of publicity when they were closing down. I remember hearing you on NPR several times.

**KAUFMAN:** Well, Elizabeth Warren had put in an incredible operation. A fellow named Thomas Seay was the communications director. I was incredibly impressed when I went over that they had put together a system to roll out these reports and roll out these hearings, in terms of a mix of television, and radio, and You Tube, and print. If someone was setting one of these things up, I tell them to “Go talk to Elizabeth Warren, and Naomi Baum, and Thomas Seay, and they’ll tell you how to do one.” It was very impressive. Then at the end of the system, that was one where I said, “Look, when we get to the end of this there is an opportunity to send our message, so we should start early.” I had some relationships with the media based on Dodd-Frank and stuff like that, so it worked out. You’re right, it was extraordinary.

**RITCHIE:** Elizabeth Warren is now thinking about running for the Senate from Massachusetts. It will be interesting to see if she applies all those techniques to a Senate campaign.

**KAUFMAN:** Yes, well, she is very, very impressive.

**RITCHIE:** I was going to ask you about people you considered impressive and effective. You were connected with the Senate for a very long time on the staff and as a senator. Who did you consider to be the effective members? And what kind of criteria would you use to rank them?

**KAUFMAN:** Wow, geez, that’s a tough one. A lot of it depended on—there’s a certain amount of being in the right place at the right time. For example, Ted Kennedy. Ted Kennedy was incredibly impressive to me. In 1980 I went to Iowa and worked for Carter in the primary against Kennedy. It was an ugly campaign. Chappaquiddick came up a lot and the conservatives always vilified Kennedy. He was their poster child. It was an ugly campaign that he ended up losing. A lot of people would have quit. The guy had more money than he needed and loved to sail, so just go sailing around the world for a few years. But he came back to the Senate and it’s a lot clearer in retrospect than it was at the time, but he decided, “I am going to become a great United States senator.” And by God, he did. He worked incredibly hard. He attracted extraordinary staff people, David Burke who I worked with on the Broadcasting Board of Governors had been his chief of staff. And Paul Kirk, [Kenneth] Feinberg, just a whole crew, loads of super-talented people.



I've got to tell you this one story about Paul Kirk. When I was appointed to the Senate, Joe Biden went up when Harvard gave Kennedy the award—he's one of the few people to get an honorary degree from Harvard, I think. He and Kennedy were close. I told you how when he had the aneurism, Kennedy came up to his house and almost broke the door down to get to see him when nobody else had seen him. When he came back, he said, "I saw Paul Kirk." This was after I had been appointed. I always regarded Paul Kirk as one of the really great people. When I was talking about people I'd like to see more of when I was in D.C., people that I have, over the years, held in great regard, Paul was one of them. He said, "Paul said, 'Hey, think Ted needs an administrative assistant?'" [Laughs] So when Paul came down as a senator, I said, "Hey, Paul, maybe you can be a senator and be my administrative assistant, too."

But anyway, Kennedy just positioned himself to become a great, effective United States senator, one of the great ones. But over the years, Phil Hart was a great senator—they named the Hart Building after him. Frank Church was a great senator. Henry Jackson probably one of the most powerful senators. I could go back down that list. There's a wonderful brochure—when Joe Biden ran in 1972 we did a series of these brochures that I talked about, and there were several of them that were just totally members of Congress, senators, saying the Senate will be changed when Joe Biden got in. When you look at the list—I had it made up and put around the office in 1972, and I've still got them at home. I was moving some of it the other day, and Fritz Hollings is up there, Frank Church, Birch Bayh, Scoop Jackson, Ted Kennedy, Phil Hart, all these great senators. It's a little bit like when you're a freshman in high school and you come into school and the seniors are up there, and you say, "Boy, the seniors are great." But I think there are some great senators now.

I think the quality of United States senators has not been diluted. I just think there have been great United States senators along the whole time, Republicans as well as Democrats. Dick Lugar, I think, is very effective. I think he's done an excellent job. He's reached across the aisle. I think Kerry has done as great job as chairman of the Foreign Relations Committee, really and truly. He's had great hearings, and he's managed to deal with the president and the majority. He's got the president talking about foreign policy. He's got Hillary Clinton talking about foreign policy. He had [Richard] Holbrooke, when Holbrooke was alive, talking about foreign policy. He's got [George] Mitchell talking about foreign policy. He's got Dennis Ross talking about foreign policy He's got Joe Biden talking about foreign policy. Where does the chairman of the Senate Foreign

Relations Committee fit into all of that? He's done a great job of maintaining his position, and I think if Obama gets reelected he's the presumptive secretary of state.

Pat Leahy, with whom I served on the Judiciary Committee, has done a great job of dealing with a very thorny, very difficult committee. Carl Levin, both as chairman of the Armed Services Committee and as head of the Permanent Subcommittee on Investigations has done an incredible job. But there's Mark Hatfield when you're talking about Republican senators, and Jeff Sessions. I think Jeff Sessions—I don't agree with Jeff very much, but I think he's been effective, thoughtful, disagreeable in terms of my position. [Laughs] No, I was just kidding. But Jacob Javits was clearly one of the most effective senators. Mike Mansfield, George Mitchell, just operated in another alternative universe. Bob Dole, speaking of that. I think in the leadership Mitch McConnell does a great job. Again, I don't agree with a lot of the things he's doing, but I think he's very smart.

Harry Reid is an extraordinary person. You know, one of the things I talk about a lot is about how people believe the only thing senators care about is reelection. I'd just show them a film about two years that Harry Reid was majority leader while I was there and you'd have a hard time convincing anybody that he did anything to get reelected, I mean *anything*. Here he was in this race that everybody in America was watching, that was so close, I never saw it. There was one or two times that he would put some amendment in that could benefit Nevada, but 98 percent about what he did legislatively was totally about what he thought was good for the country. Harry's not great on doing the Sunday talk shows and working outside the Senate, but in terms of making the Senate run and passing more legislation than anyone in history, and doing it while he's up for reelection in a race that no one thought he could win, and he ends up winning the race on top of it. That puts him in a special category.

So I think that throughout, the quality of the senators has been maintained. The giants are always the one you see way back in the rearview mirror. I wonder what it would have been like to be around [Daniel] Webster or [Aaron] Burr, the ones who are in the lobby off the senate floor, J. C. Calhoun, and [Robert] La Follette, Henry Clay the list of the great ones from the past. I think that this new crop, the freshmen and sophomore Democrats, as a group, are as qualified and have as great a future as any of the classes that I've seen since we came. There's a lot of extraordinary talent. I've already talked about how great I think Jack Reed is. This is a guy that's an expert on security. He does

health issues. He's one of the go-to guys on military matters. John McCain, too. Did I talk about John McCain and Senator Biden?

**RITCHIE:** No.

**KAUFMAN:** Well, John McCain, when Joe Biden was elected and then he got on the Foreign Relations Committee, I think in '74, one of the first Codels he took, McCain had been a prisoner of war in Vietnam (many people know this, but I find it was so long ago that some people don't). He served seven and a half years and spent a record amount of time in solitary confinement. His father had been head of the entire operation out there as an admiral. The North Vietnamese really went after McCain after he crashed his airplane in Hanoi. But then he came back to be Navy liaison to the Senate. When you go on a congressional delegation trip you always take along a military liaison. So Senator Biden went on a trip and McCain came along. He and McCain really hit it off. So from then on, as long as McCain was Navy liaison, he traveled with Biden.

There's this wonderful story in one of the books about McCain and Jill Biden dancing on a table in New Orleans. He really got close to McCain. In fact, I always kid McCain because Biden came in and supported a thing called "counter budget," which was we've got to transfer more money from the military part of the budget, which is so big, over to the discretionary part, for education and things like that. So he had voted against a lot of the big military programs. Then, if you look at his record, somewhere in the mid to late '70s, he starts voting for the Trident D Missile for the Trident submarine. He votes for some more ships. When McCain was liaison and traveling with Joe, he was talking about how we needed a 400-ship navy and things like that, and Joe Biden started listening to McCain. So John McCain is a great senator, and Lindsay Graham is somebody that I hold in very high regard. I think he's very smart. He's very knowledgeable. He goes over to Afghanistan as a JAG officer.

**RITCHIE:** You traveled on Codels with him, didn't you?

**KAUFMAN:** I traveled on a Codel with Joe Lieberman and him to the Saban Forum in Israel. We went on a military flight, so we spent something like 17 hours each way together. It was like the Three Amigos, Lieberman, McCain, and Graham. Both Graham and Lieberman had worked for McCain for president. So whenever we talked about the 2008 presidential campaign, it was kind of a funny experience to hear the two

of them talk about the McCain campaign. And I talked about the Obama-Biden campaign. Good people, though, just like the freshmen-sophomore Republican senators, John Barrasso, and Jim Risch, and Mike Johannes, there's a whole crowd of them.

One of my favorite United States senators is Jon Tester from Montana, who breaks all the stereotypes of a United States senator but is an incredible representative of his people, who is very smart. And then Sherrod Brown, I cosponsored with him the Brown-Kaufman bill on Wall Street reform. Kay Hagen from North Carolina, just a remarkable person. I traveled with her to the Middle East, and Bob Casey. Bob Casey is going to be an extraordinary senator when his career is over. Jeanne Shaheen, the first woman to be both a governor and a senator. She is one really competent person, I mean really, really competent person. When you watch her a lot, she is good.

Chris Dodd, on the floor I gave him the right to the legislative hall of fame for the trifecta of passing three major bills, the Dodd-Frank bill, the healthcare reform bill, and the credit-card reform bill. I can't remember a United States senator passing two major bills. First of all, there's never been a bill in the Congress bigger than the healthcare reform, and there's hardly ever been a bill bigger than Dodd-Frank.

**RITCHIE:** The little that I dealt with Senator Dodd, I was always impressed with how dogged he was. When he wanted to do something, he usually got it done, whether it was a small thing or a big thing. I wondered about persistence as a factor in getting things done in the Senate.

**KAUFMAN:** Well, that's what I talked about my senior senator from Delaware, Tom Carper. Once Tom Carper puts his laser sights on something, forget it. But no, absolutely, Congress requires persistence and requires taking the long view. I know people are critical. We always deal with the short term. In business, everybody is interested in the quarterly earnings return and you can't get more short term than that. But no, senators are successful when they lay down an issue and then follow it. What's impressive about the Senate when you're a senator—on the staff I didn't get to go to that many hearings and do a lot of things, and we didn't have television in the chamber for most of the time I was there, so I was working in the office doing whatever I was doing and Senator Biden was over with the senators, in the hearings or on the floor. And I want to tell you what, when you go to a hearing, not one big high-profile hearing but just pick a hearing out, go to the *Washington Post* which tells what hearings will be on at ten

o'clock, throw a dart against it and go to that hearing, the competence, the amount of knowledge the senior senators have is breathtaking. The fact that they've been working on these issues for 10 or 12 years.

The biggest argument against term limits is to listen to Joe Lieberman and Susan Collins chair a hearing of the Homeland Security Committee. When I got on the Homeland Security Committee and I thought I ought to go to some hearings right at the beginning. I went to one hearing and it was the two of them and me. I think I know a lot about Washington and the government, and what goes on. I want to tell you, their opening statements and first questions I did not know 80 percent of what they were talking about. When you start talking about these issues, they just work on them for years and years. To hear Senator Menendez, who has been working on AID, and the proper thing to do about foreign aid, he came into a meeting one time and I thought he was speaking German. We had the new head of AID, the Agency for International Development, and Menendez started, "When I talked to your predecessor, x number of years ago, about this, and then two years later you did this, but still we haven't done this, this, and this." I'm sitting there thinking, My God! If you're not persistent, if you're just concerned about right now, you're not going to get anything done.

Now, I'm going to speak critically for a minute. I'm talking about the down side of the big states. I can remember when Pete Wilson was in the Senate, before he went on to be governor [of California]. He came to a Judiciary Committee meeting and it was absolutely amazing. If dealing with the media could be compared to surfing, Pete Wilson could see a wave coming offshore faster than anybody in the world and get a surfboard out to ride it. When you're in a big state, one of my favorite Irish quotes is "Paddy's a nine-day wonder." You're a nine-day wonder if you're trying—I remember when Joe Biden was running for president and we met with Mayor [Ed] Koch and we went to a press conference. It was all the klieg lights, and he got up and he spoke. I think when it's hard when you're in a big state, and you got a lot of responsibility, and the media's not interested in the long-term, they're interested in what happened today. Outside of that, which would be a real problem if you're from one of the big states, in terms of being able to think long-term, because you've got to think so short-term if you want to stay in the media. If you want to move anything, you've got to move it when the media's moving, which I talked about earlier. When the lights are on, you've got to move it.

When you're from a smaller state, you can think longer term. The strategy I

adopted for the two years I was in was: Tell them what you're going to tell them, tell them, and then tell them what you told them. Lay down a marker. This is what Joe Biden did. When he started on the violence against women legislation, *everybody* was opposed to him. The women's groups were opposed to him. He just doggedly went about it. My mother said, "Nothing in life that's worthwhile comes easy." If you have an instant success probably it isn't that much of a success. Yes, dogged determination, planning ahead, building a record to become a great senator. What Kennedy did on healthcare reform, he started on healthcare reform in 1972. He was promoting national health insurance at that point.

**RITCHIE:** During the Congress that you were in the Senate, the two most senior senators, Kennedy and Byrd, died. What kind of a void did that leave?

**KAUFMAN:** Well, I think at that point Kennedy clearly left a gigantic void in healthcare, which eventually was filled. But Senator Byrd by the time I got there was not a factor. He was nothing like the Robert Byrd of the past. If Robert Byrd had died when I left Senator Biden's office in 1995, or in 1985, it would have left a gigantic hole, but the irony of life is that the Senate moved on when he didn't. Now, one of the things that was always interesting to me, where you learned how fleeting fame is, was going to memorial services for United States senators. When you go to the memorial service for a sitting United States senator, it is a gigantic event. But depending on how long the senator has been out—it may have been Phil Hart, where there was a big event for him, it was downtown, and everybody was there, the president of the United States was there, the vice president, standing room only. At about that same time, Senator John Williams of Delaware died. John Williams had built quite a reputation in the Senate, and a big reputation in Delaware. He was a mentor to Senator Bill Roth, who was a congressman at the time and took his place in the Senate. About that time Williams died in 1988. Williams left the Senate in 1970, and so they had his funeral service in his home town. I went down with Bert DiClemente, who was Joe Biden's state director for many years, a wonderful person, and Jill Biden. Senator Biden was overseas. The contrast: it was in a funeral parlor. There were at most 75 people there. It was a reminder to me that Paddy is a nine-day wonder. You can be everything in the world, but fame is fleeting.

I think Robert Byrd, who was clearly one of the most powerful and effective senators, in my experience, personally being there and reading about it and the rest of it, by the time he died he was not the power in the Senate that he had been.

**RITCHIE:** There is strength in knowing when to go, I suppose.

**KAUFMAN:** Well, this is true. Again I go back to sports analogies because they're devoid of political tones, when I'm trying to figure out something like this. Steve Carlton, who was a Cy Young winner, Hall of Famer, one of the truly great left-handed pitchers of all time, ended up his career in the minor leagues. He left the Phillies, rather than retiring at the top like Sandy Koufax did, the pitcher for the Dodgers, he went on. He wanted to pitch so much that he allowed himself to be sent to Triple A, one of the truly great pitchers of all time. Clearly, knowing when it's time to leave is important.

**RITCHIE:** But then there are those who love the game and just can't give it up.

**KAUFMAN:** Like I said, if you're chairman of the Finance Committee, it's hard to give it up, especially when it takes so long to get there under the old seniority system. You can hardly blame Church after all those years—he was elected to the Senate young and it took all those years to get to be Chairman of the Foreign Relations Committee. You say, “Look, hold off for two years or so.” The same with Senator Roth. And the reason is they think they know. There's this wonderful saying a friend gave me: “When an old man dies it's like a library burning.” The idea that we all have a library up here, a man or a woman, and we can use it to make things better, to serve, especially if serving is an important part of your life, that's an important factor to people. They serve and they may do it for too long.

**RITCHIE:** Well, can you tell me about some of the things you've been doing since the TARP program ended?

**KAUFMAN:** The main thing I've been doing is I'm a visiting professor at Duke Law School, continuing to teach courses there. I have taught a number of courses there, and a few years ago Chris Schroeder, a professor at the law school, and I started a Duke Law School in D.C. program where students from the law school come up and work for a semester in the federal government as what they call an “extern.” Then once a week we have a class meeting for two hours. I did it while I was in the Senate, too, and it was incredibly helpful. The students have insights into looking at the big picture. They don't get bogged down in the weeds and the minutia. Then I'm writing a weekly column in the *News Journal*, which is the Gannett paper in Wilmington DE, and other op-eds.

**RITCHIE:** Well, the cashier today at the cafeteria was one of your readers.

**KAUFMAN:** Yes, talking about that. So I'm doing that. Jack Markell, the governor, appointed me to be co-chair of the STEM Council of Delaware—Science, Technology, Engineering, and Math Education, so I'm doing that. I'm on the board of the Institute for International Education, which oversees the Fulbright Scholarships and a whole bunch of other things. Henry Kissinger in on the board, it's a great board. I'm also on the Ministry of Caring, which is one of the organizations committed to helping the homeless and the poor, women in trouble, all kinds of things. Brother Ronald runs it and it's a great organization, I'm on the board of that. Children and Families First, this is a group that looks after families and children here in Delaware. Leslie Newman runs that, and that's a great organization. So I'm doing that, and then when I get through traveling around seeing the grandchildren, family and friends, it's a good place to be.

**RITCHIE:** Do you think you might get involved in the 2012 election?

**KAUFMAN:** There's a good chance that I might be involved in the 2012 election, yes.

**RITCHIE:** Earlier you said that you were in an elevator with Senator Mel Martinez of Florida and he said to you, "You were 22 years on the Senate staff and 20 months in the Senate. Which was harder?" And you said being chief of staff.

**KAUFMAN:** Right.

**RITCHIE:** But looking back now, which was harder? Would you still give that same answer?

**KAUFMAN:** It's like a balance sheet of assets and liabilities. There's just a lot more fun things that you get to do as a United States senator than you get to do as a chief of staff. One of the great things is making your grandchildren happy. The senators have so many great traditions. The spouses dinners that I talked about. Also before the State of the Union they have a dinner for the senators and a guest, most of them bring their spouses. It's over in the Capitol. It's not a big fancy dinner. They have chicken pot pie and beans. They have tables spread all around the Senate side of the Capitol, coming out of the LBJ Room. When they had the first one, which really wasn't a State of the Union,



it was Obama addressing a Joint Session, because they don't do a State of the Union when a president first gets into office. So they had the dinner, and I took my oldest granddaughter, Ginna, to the dinner, because Lynne was out of the country. We went there and it was really nice. She really had a good time and then she got to go see the president's speech.

I missed one critical thought about it. About two weeks later I was riding down to the White House with Senator Hagen and Senator Shaheen. We got to talking about some elected official who made some incredible gaffe. The person was new to the game, and they were talking about how you learn to say the right thing and do the right thing in politics. All of a sudden it dawned on me, because both of them had been so nice to Ginna. During that dinner, Ginna probably met 20 or 25 senators, and every one of them said exactly the right thing. They all said, "Oh, Ginna it's so nice to meet you. Your grandfather is such a great senator and such a good person. We're so lucky to have him here." Which every grandfather wants somebody to say when talking to their grandchild, right? As I walked out of there I propounded my theorem which is: You can't fool your children, because your children know you too well, but you sure as heck can fool your grandchildren. The senators always say the right thing. Somebody will come back from Washington and they'll say, "Oh, I was down in Washington and I met with Senator Brown, and he was saying what a great senator you were, and how important you were to the Senate."

Another example was my desk. Every senator gets a desk on the Senate floor and I knew the history of the desks. In the desk, senators write—they used to carve but now they write their name in the desk drawer, like you'd carve your name on a tree. It's been going on for years. When I came there, the day I was sworn in, Vice President-elect Biden was there, and Lula [Davis, the Democratic secretary] was there, and I said, "Hey, Lula, can you set it up so I keep Vice President Biden's desk?" And she did. Everything is done by seniority in the Senate. Your office is picked by seniority. It takes forever to get your new office because they've got to ask each senator in turn which new office they want. And your spot on the floor is picked by that. My desk was located in the back, and Lula had gotten me Biden's desk. I looked inside the drawer and Senator Muskie had had that desk. And John Kennedy had that desk, which I knew from Biden's day. But the other really fascinating thing was Senator Joe Clark from Pennsylvania had the desk, and Joe Clark had been the mayor of Philadelphia who hired my Dad to be deputy commissioner of public welfare. So it was a nice thing to have.

What made it even nicer was my daughter Murry, who lives in Detroit, and her husband Matt, and Natalie and Liam, their two children, were going to be in Washington, so I set it up so I could sign my desk while they were there. We were on the Senate floor and got pictures taken. There were so many neat things that you get to do, like meet the Dalai Lama, as a United States senator. Senators work longer hours than chiefs of staff, but as I said before, chiefs of staff have just a great worry factor. For me, absolutely, without a shadow of a doubt, hardly a day went by as chief of staff where there wasn't something stressful happen, negatively stressed. There's positive stress and negative stress, some little thing that didn't go right, things like the weather. It's going to rain and you're supposed to have outdoors party, things you worried about. You just didn't worry about it when you were a United States senator. I found myself as a senator spending very little time worrying. It was stressful just trying to get so much done. You're on the job all the time. But not stressful like it is being chief of staff.

In both jobs you really think you're making a difference—or trying to make a difference. Like I said before it's not making a difference but trying to make a difference. For instance, one of the great things was they had a spouses dinner over in the Capitol because they had found a painting of Henry Clay. It turns out the Kentucky legislature wanted a painting, and this artist came in second so they didn't use his. He took it back to New York, and when they found it, over 100 years later, they were using it for a basketball backboard. They fixed it up and put it up right off the senate floor. Clay is one of the senators whose picture is on the wall in the Reception Room. The dinner was held in the lobby right off of the Senate, because they were going to hang the picture over the stairs leading down out of the chamber to the lower level of the Senate. But that's also where they had the Kennedy Committee—John Kennedy's committee to pick the best senators. So they had the pictures of the senators on the wall. Harry Reid spoke then about the history, and then he said, “By the way, there is one United States senator who is related to Clay, Tom Carper.” I never knew that. Here's the thing that was incredible. Carper went over and stood next to Reid, right below the painting of Clay—I'm sure this was totally complete happenstance—and the resemblance! People went, “Oh, my goodness.” It was an incredible resemblance.

Then there was the fun of the television appearances. More people talk to me about the Jim Cramer show. Jim Cramer has a show on CNBC. Somehow I went on his show and he started talking about the uptick rule. He was very much in favor of, like I was, of reinstating the uptick rule. We just hit it off. I don't know if you've ever seen his

show but he's an extraordinary showman and individual. Every time I'm on his show, it was just fun, just totally, complete fun.

Another thing that's great is meeting with constituents. I just had a lot of great experiences in Washington, meeting with Delaware groups that came down. I can remember the Realtors, which is basically a Republican organization. After I got finished speaking to them about housing, I got a standing ovation from the Realtors. It was like wow, this is really great. And the bankers—I didn't get a standing ovation from the bankers. We had a deal called "cram down." If you're in bankruptcy, the bankruptcy judge can reduce the principle on any asset that you have except your home. The home owners associations wanted to have a rule that said the bankruptcy judge could also reduce what you're required to pay on your house. The Banking Committee had gotten to it first and called it "cram down," which has a very negative connotation. So the bankers were lobbying on cram down. I met with the bankers and I said, "Look, I am looking for an answer on this. Tell me any reason why a personal home should be treated any differently than any other asset, like a second home or a boat? If you can give me a reason why it should be treated differently than any other one, especially when it disadvantages the homeowner, and it advantages the person who is loaning the money. This is supposed to be about protecting the homeowner." Nobody said a word, but I did not get a standing ovation from the bankers.

What was fascinating about it was after it was over a reporter was talking to me and said, "Here you are voting against cram down, and that goes against the banking community." I said, "Look, Delaware is a banking state, and I'm concerned about banking. It's just in this case no one can explain to me why should housing be treated differently." The reporter said, "Well, I guess you voted differently than Senator Biden, when he was here." They always asked me, "Where were you different from Senator Biden?" I said, "Well, it could be, but I don't know." By God, I went back and talked to Jim Green who was on our staff, he was our institutional knowledge because he had been there for years, and he said, "No, he voted against cram down here." So here was a bill where I thought maybe there was a chance that I voted differently, but hadn't.

One of the things that's interesting that I've watched over the years, I'm sure you've watched it too, and that is what happens to governors when they become senators. It is remarkable how hard it is for someone to be a governor and then become a senator. Of course, Tom Carper was governor, and he's our senior senator, I know him well. Mike

Castle, our House member, had been governor. But there are just loads of governors. I remember one time when we first arrived, I was over in the Senate Dining Room, waiting for someone and Mark Warner was at an adjoining table waiting for someone else, and Mark was so upset with how as governor you could do things and as senator you couldn't. Mike Johannes had been a governor; Jim Risch had been a governor. It's just fascinating to see how different the two jobs are and how they react to the Senate.

**RITCHIE:** I think it's the lack of control over their schedules.

**KAUFMAN:** Absolutely. Oh, absolutely. It's all about the lack of control. Obviously, they worked with their state legislatures, trying to get things done. But the fact that as governor they can call a press conference like that [snaps fingers], and get things done like that [snaps fingers]. They're much more in control, to a greater extent, of their environs.

One of the great things, too, about being there are the chiefs of staff annually has a reunion of all the chiefs of staff. They hold it over in the Caucus Room, and they asked me to come speak to them. It was just a great experience, going through what's the difference in being a senator, which I talked about earlier, and some of the firsts. The biggest single question I got—and I got it for two years—was “Why are you not running?” Everybody asked that. It was very nice, but I went through what it was about and I gave my strikers and setters analogy, about how most of the staff are setters and the senators are the strikers. I said, “I'm convinced that any of you could be a good United States senator.” But having those people come by—Howard Pastor just died, who I had known for years, came by a few times to see me, as did Tom Mann and Norm Ornstein. Tom Hughes used to be Claiborne Pell's chief of staff. I used to have lunch with present chiefs of staff. I had about six or seven lunches where I'd invite two or three chiefs of staff over to the office and I'd order sandwiches and we'd just sit around and talk about what they wanted to talk about. What's it like to be a senator?

**RITCHIE:** I went to one of their breakfast meetings over at the Monocle, and they had it set up so there were two blue tags and two red tags at every table. That meant that two Democratic staff had to sit with two Republicans staff.

**KAUFMAN:** Yes. By the way, at Homeland Security Committee, the hearing rooms are set up Republican, Democrat, Republican, Democrat. When they had this

breakfast they didn't put down name tags, but they put down that a Republican has to sit here, a Democrat has to sit there.

**RITCHIE:** It forces people out of that automatic party division.

**KAUFMAN:** Yes, and as I said when we did the spouses dinners, I ended up sitting at a table with four Republican senators and their spouses.

One of the other things that has fascinated me is the power of the right-wing talk-show, print, television network. One of the things that was striking to me about how the Senate has changed is we had a defense appropriations bill in 2010, and the Republicans pretty much announced that they were going to vote against the bill, and we needed every vote. We thought we had all the votes we needed, but [Russ] Feingold had come and said, "I really am opposed to what we're doing in Iraq and Afghanistan and I really don't want to vote for this bill." Reid had told him, "Okay, you can vote against it." In order to get the bill passed they had to go to Republicans. They went to Senator [Thad] Cochran, who was the ranking member of Appropriations—remember; there were a lot of earmarks in this bill. Cochran got more earmarks than just about anybody. He said, okay, he would vote for the bill, but he had some things that needed to be done. He had required, according to what Harry Reid said, "He said, "Okay, I will vote for this bill, but before you send it over to the House," —this was right before recess, and they needed the money, Secretary [Robert] Gates wrote a letter saying it was really important to our troops in the field that we get this bill passed, it was really extraordinary for the Republicans to vote against it, in my opinion— but Cochran said, "but there are some things I can't vote for." They literally sat down with Cochran and lined out of the bill anything that he wanted lined out of the bill. They sent it over to the House. The House passed it and sent it back. And Cochran announced he was not going to vote for it. It was in the press. I could not believe it. I always held Cochran in the highest regard, I still do, but I could not figure out why he did that. He had to know what was coming. What happened to do it? It was unprecedented. And by that time you couldn't change the bill back again.

Cochran had gotten everything he wanted out of the bill, and then said he wasn't going to vote for it to pass it. So we had an emergency meeting. Harry called us over. And then we had a second meeting. It started like at eight o'clock at night. We sat around for two hours and people talked about, "What are we going to do about this? How do we

get the votes? How do we prepare?” At the end we were setting up a war room, just the next day if it was voted down. It would have been terrible for the administration, terrible for Defense. It was like one of those great Senate moments—also one of those terrible Senate moments because of how it got there—we were ready to adjourn. It was 10:00, 10:30 at night, and into the room comes Russ Feingold. Russ Feingold announces that he was going to vote for the bill. Talk about applause and feeling good about it. Feingold wound up losing, but I don’t think this vote is what lost it for him. But clearly he had done something that wasn’t in his interest for the good of the Senate.

Another great caucus story. We were in considering healthcare reform, about three weeks before the vote. There was a group of us that said, “We’ve got to start meeting at night. We’ve got to start meeting on the weekends. We’ve got to send a clear message that healthcare reform is really important.” Chris Dodd got up and read a section from Ted Kennedy’s book [*True Compass*], where Ted Kennedy had argued while considering healthcare under the Clinton administration that he thought that the Senate should stay in session and really demonstrate how important healthcare was. There wasn’t a dry eye in the house. It was absolutely incredible. And in fact we did it, and that’s one of the reasons that we ended up being successful on healthcare reform.

**RITCHIE:** Because of Saturday and Sunday sessions?

**KAUFMAN:** Yes, because people were shaky, because people faced tough reelections, and people had things scheduled over the weekends. And I think the thing that made it happen was Chris Dodd reading what Ted Kennedy said.

One of the other things that was fascinating to watch unfold, just to show you that things don’t get perceived the way they were, I don’t know if you remember but we went through a period when Al Franken who was presiding over the Senate, had refused to give Joe Lieberman additional time. Lieberman was on the floor and he was speaking on an issue and he asked for additional time. Franken turned him down. A lot of Democrats were mad at Lieberman at the time; I think it’s when he said he wouldn’t vote for the public option on healthcare reform. And then McCain just really went after Franken. Afterwards I talked to Franken, and Franken’s poll numbers went up and money came into his campaign, and Lieberman’s poll numbers went up and money came into his campaign. All this happened. Franken was a hero to the left wing of the Democratic Party: “It’s about time somebody stood up to Lieberman! He supported McCain.” Poor

Al Franken, and it was in the paper, buried on page 27, but what happened was Harry Reid told Franken before he began presiding, “Look, we’ve just got to get through all this stuff. Senator Franken, when you’re presiding no one gets an extension.” Franken was just doing exactly what the leader had told him to do, and was really upset when it happened, but it turned out to be a truly great experience for both Franken and Lieberman.

**RITCHIE:** It’s one of those odd moments that are hard to explain in the Senate.

**KAUFMAN:** Yeah, like in life. In a lot of ways there’s an illusion that we are in control—part of the 12 steps of AA, that you are not in control, but it comes out of a lot of religions, is the idea that you are not in control. You give yourself up to a superior being. I happen to be a very religious Catholic, at least I think I am, and I do believe that if you think you are in control you don’t understand the situation, and in certain times you give yourself up to the Lord. But in AA it’s give yourself up to a superior being, and I think that’s one of the things that’s got me through all this, the idea that it would all work for the best. I would try to do the best I could.

I can remember meeting with some senators when I first came to the senate. I had told them, you know, I was never elected to anything. I was never elected home room representative to the student counsel. I never ran and was never elected for anything in my entire life. Never elected captain of the football team. Never was. At almost 70 years of age, all of a sudden to be thrust into this—again, I had so many things going for me, but it was truly daunting, and I must say my religious belief and my faith really helped me through it.

That brings me to another point. One of the interesting things about being a senator was going to the prayer breakfasts. Every Wednesday the Senate has a prayer breakfast. Johnny Isakson, a Republican, and Amy Klobuchar, a Democrat, were the co-chairs for the two years I was in there. The senators come and whatever is said in there stays in there. Senators get up and talk about whatever, most of the time it’s about their faith. One senator comes and gives a testimony. It’s much more a Protestant tradition than a Catholic tradition. There were a number of Catholics there, but I always felt like it was Protestant. Somebody would give an opening prayer. For the Catholics it’s like grace, “Bless me Lord and these gifts we are about to receive, from thy bounty, through Christ our Lord, amen.” It’s that kind of rote prayer. But in the Protestant tradition it’s

“Oh, God, today we are gathered together—” enormous things. Several times I had to do the opening and it was never easy. It didn’t roll off my tongue, and it was not something I was looking forward to doing. And then at the end a number of times I did the close. But it was fascinating to hear people talk about things like this, and see the senators get together. It was the one kind of Senate event that former senators came to regularly. There were a number of senators that came to it. Gosh, the stuff I learned about senators! It goes back to what Joe Biden said in 1973, there’s a reason why they got picked. If you sat in the prayer breakfast—and one of the interesting things is you’re not supposed to talk about what happened at the prayer breakfasts, but clearly, I can talk about what I said. When I spoke, one of the things I talked about was how I really thought that civility was not the problem in the Senate. There was less civility back then, that the basic problems of the country—and Harry Reid was there. And Harry Reid goes up on the floor and in his opening statement says, “By the way, I was just downstairs at the prayer breakfast and Ted Kaufman was saying more people should understand about civility.” So, no, it was great.

There’s a wonderful church [on Capitol Hill], St. Joe’s. I used to go over there to mass at least once a week. There were other senators, Senator Brownback was there regularly. Senator Voinovich was there regularly. But other senators came. In the senate you have people with all different religious persuasions, and people do care about each other. There is a lot of “do unto others as you would have others do unto you.” If you look at the Senate today, and you look at the Senate in history, Caro’s book “Lyndon Johnson as master of the Senate” and the rest of it, there’s a lot less “I’m in charge therefore I can do what I want,” I think, you would know better, but it just seems to me, that while we have problems on confirmations, we have problems on votes, and holds, and things like that, but it is a place where most of our problems relate to the desire of members to represent their constituents, and is caused by the incredible disparity on issues between the parties. The fact that we have gone from landslide congressional districts, which are districts where one party wins by over 20 percent of the vote, 60-40, that’s a big number, we’ve gone from 28 percent in 1976, to like almost 50 percent today, means that there are more districts out there that are homogeneous, not just counting the fact that there are differences on the issues. I think that affects, to a great deal, how members vote, especially on high-profile issues.

**RITCHIE:** It may be because it’s the smaller body in Congress, but the Senate has always seemed to me to be a more personality-driven institution. It’s not like the



House where numbers count.

**KAUFMAN:** Yes.

**RITCHIE:** It strikes me that wherever senators have the opportunity to take the measure of each other's personality, that probably strengthens their connections, and the prayer breakfast is one of those opportunities outside of the regular legislative activities, where senators can see each other as people.

**KAUFMAN:** Yes, I think that's right, and I think people do. Again, I think it's over-done, this stuff about the senators do not know each other. I think the senators spend a lot of time together, especially with people on your committee, and in the caucuses. Maybe you know more Democrats because you caucus with them. One of the big ways the institution has changed is when Joe Biden was there, he liked to—the Senate Dining Room is great and you go there and you can take constituents and everybody else. But there's another dining room that's for members only. There's a table there where senators can eat together. I don't think I used it when I was there because there was something every day at lunch. There was the Democratic caucus on Tuesday, and then we had the Policy meeting on Thursday. Then you had certain people you wanted to get together with. I had lists. I had lunch with the chiefs of staff. I had lunch with a lot of people I had known over the years. I don't think I had lunch alone in two years. I had a list of people that I wanted to see, and wanted to see me, and lunch is a wonderful way to do that.

But in that room when he was here the senators used to go in and sit around. He had some great stories about different times. There was a large table like they've had in a lot of men's clubs that I've seen—hopefully now they're men's and women's clubs. The Wilmington Club was men for many years, but now it's men and women. There's a big table and men come in and sit down, they don't have to make an appointment, and they talk to whoever's there. They don't do that anymore and one of the reasons is that there aren't many open lunches, all the lunches are organized. So you spend a lot of time on that. I know there were proposals that we have joint lunches with the Republicans and the rest of that. Maybe there's some way to do it. But the problem is you are there from Tuesday through Thursday and you're very busy. But I think the idea that senators don't know each other is false. I was there for two years. I think there were maybe two or three or four Republicans that I didn't get to know very well. Between the Senate gym, and the hearings, and the floor, and different events, if you wanted to get to know all the senators,

you can. It's just like Ensign and Brownback. They called every freshman senator and made sure they had lunch with every freshman senator. You can learn a lot about people. Now, it's just like everything else, there are certain senators for which you just have a personal proclivity, that you get to know them. There's an old inventory model that 80 percent of your sales come from 20 percent of your products. I'd say 80 percent of your time is spent with 20 percent of the senators. But on the Democratic side, there wasn't a Democratic senator that I felt I didn't know pretty well after being there for two or three months.

The Senate is such a welcoming place, not just for the senator but for the senator's spouse and family. It's like it used to be in the '70s, and before that, that if you were an officer in the military and you were transferred to a new base, when you showed up at the base, you were immediately accepted as an officer and a gentleman, that was it. And without a doubt, I would say the Senate is that place. The day you show up in the Senate, you are accepted and you're trusted, and that's it. It's an extraordinary institution. So it is like a club but it's not a stuffy club like people talk about it. What is it supposed to be? The most—

**RITCHIE:** The most exclusive club.

**KAUFMAN:** The most exclusive club. Well it's not like any exclusive club I've ever been around. It's a very unstuffy club, but a very welcoming place. I believe in terms of civility and personal relations, there's no one in the Senate that I do not believe I had a civil relation with. And I didn't see very many others. Now, again, there are individual senators who will say, "I wish Senator X wouldn't do what he's doing." How does that translate into "I hate so-and-so's guts"? That's a different story.

**RITCHIE:** Well, I think we've really covered the waterfront.

**KAUFMAN:** I think we have.

### **End of the Eighth Interview**

*Photo on the following page:*

Senator Kaufman with President Obama and Vice President Biden in the Oval Office



Ted - Thanks for the extraordinary work!



**LIFE AFTER THE SENATE**  
**Interview #9**  
**Thursday Morning, September 27, 2012**

**RITCHIE:** I'm glad to see you again. How has life been after the U.S. Senate?

**KAUFMAN:** It's been great. Being in the Senate was a fabulous experience. It was just a great experience, but at my age I had already spent fifteen years getting the rhythm of my life more contemplative, slower. I had begun to learn how to look at things in more detail; five miles deep and an eighth of an inch wide, instead of looking at everything an eighth of inch deep and five miles wide. I worked hard during those fifteen years. I still worked many of those years for sixty to sixty-five hours a week. But I was in control of my schedule, and I did try to get to the more contemplative side of my life. Of course, that all went out the window starting with the press conference where Ruth Ann Minner announced that she was going to nominate me. Obviously, that all went in a cocked hat from thereon in.

When I started they asked me, "What do you think you can accomplish?" I said, "I can accomplish a lot because I'm going to try as hard as I can. I'm going to try everyday to get things done," which in fact I did. But it was intense. I came home at night bone tired. But it was clearly one of the great things in my life. My family loved it. Lynne loved living for two years in Washington. It just worked out. It was such a great experience. But at the same time, after I left people ask me a lot of times, "Are you glad to be out?" Or "How are you doing?" If I say right off the bat—and I learned this right away because literally hundreds of people have asked me the same question—I say, "Oh, no, I don't miss it." They immediately say, "Oh, I know, because it's so terrible down there." I say, "No, no, that's not it." It has nothing to do with that. It's a lot like when you go to college. High school was great but you don't want to go back and do it again—at least I never wanted to do high school again. That's the way the Senate was. It was a fabulous experience.

I have a good life. I'm teaching at the Duke Law School. I was the initial co-chair of the STEM education council for Delaware for a year. We got it up and running and worked on how to increase science, technology, engineering, and math education. One of the reasons I never became involved in lobbying is because I wanted to continue to help Joe Biden and not be conflicted. It has been great to help him over the years, but

also to work with Hunter and Beau. They have turned into smart, accomplished men and have unlimited futures. It has been wonderful to continue to work with the Vice President, and stay involved with Beau and Hunter. In addition, I've been writing a column every week in the Gannett paper here in Wilmington called the *News Journal*. And I'm spending more time speaking, reading, thinking, and writing. Most important of all is spending time with our children and grandchildren, who are spread all around. So it's turned out to be a good time.

**RITCHIE:** You were teaching before you were a senator and now you're teaching afterwards. Did the experience of being a senator affect the way you teach your class?

**KAUFMAN:** Not really. It does give me a new unique view of the Senate and the government. Being in the Senate, working the Senate for twenty-two years on the staff, knowing the senators, knowing the staff, knowing the process from a Senate staff position was important, but equally important was that I had been teaching since 1991, for twenty-some years, about the Senate. I think I brought to teaching a bigger, more strategic point of view. The students are great. They don't dwell in the weeds. They don't *know* the weeds! You get really good discussions on broad questions. So I don't think being a Senator has changed it pretty much at all. Clearly, I think, the students probably listen to me a little more because I've been a United States senator. But it hasn't changed the way I teach or much of what I say.

**RITCHIE:** You mentioned that you had Johnny Isakson come to speak. Have you had any other senators in your class?

**KAUFMAN:** Oh, yes, I had a great class with Senator John Barasso, who I like a whole lot. I don't agree with John on just about anything, but I like him a lot. He's a medical doctor and a very smart guy. He came and spoke to the class, and while he was there—we were in the Senate Foreign Relations Committee room—Senator John Kerry came by. He wanted to give me a picture of the Senate Foreign Relations Committee that I served on with a nice note from him on it. He stayed for a while and we had this wonderful experience for the students of John Kerry and John Barasso together, each one talking about, in close proximity, what their views were on the priorities of the country. The students found it amazing. I wish everybody in America could have seen it, because the students came away, when we did the debriefing on the whole day that we spent on

the Hill, came away feeling that number one, John Barrasso's position was exactly what he believed, and John Kerry's position was exactly what he believed, that John Barrasso reflected the views of the people of Wyoming, and John Kerry's views reflected the people in Massachusetts. This was not about politics. This was not about some ulterior motive. This was just the way they actually believed. It is so counter to what is in the popular culture about how politicians make their decisions.

Wherever I go, there's one thing that just about everybody believes to the bottom of their being. People with high school education or people with a Ph.D., and everybody in between, they absolutely, totally believe that the only thing that elected officials care about is reelection. The *only* thing. They think it is all about partisan politics. Every decision they ever make is because they are trying to advance their political objectives. It's very, very discouraging. My students come with the same opinion. When you read the media, that's always their take: John Boehner has never had an idea that wasn't based on how to move the Republicans forward. He never had a principled position about taxes. None of them do. Harry Reid, Mitch McConnell, Nancy Pelosi, none of them ever took a principled position. What I try to say to them is just counter to what people believe.

I met a man the other night at a party who wanted to talk about this. He absolutely, totally believed that what we need is more statesmen and stateswomen. We need to get rid of this polarized partisan politics. I said to him, like I've said to so many people, and so many of my students, "Do you believe senators have big egos?" He laughed. They don't want to embarrass me, so they don't want to say it. I said, "Let's just stipulate that senators have big egos, because they do." CEOs have big egos. Cardinals in the Catholic Church have big egos. The Archbishop of Canterbury has a big ego. You just can't get to those positions without having a lot of self-confidence. So say there have big egos. In order to believe what the media tells us—that is all they care about is reelection, you have to believe that someone with a large ego goes through running for the United States Senate; kissing babies, raising money, going through the whole process of running for office, and then when they get elected they come and they sit down at their desk and they say, "Okay, bring me the polls because the only thing I'm going to do here is exactly what the people want—what will get me reelected." I said, "That just doesn't pass the reality test." The problem is that they absolutely believe it, and it's totally corrosive to any kind of decision in DC.

As an example, if you pick up your paper when we start dealing with the fiscal cliff in the Lame Duck session, you are going to find anything members of congress do on the cliff attributed to straight partisan political reasons. In fact, I believe, what separates Democrats and Republicans is not that they're randomly selected to be a Republican or Democrat, it's the positions that they believe, and they genuinely hold these positions. That is really what drives it. Is there politics involved in this? Absolutely, positively, there's politics involved. But the main driving force is what these folks believe is the right thing to do.

**RITCHIE:** The *Congressional Record* can get pretty thick with people standing up and saying what they think. And they're doing it all during the entire Congress.

**KAUFMAN:** Exactly. But when you see what the media writes—again, every single story, when you get to the fiscal cliff, every single story, the *New York Times*, Fox News, CNN, if you pick up anything at random, a transcript or the paper, it will say: “John Boehner, in order to make the Republicans appear to be more reasonable, has decided to do this. . .” Or “President Obama is doing this because it's totally about partisan gain.” I think Obama was great on healthcare reform when he said, “Well, one thing everybody should know is I didn't do healthcare reform because it was politically popular.” [laughs] I mean, that's really great for him. That's one thing he points to right off the bat, and says, “Hey, look, if I was only interested in getting reelected, if I was only interested in partisan gain, why would I ever have done healthcare reform?”

**RITCHIE:** We spent a lot of time talking about the healthcare reform before, and since then the Supreme Court has weighed in, in a rather surprising way. [*National Federation of Independent Business et al., v. Sebelius* (2012)] I really wanted to get your reaction to that decision.

**KAUFMAN:** You know, one of the things that Joe Biden talked about a lot—he talked about it in his farewell address to the Senate, and I've talked about it in this oral history is that the secret to civility in the Senate is built around a reluctance to question other people's motivations. This is a good rule for life, but it's especially true in the legislative process. You don't *know* what people's motivations are. When you question their motivations, you may be right sometimes, but if you are just wrong once it ruins your relationship for ever. So it's just not a good idea to question people's motivations. I cannot question John Roberts' motivation. I don't know why the Chief Justice did what



he did.

Let me say this: Before that decision came down, I told everybody who was interested in an ex-senator's opinion on these things, that I thought the only chance—when you look at the decisions that this court has made with Roberts as Chief Justice, they all are, in my opinion, pretty much based, the big ones, on a business oriented Republican ideological position, whether you look at the *Citizens United* decision or you look at *Gore v Bush* or even look at some of the antitrust decisions that they've made. I've talked about this a lot. I've asked these questions at both the Sotomayor and the Kagan Supreme Court nominations. I questioned them about business. This is a very business-oriented court, the five Republican justices. I said, "If you look at that history of this court, you have to believe that they are going to overturn healthcare reform because that's what business wants and that's what the Republicans want, and it's pretty strongly felt." Again, not for political reasons, just because they are Republicans and that's the way they believe. I said I thought the only chance the president had to turn this around, which is what he did when he told basically everybody two months before it happened, he said, "Let me tell you guys on the Supreme Court one thing. If you make this decision, and you overturn the individual mandate," which by the way was invented by the Republicans—it was invented at the Heritage Foundation, the idea of an individual mandate, it was not a Democratic idea—"You invented it. You're the ones that pushed for it." It was in order to bring Republicans to support healthcare reform that the individual mandate is even in there. There were no questions at hearings raised about the individual mandate, The concern about the individual mandate was something that was constructed after the thing had passed. There was a point of order raised by Senator [John] Ensign about the individual mandate, but it was right at the end of the healthcare debate, it was not in the main part of the debate. And then afterwards, a group of people came up and said, "Oh, the individual mandate. That will sell politically. That's what we're going to push." And they believe it, too.

What President Obama said to the court—he said it on television—was: "Look guys, if in fact you do this on top of your other decisions, you are going to become the most political court in history. And if you think that I'm going to let you off the hook if you do that, you're making a big mistake." Essentially, it was a clear message to the Chief Justice, "Hey Chief, you want to go down in history as turning the Supreme Court into an ideological political machine, you just go ahead and vote on this thing." I don't know if that's why Roberts did what he did. I think putting it at a noble level; I think he



did want to protect the legacy of the court. I think it would be perfectly rational for him to want to protect the position of the court as not being political. But whether that's what moved him or not, I can never say. If you predict something is going to happen *because* of a certain thing, and then it happens, it's a very rare human being that doesn't attribute why it happened the way you said it was going to happen. So I think no one will ever know—unless Chief Justice Roberts writes about it. But I felt at the time that Obama made that statement, for which he got a lot of criticism from Republicans, that it was the smartest thing he could do to try to move this thing, to try to get the healthcare bill approved by the court.

**RITCHIE:** It was sort of reminiscent of Charles Evans Hughes and Franklin Roosevelt. It was one way to take the court out of the political arena.

**KAUFMAN:** Yes.

**RITCHIE:** Otherwise it would have been a huge issue in this campaign.

**KAUFMAN:** Yes, but more than this campaign. If the president of the United States decides he's going to make you the issue, you're going to be the issue! [laughs] One thing though is that on the court cannot respond. So you're just going to get pilloried, if in fact you make that decision. I think that's part of Roberts' calculus. He also knows, and one of the reasons why this may well is *not* what motivated him, he knew that he was going to get pilloried by the Republicans. He knew that people were going to attribute this move, as many observers have, his motivation being one of just not wanting to see the court declared a political court. But as I said, I don't know why he did what he did. But that could be the reason. That's the reason that makes the most sense to me, because again on every other big, important issue, this court had gone on Republican ideology. Again, not because of political gain, but because that's the party they belong to and that's the party they're beholden to, and that's what they believe.

**RITCHIE:** I've been a little surprised that neither party has made much of the Supreme Court in this campaign so far. Clearly, this election is going to determine the future direction of the court.

**KAUFMAN:** Oh, this is going to be so huge. But one of the things about this campaign is, and I'm kind of partial to Vice President Biden, but he's done the best of

anyone saying “This is not a campaign for the next four years. This is truly the campaign for a generation.” This is the most important campaign in terms of where the country goes in my lifetime, because it’s so clear now that the Republicans and Democrats have such an incredibly different view of where we should be going in the future. All one had to do was look at the Democratic convention and the Republican convention. Nothing else, just that. You could see how dramatic the difference is. There are so many issues that the Supreme Court is really one of about a hundred issues where what’s going to happen is going to be vastly different. But I agree with you, I think it’s one of the biggest because it will solidify the court—if [Mitt] Romney gets elected, he has said that he is going to put on more people like Scalia and Alito and Thomas. It used to be Roberts too, but they don’t mention Roberts anymore. [laughs] He’s going to put on more people like that. Then when you have five, six or seven justices all with a strong ideological bent for a long time—and he will pick young justices, as has been done in the past—you will have twenty or twenty-five years where an overwhelming majority of the court has the same ideological bent. That’s one if not the biggest demonstrations of the fact that this campaign is not just about the next four years.

**RITCHIE:** By chance, I was in front of the Supreme Court when the decision was handed down. I had to go down First Street, and I recognized a lot of Senate staff out there with placards on both sides. It seemed to me that everybody was absolutely astonished, genuinely astonished when it finally filtered down as to what the court had done.

**KAUFMAN:** I think it’s going to be that way the day after the election. I think Election Day this year, after it’s over, whoever wins, people will be truly shell shocked. One of the things that I’ve been able to do over the years is remember better than many people how something actually happened. My favorite quote is: “Never underrate the ability of the human mind to rationalize.” Most people don’t lie, they just want to get to a certain place, and with enough time and push they can rationalize it. That’s the tough thing about being an elected official. You can’t rationalize because your vote is there in public forever. Trying to change it is very difficult, as Governor Romney is finding out. John Kerry found it hard in his race against George W. Bush. People sometimes don’t anticipate the actual outcome of an event and what it’s going to be, but this one is going to be a big one. Because of what’s been said and the clear difference about where the country’s going to go.

I went to the Democratic convention and it was just wonderful. First, I got to see a lot of people I hadn't seen in a while. But also so many people got up and said what I believe about the future of the country. Especially when the vice president got up and spoke, and the first lady, and former President Clinton, and then President Obama, it was great. What's interesting about it—I don't know if you noticed the Nielson ratings—but they said the single most watched speech was Vice President Biden's, which made me feel good. I thought he gave a great speech. When it was over, because I had not watched much of the Republican convention, but I had seen some, and I had seen the reports on it, it was like, for me, "Oh, my goodness, we've got to win this one," because they're convention really pointed out to me how dramatic the difference was.

I'm a partisan Democrat, but I'm a Democrat because I agree with most other Democrats on the issues, not because I want to wear a jacket that says "Democrat" on the back. It's just that I find that I agree with Barack Obama. I agree with Vice President Biden. I agree with former President Clinton. I agree with the first lady. I agree with [Julian] Castro, the mayor [of San Antonio]. I agree with Jennifer Granholm [former Governor of Michigan]. I agree with those folks and I don't agree with—although they are good people—John Boehner, Mitch McConnell, Mitt Romney or Congressman [Paul] Ryan. I really do hold them in the highest respect, but I just don't agree with them. If you're in my position, or if you're in a position on the other side—I have friends who are very strong Republicans—this is going to be an incredible wrench when on the day after election day you find that the country is going to go in a very different direction than where you want it to go. I think it's going to be more of a wrench for the people who lose than for the people who win. Because when you realize that the country is going to go in a very different direction, Supreme Court justices, plus positions on just about everything, it's going to be a real wrench.

**RITCHIE:** Well, everyone is waiting for the lame duck session this year because there is so much unfinished business. There's a sense that people are going to look at the election returns and that will determine how cooperate they are and where they are willing to compromise.

**KAUFMAN:** I think there's going to be a change. I wanted to spend a little bit of time talking about what happened during the two years I was there with regard to gridlock. I've said repeatedly that after I had been in the Senate for just two or three months, especially when I presided and listened to senators on the floor, watching what

happened to the stimulus bill it was clear to me that the Republicans had decided that they were not going to cooperate with the president. I hypothesize that there had been a meeting, right after Obama got elected that went something like this: Mitch McConnell and John Boehner went to their caucuses and said “Look, folks.” These are principled people. They really care about the country and they really care about what they are doing. They look and they see that there are 60 Democratic senators. Obama has won by a big number. Democrats have the majority in the House. They say, “What do we do when we’re faced with this situation. Obviously, we’re going to get steamrolled on everything. If you really care about what we care about, this is going to be a disaster. How do we mitigate this? How do we turn this around?” Because the Republican party was in deep, deep trouble.

I thought at the time what they decided to do, and I said this for most of the following year and a half when asked that I hypothesized that at that meeting, whenever it was, not having known about the meeting or anything about it, that I think that Mitch McConnell proposed to the caucus: “I think what we should do is go with the 1993-94 strategy. What Newt Gingrich did in 1993 was say that “the Democrats have controlled the House for forty years. They control the Senate. They control the presidency. The best thing that we can do for two years is just try to lock everything down. Stop everything. Just try to throw sand in the wheels.” Not because they wanted to throw sand in the wheels. Not because they were bad people, but because that’s the only way they were ever going to get the House of Representatives back, and get the Senate back, and the presidency back, all of which came true. “Because what will happen is, even though we’re throwing the sand in the gears, the Democrats control Congress and the presidency. They’re going to get the blame for nothing happening.” That’s basically what Mitch McConnell and Boehner, I think, sold their caucuses.

The stimulus bill was really the last bill where we got any Republican support. We did get some later on, but not on healthcare reform. Susan Collins, Olympia Snowe, and Arlen Specter all voted for the stimulus bill, that’s how we got it passed. Of course, Specter became a Democrat. Snowe and Collins, who I have great respect for, never once voted again with the Democrats on a major bill. My understanding from scuttlebutt on the floor, and talking to them, is that they were just treated like pariahs in the Republican caucus, because the Republican strategy was not to pass anything. The reason I raise this again is because there’s a book out [Robert Draper, *Do Not Ask What Good We Do: Inside the House of Representatives* (New York: Free Press, 20120] that

says that in 2009 that's essentially what was decided by the Republicans in the Congress at a meeting the night of the inauguration. And then early this year Mitch McConnell actually went on the record and said, "Our number one objective is to defeat Barack Obama."

The other thing I think McConnell said at that meeting, was "Look, folks, if we were going to beat Barack Obama four years from now, one of the best ways to defeat an elected official, contrary to what the popular perception of the American people is, is to have them renege on a campaign promise." People think politicians don't keep campaign promises. They couldn't be more wrong. Most politicians sit down on the first day they get elected and say, "What were my promises and how are we going to implement them?" That's what we did in Senator Biden's office, and that's what I did when I got in the Senate. He said, "What is Obama's number one promise?" More than anything else it was Obama saying, "I'm going to bring a new atmosphere to Washington. I'm going to reach across the aisle to Republicans. It's not going to be the way it was before." I think McConnell said, not to be funny but "One thing we can do is we can stop the president from being able to deliver on his number one promise." And it's worked out beautifully. In 2010 they won the House back. They really reduced the number of Democratic senators. And they really messed up Obama's number one issue. One of the things that they've run on since then is that Obama promised it and didn't deliver on it. I think that's what happened.

The best example of all, which has been repeated time and again, but still bears repeating one more time because I was shocked when it happened, if you go back and look—when I really knew this had happened was the president was ready to propose a commission to look into deficit reduction, Simpson-Bowles. The Republicans in the Senate blocked that from being passed. But then, a commission proposal came forward that had been cosponsored by seven Republican senators, good senators, and when the vote came up they all voted against it. That was a clear indication to me that they were not going to vote for anything that might help Obama. These were principled senators who took principled positions, but there clearly now was a strategy for them to regain power when the seven of them voted against it, and then turned it over to the president to appoint the commission, which they voted against before that. In my mind, this clearly was the nail in the coffin of the chance to negotiate.

One of the big fights in the Democratic caucus during the two years I was there,

especially the last year, was between those in the caucus who believed that the Republicans were never going to compromise. They were never going to compromise on healthcare reform. They were never going to compromise on Dodd-Frank. In the end, they were all going to vote against it. But we kept on negotiating, negotiating, negotiating. I think that's one of the reasons why healthcare reform is held in such low regard by so many Americans, because for six months Republicans just beat the immortal hell out of "Obamacare". The Democrats, in order to try to get something passed, held their fire. Then there was the Gang of Six, –I remember Republican Senators Grassley and Enzi, who were among the three Republicans and three Democrats who were trying to negotiate these things, went home for the August recess, we got all kinds of reports that they were out there in their home states of Iowa and Wyoming just beating the hell out of the healthcare bill. And we came back and Chairman Baucus wanted to reconstruct the Gang of Six. We were in the caucus saying, "You've got to be out of your mind!" We stood by on this, but it was clear they were just going to beat us up. They were going to try to destroy the healthcare bill, which is what they did. I think now that that's been passed, there's a survey out today saying that 73 percent of the American people believe that healthcare will not be repealed. If this campaign has done one thing it's at least put in people's minds what we'll lose if in fact they repeal healthcare. You don't hear very many Republicans still talking about healthcare.

**RITCHIE:** It's been noted that even people who are opposed to the healthcare bill have their over 21-aged children continuing on their health insurance policies and have already taken advantage of some of the sections of it. There are lot of pieces of it that are popular, they just don't like it as a whole.

**KAUFMAN:** Well, not only that but there's nothing you can argue in the alternative. The Republicans have been saying, "This is bad, we're going to repeal it." There was no way to push back on what happens if you repeal it. When they saw the 26-year-old provision, where children can stay on their parents' health plans until they are 26, but the most popular part was not allowing insurance companies to withhold coverage for preexisting conditions. If you didn't have everyone in the healthcare system, if you didn't have the individual mandate or some reason to get everybody in the pool, as was articulated beautifully by Governor Romney when he was governor of Massachusetts, why it's important to have everyone have healthcare, and why the individual mandate was essential. Those of us who didn't like the individual mandate would rather have something else where everybody had to be involved. There are a lot of different ways to

do it, but the individual mandate was a Republican way, and we were trying to get their votes. That's why it was in. But you can't have protection against preexisting conditions, which is really what most Americans I meet like best about the healthcare bill. But it only works when everybody has to buy insurance, because why would anybody buy healthcare insurance if they knew that if they got sick they could go to an insurance company and then sign up for healthcare and save all those costs they were paying in the interim before they got sick. I think when it got argued in the alternative, people began to realize, "Wait a minute, life is a matter of alternatives, and this healthcare bill has a lot of things in it that really are good that I want, and there really is no other way to get there." A lot of the things that have been said by Republican members of Congress really don't hold together if in fact you repeal healthcare reform.

The final piece is that—the American people don't talk about this, but I talk about it—anybody who thinks that if we failed to pass healthcare reform this time, any politician, any president, would ever touch healthcare reform again until the healthcare system totally collapses around our ears, after a popular president with 60 votes in the Senate and a big majority in the House finally got it passed, and then it was reversed, is fooling himself. If it is repealed, we're not going to revisit healthcare until—and it wouldn't be long time—the whole healthcare system falls down. There are a lot of people in the Democratic caucus who believe that if that did happen, the kind of silver lining to all this is that we would go with a single-payer program like most countries in the world use, which would really be better for most Americans and would reduce the cost for most Americans. But if in fact the healthcare system is falling down around our heads, public opinion, single-payer, a lot of the options that Democrats wanted but didn't put in the bill in order to get Republican votes, could occur.

**RITCHIE:** When you look at it, it's been an issue in American politics since the 1940s, when it was first proposed.

**KAUFMAN:** Yes, and look, when we had what they called Hillarycare in 1993, we needed healthcare reform, but after that was defeated no president touched it for 16 years. President Obama got so much criticism at the time he proposed it, but even more criticism after it passed: Why did he ever bring up healthcare reform? Didn't he realize that politically it was going to cause gridlock? In fact gridlock was caused long before he got to healthcare reform. But one of the things that was great for me was sitting in those original transition meetings in Chicago after the election, talking about personnel

and what the policies should be. The president at the first meeting when they talked about issues said, “We’re going to do a stimulus bill for the economy and jobs, we’re going to do Wall Street reform and we’re going to do healthcare reform, and hopefully, something about energy policy. I think people in the room thought sarcastically, “Oh, yeah, we’re going to do healthcare reform,” because there were a lot of folks, John Podesta and Rahm Emanuel, who had been in the Clinton fights and didn’t want to do this again. Then we came back for the second meeting and Obama said, “We’re going to do this, this, and we’re going to do healthcare reform.” He came back to the *third* meeting and he said, “We’re going to do this and healthcare reform,” and they said, “Wait a minute.” He is serious, “We’re doing healthcare reform.”

This was a personal decision made by the president of the United States, President Obama that was incredibly courageous. I think when history looks back on him it will be an incredibly positive thing for him. And I think it’s kind of a *prima facie* argument for the fact that he doesn’t do everything political, I heard him say: “Nobody can argue that I did healthcare reform because of politics. You may think I’m interested in politics, but what was I thinking about doing healthcare reform if all I cared about was politics and the election?” It’s an excellent argument. It also goes against what I told you earlier, the idea that all these politicians think about is reelection. Why would Barack Obama ever have embarked on healthcare reform if all he was concerned about was reelection? What past presidents have done when faced with this kind of thing was say, “Let’s wait till our second term.” I think Bill Clinton deserves a lot of credit for bringing it up in his first term. But you go back and look at most of the presidents, who raised this, raised it in their second term, not their first.

**RITCHIE:** When you were in the Senate, the stimulus was a big issue, getting the economy going again. In the last two years the national debt has been the driving force. How much do you think that’s changed the equation about how people are thinking?

**KAUFMAN:** Well, the debt was a big issue day one when I arrived in the Senate. I was actually shell shocked. I went and presided over the Senate and Republican Senators would come down and talk about the debt. This was after President W. Bush, with help from republican senators blew up the debt,—the CBO said when he was elected we would have a surplus at the end of eight years, and we had a \$10 trillion deficit instead, because Bush supported massive tax cuts, two wars, and prescription drugs



without any plan to pay for any of it. The debt increased during the Bush administration, but in 2009 the Republicans talked about the debt and they worked the debt. While the debt is not an issue that usually resonates with the American people, it resonated this time. That's why I think, in retrospect, 20/20 hindsight, we all made a mistake, and President Obama made a mistake, because he never made the Keynesian argument that we needed a stimulus. He basically made the argument that "I have the votes to do it and we're going to do it." But he never really pointed out the fact that there's "good" debt and there's bad "debt". What he did, and one of the reasons why I think he took such a hit on the stimulus was, he was basically saying "Deficits are bad." And I know he knew deficits are bad because we had talked about it in the transition. He knew he had to do something about the deficit. But he said deficits are bad and then he announced this \$800 billion program, which the media then completely screwed up by every story saying that healthcare reform was going to cost \$800 billion, when in fact healthcare reform would generate a \$130 billion surplus, according to the Congressional Budget Office, which Democrats and Republicans look to. Sure, it was going to cost \$800 billion, but we were going to generate a trillion dollars work of offsets so that it would be the second largest reduction in the deficit when it reduced it by a \$130 billion over ten years. The American people say, "Well, he says deficits are bad, but here he's proposing to spend \$800 billion." The media just deserves so much blame for this. Every story—at least every one that I read—said that healthcare reform cost \$800 billion. It didn't increase the deficit by \$800 billion. The cost is \$800 billion, but the offsets are a trillion.

But the debt was a big issue and they pushed it. So when we came to the stimulus people said the deficit is bad, but then proposed the stimulus. The stimulus was good debt and in the end reduced the deficit. I used to go around Delaware giving a presentation on the stimulus and I'd say that on the month before the stimulus passed we lost 725,000 jobs, which was the bottom. After the stimulus was passed, we never hit that again and went just about straight up to actually creating jobs. I think that the Obama administration created 4.6 million jobs. This all started the quarter the stimulus passed. The Dow-Jones industrial average hit bottom in the month we passed the stimulus bill. After that, it went up and is the process of getting close to setting new records. The production index hit bottom and started up the quarter we passed the stimulus bill. Now, you have to believe that this is the greatest coincidence in the whole world that all these indicators went up after we passed the stimulus bill or you can believe that Keynesian economics in this case worked. What this did was prime the pump, which was my argument. We had a two trillion dollar hole in our economy. If we just left it there, it

just would have stagnated. What we had to do was fill up at least \$870 billion. Clearly, it would have been better if we had a trillion or a trillion and a half, but folks that say we should have had a bigger one didn't understand that we were incredibly lucky to get the \$870 billion that we got because the Republicans didn't want any of it. Ideologically they didn't want any of it, but also it was part of their gridlock strategy. Clearly, the reason that the economy held tough and it didn't do worse than that was because of the stimulus bill.

I can remember about a year and a half later when the stimulus was running out, I was on the squawk box with CNBC and there was an economist there saying—and this is amazing because this Wall Street economist said—and a number of them said it, I've got a newsletter from Merrill Lynch and they say it—essentially, “Look, the public sector did their part. They passed the stimulus. It's now time for the private sector to move forward.” Basically at that time the banks had two trillion dollars worth of assets they were holding that they could spend. The corporations had a couple of trillion dollars and they were just sitting pat. The idea that the corporations and the banks lacking the stimulus would have done anything is ridiculous; we would have just spiraled down.

I think if you look at what is going on in England, where the Tory administration, the Conservatives came in and [Prime Minister David] Cameron convinced them to not go with a stimulus and in fact cut back, or if you look at what's going on in Greece or Spain, all of them by cutting back have hurt revenues and in fact increased the debt. So it's clear to me that the stimulus was an incredible point. The other thing about the stimulus was how little waste there was. It's absolutely incredible there was so little fraud and waste. I think the Obama administration deserves a lot of credit. The vice president, who headed it up, Biden deserves a lot of credit for the fact that we laid out \$870 billion and very, very little even arguments that there was fraud. I think there was incredibly small amount of fraud for putting out so much money in such a short period of time.

**RITCHIE:** And a lot of infrastructure was built as a result.

**KAUFMAN:** A lot of infrastructure and a lot of stuff that helped us on energy. The fact is that we were spending a lot of money on energy in the stimulus bill. There was a lot of money in there to encourage doctors and hospitals to put in more computers, more technology. There were a lot of things in that bill that turned out to be useful. It

wasn't just infrastructure. It was the things we all believed in, the Democrats believed were important, and that is the government has got to spend money on R&D. The federal government has got to spend money on infrastructure. The federal government has got to spend money on training. The federal government has got to spend money to encourage innovation. Everybody understands that, but somehow again this is a partisan divide. Republicans basically think government should be smaller. Some of the things they want to cut are education, training, innovation, infrastructure, which would be a disaster for this country. If we don't have better educated citizens we're not going to be able to compete in a global economy, if we don't have the people who are trained to do the jobs that need to be done, we're not going to be able to compete in a global economy. That's just a partisan difference of opinion. It comes out of, not of any meanness or anything; it just comes out of the idea that Republicans basically think that's not what government should be doing. I don't know who they think should be doing it if the government doesn't.

**RITCHIE:** Well, one of the arguments lately is that there actually are jobs to be filled, but the unemployed can't fill those jobs because they're not trained to do them.

**KAUFMAN:** Yes. Usually there's one and a half jobs for every person who's out there looking. Today there's like five people for every job. So there are always going to be mismatches. The problem is partially a mismatch, and that's the reason I worked so hard for science, technology, engineering and math education, because that's where most of the jobs are that we cannot fill. So we have to do that. That's always a problem. The bigger problem is there just aren't enough jobs.

**RITCHIE:** A criticism that comes from the left on all of this is that the Obama administration has put so much effort into economic and financial recovery that it didn't do enough in terms of financial reform.

**KAUFMAN:** Clearly, the person who's kind of the poster child for this argument is me! I think when you look at what I said on the floor, and if you follow what the financial press said, even now, that the one senator along with Sherrod Brown, the senator from Ohio—we had the Brown-Kaufman amendment to slim the banks, along with Carl Levin and Jeff Merkley, who were the champions of the revised Volker Rule. I have some real differences of opinion with the administration and with Secretary of the Treasury Geitner about how we should proceed. If you want to read more about it there

is a number of books out there where they talk about my contribution in this area. Arianna Huffington has a book where she talks about this a lot. A guy named Jim McTague talks about my approach on high-frequency trading in his book “*crashshoot investing*”, and a guy named Scott Patterson wrote a book about *Dark Pools* that talked about it. Neil Barofsky, who was the inspector general for the TARP, wrote a book called *Bailout*, where he says a little bit about what I’ve done. And then my former chief of staff, Jeff Connaughton wrote a book called *The Payoff*, where he pretty much documents my concerns about this.<sup>1</sup> But there’s a lot in the popular press, a lot in the *Financial Times*, the *Wall Street Journal*, the *New York Times*, about my position on financial reform, which I’ve talked about earlier in this oral history.

**RITCHIE:** Do you think the moment has passed for that or is there still a chance to instrument more reform measures into the mix?

**KAUFMAN:** No. One of the things, and I don’t know if I mentioned it before but I think it’s worth mentioning twice, my argument was that the Senate should make bright-line rules, Glass-Steagall, Brown-Kaufman, slim the banks down, you should be able to be a commercial bank and be in Wall Street investment banking. That’s what Glass-Steagall was about. The Volker amendment was an approach to that, and the Merkley-Levin Amendment, which was never voted on, was an approach to that. But in retrospect, Glass-Steagall is really what we need. I’ve said in the *Record* and I’ve written in my columns in the *Huffington Post* and the *News-Journal*, that we’re going to get Glass-Steagall. It’s just a matter of how much damage we do before we get there.

One of the things it does is demonstrate why we should have bright-line rules coming out of the Senate, like the Pecora Commission did after the Depression. In the 1930s they wrote Glass-Steagall, and that’s what we should do because one of the big

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<sup>1</sup>Arianna Huffington, *Third World America: How Our Politicians Are Abandoning the Middle Class and Betraying the American Dream* (New York: Crown, 2010); Jim McTague, *Crashshoot Investing: How Tech-Savvy Traders and Clueless Regulators Turned the Stock Markets into a Casino* (Upper Saddle River, N.J.: FT Press, 2011); Scott Patterson, *Dark Pools: High-Speed Traders, A.I. Bandits, and the Threat to the Global Financial System* (New York: Crown, 2012); Neil Barofsky, *Bailout: An Inside Account of How Washington Abandoned Main Street While Rescuing Wall Street* (New York: Free Press, 2012); and Jeff Connaughton, *The Payoff: Why Wall Street Always Wins* (Westport, Conn.: Prospecta Press, 2012).

reasons was that regulatory agencies are great at regulating, but it's a very difficult process to really write the rules. They can write rules, but they can't write the law. There's an old saying that good fences make good neighbors. If we had given the regulatory agencies good fences they would have been able to handle it, but just for instance this whole idea of commercial banks and investment banks, which everybody has decided is a big problem, we passed the Volker Amendment. Well, you know, the Volker Amendment says that banks should not be involved in proprietary trading and I've said repeatedly that trying to figure out what's proprietary trading takes you back to the Middle Ages when they were debating how many angels can dance on the head of a pin. What was demonstrated how this was going to go, one of my colleagues at the Duke Law School, Kim Krawiec, did a study. She went back and looked at all the contacts between individuals and the four regulatory agencies, the FDIC, the Fed, the CFTC, and the SEC, that 93 percent of the contacts with the members of those commissions or their staff was made by the following groups: 1) Wall Street banks; 2) accountants for Wall Street banks; 3) lawyers for Wall Street banks; 4) trade associations involved with finance and Wall Street banks. They were the only ones who had the money to hire the people to go after this thing, and they spent a lot of money on this, \$50 to \$100 million. There is no money on the other side. The 6.5 percent who contacted the agencies that were not tied up with Wall Street banks, half of that, 3 percent, were Senator Merkley and Senator Levin and their staffs contacting them. The other 3 percent were consumer groups and unions. Again, if you want to read more about it, Kim Krawiec wrote something about Joe the Plumber.<sup>2</sup>

Remember, after the regulatory agencies get through propounding the rules, the Circuit Court of Appeals can still say "You didn't do enough cost-benefit ratios and we're going to turn you down." In fact, the DC Circuit Court has done that. So when you've got 93 percent of the people contacting you in favor of an issue, you have to be careful what you're going to write, if you want to write it, that the DC Circuit Court doesn't say you didn't listen to what other people have to say.

So, no, I think we're going to have to go through another very difficult period, unfortunately, in the financial system. The banks now are too big to fail. Everyone knows they are too big to fail. They're going to fail. What's in the bill will not protect

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<sup>2</sup>Kimberly D. Krawiec, "Don't 'Screw Joe the Plummer': The Sausage-Making of Financial Reform," Duke Law School Working Paper.

them because there are no rules on resolution of these major banks across country lines. Right now we're over three years into the Lehman Brothers failure and bank receivers are still playing with that because there are still some creditors. The idea that Citibank or J.P. Morgan Chase could be resolved without the taxpayer having to step in, it's not supported by just about any of the major economic thinkers. A number of members of the Fed have pointed out the problems with it. I think we're just going to have to go through another bad patch before we have to do it.

**RITCHIE:** When you talk about the lobbyists, for years the financial industry had lots of lobbyists but they were divided between the brokers' lobbyists and the bankers' lobbyists, so there was an internal competition. I remember during the first discussions of repealing Glass-Steagall, the banks were all in favor of it and the brokers were all opposed. There's been some balance that's been lost now that they've merged.

**KAUFMAN:** You have to look back. In 1973, when I first got involved, around that time John Kenneth Galbraith, a professor at Harvard, wrote a book about countervailing pressure.<sup>3</sup> What he talked about was that one of the things that kept this country having realistic positions when it comes to working people was there's always a battle between the corporations and the unions. It helped control corporate power, so certain corporations couldn't do anti-labor things, not just corporations that had unions but corporations that were under the threat of unionization. The union movement now in terms of manufacturing is just about gone in this country. You can see by the way corporations make many of their decisions now; they don't have to worry about the employees. That's why they did away with their defined pension programs. Practically no one has defined pension programs anymore. The only people left are government employees, and there's a move to take that apart because why should government employees have them when the private sector doesn't? Well, the reasons why the private sector doesn't is because the corporations went and took the money, set up insurance to cover pensions and 401Ks and then took the money and handed it out in profits and bonuses. Right now, corporations are beginning to eliminate the healthcare benefits, or figure out some way to reduce their exposure. None of this they could do when there were actual countervailing pressures. So you're right, countervailing pressures made this country great.

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<sup>3</sup>John Kenneth Galbraith, *American Capitalism: The Concept of Countervailing Power* (Boston: Houghton Mifflin, 1952).

Right now, when you look at many of the major issues we have, there is no one on the other side. Corporations can spend millions on hiring really good people to lobby, and more than that, on 30-second spots. People focus too much on lobbying in Washington. One of the big things that is happened is that there are very, very qualified men and women who if you give them money they can go out and create a campaign in your state or your congressional district and turn your public opinion around.

One of the classic examples is climate change. The public utilities and others, the coal industry, decided to spend the money. They went out and did 30-second spots all across the country saying: "Why does the federal government want to tax us now when we're in a bad economy? This is just a bad idea. Contact your representative and say we should not have any kind of a carbon tax on public utilities." The whole attitude towards climate change, while there is more and more evidence that climate change is a reality, more and more scientific organizations saying climate change is a reality and that it was caused by human behavior, the public opinion is going the other way. That's because of a lot of money spent by very smart people to alter people's thinking.

Too many people want to focus on Washington and campaign financing reform. We do need campaign financing reform. It would be the number one thing I would do, but what's changed in the last forty years since I've been involved is they can go over the heads of members of Congress, they can go back to their districts or states, they run ads, and they change people's attitudes. The elected officials who believe they are a delegate, who believes they have to represent the people in their district, or they get voted out and they vote somebody in that does believe in climate change, is not happening. Really, you're absolutely right; the lack of countervailing pressures and the incredible amount of power in the hands of corporations and moneyed interests has really changed the name of the game in Washington a lot.

Now, I'm not pessimistic about the future of America. One of the great things about a democracy, as I tell my students, is if this were Russia or China, they'd be in deep trouble, and I think both countries are in deep trouble because there is no way to bounce back. They have incredible control by a small number of people with a lot of money, but they don't have a democracy. They don't have freedom of the press or freedom of speech. There is no way to turn it around unless you crash and burn, which I think will happen to both of them in the not too distant future. But in the United States, once the pendulum swings too far to one side, it swings back. I think right now people

are beginning to realize that this thing has gotten totally out of whack. That's why this election in November is so important because is it going to continue down this road or is it going to be time to change.

One of the interesting things is—and I think President Obama missed an opportunity when he came into office by not making the same kind of speech that Teddy Roosevelt gave, and Franklin Delano Roosevelt gave, when they came in, and said we've got to rebalance the economic forces in this country. Teddy Roosevelt did it by the Sherman Anti-Trust Act, FDR passed a whole bunch of bills including Glass Steagall to realign things so there was more balance, and more countervailing pressures. Obama, if he had given that speech, and again, hindsight is 20/20, if he and his Treasury Secretary Timothy Geithner had not been so careful to take care of the banks and not do anything like England did with the Royal Bank of Scotland, where they actually went in and replaced the top executives. That was exactly what America did with the automobile companies. We did it with the automobile companies, replaced those CEOs, but we didn't replace the bank CEOs. It was a chance to redress this, but it didn't happen. I have a feeling that in President Obama's second term I think he sees this. If he gets another term I think he'll be a lot more concerned about addressing the economic balance in this country.

**RITCHIE:** Franklin Roosevelt was looking at recovery but he was also looking at reform. He was attacking economic royalists, and that actually strengthened him politically. But some of the criticism was that it didn't allow the country to get out of the Depression. I wondered if the administration thought that reform would be counterproductive to recovery?

**KAUFMAN:** I think that clearly Secretary of the Treasury Geitner believed that the banks were fragile. But the British did it with the Royal Bank of Scotland. We did it with the automobile companies. Why there couldn't have been a wholesale change in the management of these banks, I don't know. I'm an engineer, I have an MBA, and so I know a little bit about finance, a little about how complex finance is. I also know how complex, having worked in two corporations for over ten years, I also know how complex running a manufacturing business is. The idea that running a bank like J.P. Morgan Chase is more complicated than running General Motors, it just doesn't pass my test. It's ridiculous. We replaced Rick Wagoner at General Motors. Pulled him out and put somebody else in. But there's Jamie Dimon still running J.P. Morgan Chase. I just



don't get it. The Brits did it with Royal Bank of Scotland and they did just fine. They replaced the CEO, so it was just an attitude.

While I was in the Senate, Harry Reid appointed me to the congressional oversight panel on the TARP, the Troubled Assets Relief Program. He put me on the panel and there were five members. It was really a nice thing, the two Republicans and the two Democrats on the panel voted unanimously to make me the chair. I replaced Elizabeth Warren, who had been the chair and done an incredible job. She put together a great staff. One of my concerns when I went over there was that I had always had a great staff. I had a great staff when I was Senator Biden's chief of staff. I had a great staff when I was a senator. I was picking up a whole new staff, but they were wonderful, the staff director, the communications director, just great people—I shouldn't name anybody because they were all great. One of the things I found out was that out of all the money that we spent on TARP, we spent a lot of money, and Treasury spent a lot of time worrying about the banks but in housing we really didn't do anything at all. We had a program called HAMP, the Home Affordable Modification Program, which was supposed to modify four or five million mortgages, and when I left it had done about 700,000. Just never really had the attention of the leadership at Treasury. The first thing they did was appointed Fannie Mae and Freddy Mac to administer the program. I can't imagine picking worse agencies. But again, that's not Treasury's bag. That's not what they do.

Damon Silvers, who was my vice chair on the TARP, made an excellent point. We ended up—at one point they thought the TARP would cost \$700 billion. Then it came down to appropriation I think of \$350 billion. It ended up it's going to cost \$25 or \$30 billion, and people thought that was good. I thought it was good because we thought it was going to cost that much. But Damon Silvers made the point: "Yes, but we really didn't do anything about housing. Maybe if we had spent the \$50 billion that we had in the TARP for housing." We had \$50 billion in TARP for housing and when I left we had spent less than a billion dollars. That's exactly my point. We didn't put the emphasis on housing.

The Obama administration—again Obama as I've said before is a great delegator. I noticed that when I worked on the transition and watched him. He does delegate. He delegated this to Secretary Geithner and there's a lot written about it in these books, including *The Payoff* by Jeff Connaughton. Noam Scheiber wrote a book about the

Obama administration and he goes into the meeting I had with Geithner and the meeting I had with [Larry] Summers to talk about this.<sup>4</sup> They are good, smart people but they have just a different view of where the problems were in the country. President Obama delegated to Geithner and Geithner's approach was banks, banks, banks, banks, banks. The effort by the Treasury Department to try to deal with the housing crisis was embarrassing, and that's all documented in the hearings I had with the congressional oversight panel on the TARP and also the reports that I wrote. It's all there if anybody is interested in what happened. In my view, it wasn't an idea that was tried and found failing, it was an idea that was never really tried.

**RITCHIE:** It seems surprising in retrospect, given that the housing crisis caused the banking collapse, because of the risky investments, that they didn't go back to look into that condition.

**KAUFMAN:** Well, there again, this was a partisan issue. I mean the Republicans basically, by and large, said, "No, this was Fannie Mae and Freddy Mac. This was Barney Frank and Chris Dodd who didn't look after Fannie Mae and Freddy Mac. People were just encouraged to buy housing." I remember one of the most striking things of this whole campaign was—I had a hard time watching the Republican presidential debates, just because I had such a difference of opinion, but I was watching one debate because I was interested in how [Rick] Perry, the governor of Texas, would do. I thought he was the one person who would have the financial wherewithal to stay up with Romney so right after he came into the race I was out with my daughter Murry's family in Detroit. I started watching it and there was one segment where the questioner asked Michelle Bachmann, "What do you think about the fact that no one has gone to jail during this thing?" This was something that resonated with me. I had spent a lot of time and I had talked about it in this oral history about the Fraud Enforcement Recovery Act, FERA, and how much money and effort was put into it, but it is surprising and very disappointing to me that we never brought cases to trial to send people to jail for what I believe was fraudulent behavior. The Permanent Subcommittee on Investigations hearings on Goldman Sachs and Washington Mutual, and the rating agencies, demonstrated fraudulent behavior. But there were lots of things. The Lehman Repo 105 [a maneuver where a short-term loan is classified as a sale], so many things were just

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<sup>4</sup>Noam Scheiber, *The Escape Artists: How Obama's Team Fumbled the Recovery* (New York: Simon & Schuster, 2012).

clearly fraud to me. But we didn't bring any cases.

They asked Michelle Bachmann this question during the debate and she spoke for close to five minutes and said it was all Fannie Mae, Freddy Mac, Barney Frank, Chris Dodd, that was what did it. She never once blamed the mortgage brokers and Wall Street, not a word, not a syllable of blame. So to answer your question, the reason it didn't happen was more than forty Republican votes in the Senate just was not going to recognize that Wall Street was complicit if not caused this problem. The enormous securitization, the way it was organized, and then straight-out fraud as demonstrated as I said by the Permanent Subcommittee on Investigations. When I went to speak to people on Wall Street, and I spent a lot of time up there. It was like, "No, this was like a hurricane. This went through here like a natural disaster. You just don't understand, Senator Kaufman. This happened and then it moved on. All the bad people are gone. This is not a problem." And if you watched the financial programs, Lawrence Kudlow, a lot of the programs on CNBC—not the [Jim] Cramer program, but others—if you follow the financial press, that's the attitude. "Who me? What? No, there's nothing wrong here. We don't need to make any changes." That's really what they've said from Day One.

Their strategy has been to complain about regulations. They're complaining and people actually write in the financial press today, in September of 2012, about how the implementation of the Volker Amendment has caused all these problems, when the Volker Amendment has not been implemented. It is still in the rule-making process. I doubt if it will ever be implemented. But the financial press writes about it like, "Oh, my gosh, we've had to deal with the Volker Amendment!" I remember Goldman Sachs closed down their proprietary trading sections. Oh, yeah, cut me a break. And J.P. Morgan Chase. Meanwhile they've got this guy called the "London Whale" [Bruno Iksik] losing over \$5 billion, maybe as much as \$7 or \$9 billion by investing in what's got to be pure speculation. They call it hedges and they say it's not proprietary trading. Well, what I learned at Wharton, and what everybody knows is a hedge is to reduce risk. You can't lose a fortune on a hedge because the hedge is there to reduce risk. This was not a hedge, this was the London Whale trying to make a killing on the market, which J. P. Morgan Chase clearly had done in the past, and was one of the reasons why this whole section was set up. They cannot argue that if the Volker Rule was in place it would have made a difference, when you can have individuals at a bank through, if you want to call it investment, I call it, speculation—can lose billions of dollars and still have the chairman

of the bank say this is not proprietary trading. Clearly, they are still doing proprietary trading on a massive scale, and the Volker Amendment is not even law. All it is, is a rule that has been proposed by the four regulatory agencies that are supposed to look into it with, I forget what the numbers are now, three thousand questions raised, the vast majority by Wall Street banks.

**RITCHIE:** I can remember back, I think it was 1995, when Barings Bank failed in London because of rogue trader. Everybody seemed surprised at the time that a rogue trader could do this. Now there have been all these other rogue traders. The question is: Where is the management of the bank that allows this? It's not so much too big to fail but too big to manage.

**KAUFMAN:** Exactly right, that's true. They are too big to manage. Alan Greenspan said, "Too big to fail, too big." I say, "Too big to manage, too big," especially when the taxpayer is going to bail it out if it fails. The classic thing to me, one of the smartest people I've ever been associated with, not only personally but also from observation, is Bob Rubin, who was secretary of the Treasury under Clinton. I have had some disagreements with him. He was one of the leaders in doing away with Glass-Steagall, and changing rules on derivatives. But he's an incredibly smart guy. He's vice chairman of the board at Citibank. Number Two at Citibank, and he says he didn't know that Citibank had \$50 billion that they took off the balance sheet in order to make their balance sheet look better. He said he knew nothing about it. Well, let me tell you something: \$50 billion is not chump change, even at Citibank. The idea that the vice chairman—everything I've heard of Rubin makes me think he's an honest person, I don't think he would say that if it wasn't true—but if he didn't know about that \$50 billion then Citibank is too big. Too big to fail. Too big to manage. Too big.

**RITCHIE:** You mentioned the Treasury Department a couple of times, what about the Justice Department?

**KAUFMAN:** Well, the Justice Department was just incredibly disappointing to me. If you want to read about this, and my views on it, you can go to the Congressional Record and read my gazillion statements on it, or the University of Delaware website, where they have all of my floor statements, or you can go to some of these books. Probably the best book on this particular thing, the fraud enforcement and the financial reform would be Jeff Connaughton's book, called *The Payoff: Why Wall Street Always*

*Wins.*

**RITCHIE:** Which I have here. I have the Senate Library's copy.

**KAUFMAN:** Jeff has done an amazing job of laying it all out and making it very readable. He's a very good writer. It's kind of says what I was trying to do. Jeff was incredibly helpful to me as were a number of people. My chief counsel on Judiciary was Geoff Moulton, former First Assistant United States Attorney for the Eastern District of Pennsylvania, and Josh Goldstein, who was an intern and is now at the Yale Law School, was incredibly helpful on the high frequency trading issue. John Nolan, who had worked at Goldman Sachs and also worked on House side, came over and worked with me, and a number of other staff people. I think we have a very enviable record, which I think has stood up very, very well, based on what's happened in the next two years and I think will get better as time goes on. But Jeff has a very readable section of the book on what I did and why I did it. He talks about the meeting I had with Treasury Secretary Timothy Geitner and Larry Summers, and other things which I said and done, which I wish he *hadn't* put in the book! [laughs] But most of the book is very kind to me.

If you want to read about my views on that, that's an excellent way to do it, or you can read I don't know how many speeches I gave on the Senate floor, how many op-eds I wrote, how many columns I've written in the *News-Journal*, how many books have sections where they talk about what I did, which I am very proud of. I'm just proud of what the staff and I did, working with great senators like Sherrod Brown, Jeff Merkley, Carl Levin, Sheldon Whitehouse, Bernie Sanders, just so many good senators. We failed on Brown-Kaufman, which would have been the biggest thing. It was clearly the biggest vote on the Dodd-Frank financial reform, but we made the good fight and we fell well within my standard for success, and that is when the vote was over and we had lost, I didn't feel bad because I knew that I had tried as hard as I could. I had done everything I possibly could. I had used everything I had ever learned in my entire life, everything I had taught about, to try and get it done. But the votes just weren't there. Simon Johnson has written extensively in the *Huffington Post* and also in a *New York Times* on what the Brown-Kaufman Amendment was all about. Sherrod Brown has introduced it again in the 112<sup>th</sup> Congress. But that and re-introducing Glass-Steagall are two of the things that we're in big trouble until we do them.

**RITCHIE:** Well, a lot of legislation doesn't pass during the Congress when it's

first introduced. It often takes several Congresses. If the problem persists, then legislation keeps getting re-introduced until enough members pay attention to it.

**KAUFMAN:** And usually they pay attention because the pendulum swings back. If the legislation is really good legislation, time will show that the reason why it was put in was a good reason and what basically is the assumption when you put it in, that something bad is going to happen, happens, then people will do it. That's the reason why I still continue to talk to the press about high-frequency trading and Wall Street reform, because I want to lay down when in fact bad things happen—which I hope they don't but I'm convinced they will—my view of why they happen, so that when we get to fixing it we can have something laid out on why the bad things happened. One of the big things that happened in Wall Street form was the failure of that financial commission to look into why it happened. The Pecora commission in the 1930s did a great job of why Wall Street crashed in '29 and what we could do about it. We never had, really, a good investigation. Senator Shelby, the Republican chairman of the Banking Committee—who, by the way, voted for Brown-Kaufman, one of the few Republicans to vote for Brown-Kaufman, I think there were three, I should name them, they were John Ensign and Tom Coburn from Oklahoma. But Shelby was right when he said we never had a definitive discussion of what went wrong. The financial commission turned out to be just partisan. Exactly the point you raised earlier: why don't people think it? Because the Republicans on the commission refused to blame Wall Street for just about any culpability in what happened.

**RITCHIE:** Even Glass-Steagall was introduced in several Congresses before it finally passed, and it got tougher with each version, especially after the Pecora investigation.

**KAUFMAN:** That's why I say—when you spend a lot of time around the Congress you can get very philosophical. As the pendulum swings further and further, then the medicine is a lot harsher. In fact, one of my concerns is, that I've said from the beginning, if we didn't put these things in place, and we sent it to the regulators, and bad things happen, we're going to have over-regulation. We don't have over-regulation now, but we could get very punitive over-regulation. The pendulum never swings back to the center. If in fact folks of my ilk, if in fact we have another Wall Street melt-down, we're going to have over-regulation. That's not good for the economy, and I'm opposed to it. Either you deal with it in the cool, calm collective setting of “let's deal with it,” or you

do it in response to a major crisis. It's much better to do it in a cool, calm way, but I think it's actually going to take a crisis before we do what we have to do, on too-big-to-fail, on the proper capitalization of the banks, on high-frequency trading, and the dangers of that. If we don't get in and do something now in terms of legislation and regulation, we could do some real damage to the economy.

**RITCHIE:** In reading Jeff Connaughton's book, one of the things he was disappointed in was that he thought Vice President didn't have a say in who was appointed to the Treasury and the Justice Department, that that was out of his sphere.

**KAUFMAN:** No, no, he had his say. I was there for most of the time when they were picking that. I didn't see that section of Jeff's book, but the VP had his say. The way every complex organization works, whether it be a corporation, or a nonprofit, or government, or the church, or a university is that somebody's in charge—as George W. Bush said “the decider”—but there's also a bunch of people around the decider who help make it. Obama has always listened to Vice President Biden. One of the reasons why they have such a good relationship is because Vice President Biden did not want to be vice president, but he decided that it was his obligation to use what he had learned when the president asked him. But the deal was, he said “I'll do it, but I've got to be the last person in the room. Right before you make that final decision, I'm the last person in the room and I get my say. Then you decide what you're going to decide and I will follow your leadership,” which was incredible for someone who spent his whole life not working for somebody else. Forty years in the United States Senate not having to report to somebody else. I'm prejudiced but I think he's done a masterful job over these four years in so many ways and especially in sticking to that deal. And I think President Obama stuck to his deal. He's always had the vice president the last person in the room on all these decisions. But what's really amazing is that there's never been any indication that the vice president hasn't followed whatever the president said and defended the president.

Now, that being said, when I first came into the Senate and Harry Reid called up and asked “What committees do you want?” I said Judiciary and Foreign Relations because that's what Senator Biden had been on and I knew a lot about them. But in retrospect, after you look back on the time I spent here, I spent a lot of time on financial reform, which if I had known in advance I would probably have asked to be on the Banking Committee. The reason was because frankly the vice president is interested in

everything, and was involved in everything while he was a senator, but Woodrow Wilson said “Congress in committee is Congress at work.” He had picked the committees he was most interested in, which was Judiciary and Foreign Relations. He was interested in everything, but he was not that as interested in the whole Wall Street reform and those kinds of issues. He wasn’t on those committees. He was interested in fraud enforcement, and he’s a big backer of the fact that we needed the FBI agents to go after this fraud, but this was not an area of his expertise. When he waded in on the discussions, he waded on anything he thought he would be good and most of the time he waded in on issues in Foreign Relations and the Judiciary Committee issues, the general issues, the overall issues of what the tone of this government should be, and things like that. There’s no doubt that the vice president had input on every single cabinet secretary and undersecretary in the administration, that the president had because in those meetings he was there with the president and before the president made his final decision the vice president could, if he felt it, could weigh in.

**RITCHIE:** I got the sense of what he was saying was that he didn’t see people in those two agencies that were identified with Senator Biden before.

**KAUFMAN:** The Justice Department is full of Biden people! I mean *full* of Biden people. If you want a list of where Biden people are, there are a whole bunch of people in the Justice Department, and a whole bunch of them in our foreign policy establishment, and a whole bunch of them in the White House, OMB, and places like that. But since financial reform wasn’t one of his major interests, he didn’t have people in it. Although I must say, after I left the Senate I was offered two major positions in the financial area of the administration which I turned down. He would have had one person in the financial area if I had not decided that my time of full-time employment days was over and that I had a different view of where I was going to go.

**RITCHIE:** You weren’t even tempted?

**KAUFMAN:** I was not even tempted. These were jobs that twenty years ago, oh, my Lord, I would have loved to have had those jobs! It wasn’t just—to be totally candid, I was over seventy years of age. I knew what those jobs were. They weren’t sixty-five hour a week jobs, they were eighty-five hour a week jobs. And getting up to speed would have been 120 hours! There wouldn’t be time for sleep, and there definitely wouldn’t be time for anything else. So it wasn’t hard for me because I just don’t think at



that particular point in my life I could have really tried enough. I would have felt good about how hard I tried because the only way I could have accomplished it would have been to just say for as many years as I served that I was going to do nothing else. I mean nothing else. I'm not sure that I physically could have made that sacrifice. But I was honored that I was asked—really honored that I was asked. But there's a time for all things under heaven. It was not time for me to do those jobs, or the other jobs that I was offered.

**RITCHIE:** The other issue that Connaughton made a big point about in his book was how difficult it was to deal with people, especially in Congress, because they were seeking campaign funds from the same financial interests you were trying to reform.

**KAUFMAN:** Yes, I don't agree with everything in Jeff's book, We have a different view on a number of things. I do agree that we need to go back to publicly financing campaigns. I think the single most destructive thing that's come along in a long time is the *Citizens United* ruling. The Supreme Court really made a mistake on that decision. That was such an incredibly bad decision. And it's turned out to be exactly what we said it was going to be, not me but a lot of people said it's just outrageous. Let's forget about the general election, let's talk about at the primary elections where Governor Romney was able to carpet bomb Gingrich and destroy his candidacy in Florida because he outspent him five, six, eight, ten times. Did the same thing with [Herman] Cain, did the same thing with [Rick] Santorum, just carpet bombed them. People are giving millions of dollars. The press reports that this guy Sheldon Adelson has given a hundred million dollars. How can you justify a hundred million dollars? And for the court to say "this is not going to corrupt elections," clearly the system has been corrupted now.

But here's my opinion: I do not believe the popular perception of members of Congress, that someone comes in and says, "I'll give you \$10,000 if you'll vote this way or that way." That may happen but I've never seen it happen. I was never offered that in Senator Biden's office. I think people knew where I was coming from and where the senator was coming from. But here is how it is corrupting: if you and I wake up one morning and we both decide we're going to run for the Senate, and you say, "I'm going to run for the Senate because I care about the poor and disadvantaged. I think poverty is a real problem in this country. I think we've got to spend more money on education, especially for disabled children. That's really going to be my driving force in the Senate. I'm going to make it the keystone of my campaign." And I wake up and say—and

genuinely believe—that “What’s wrong with this country is not enough growth. In order to do that, we should be cutting the taxes on just about everybody. We should do away with corporate tax. I think capital gains should be eliminated.” All reasoned positions, and we both run for the Senate. Who’s going to get the money? There’s nothing corrupt about it. I’m going to get the money because all those people who are concerned about those issues have the bulk of the money. So you do have a bunch of people in the Senate—there’s a selection process that’s almost Darwinian—that share these views. Good people, a lot who are pretty liberal on a bunch of things, but do believe from the bottom of their being that this is really risky with the banks, we’ve got to be careful about this; it comes up especially when you talk about tax policy.

I got up in the Democratic caucus after I had been there for a year and I said, “I have been in this caucus for a year now and I can’t believe that I’m in a Democratic caucus. No one has mentioned increasing taxes. Not that we haven’t done anything about increasing taxes, no one has mentioned it. It’s been one of the great disappointments.” And I sat down. There are loads of people in the Democratic caucus who are left of center—they’re all left of center compared to the Republicans, according to the latest *National Journal-Congressional Quarterly* analysis—but they do share some of the views regarding capital gains, do share some of the views about taxes, but also do share the same view about regulation of the financial industry, and do believe that we can’t go back to Glass-Steagall no matter what, genuinely believe that the banks are fragile therefore you can’t implement Brown-Kaufman.

I think the place where Jeff and I would part—and a lot of people agree with Jeff, and I agree with Jeff on so much, but I don’t agree with him on everything, and this is one. The corrupting influence is who gets elected, not corrupting influence where members take money from the banks and therefore vote the way the banks want them to vote.

**RITCHIE:** Or at least have to go constantly seeking funds from them.

**KAUFMAN:** Yes, well, there’s the old quote, I think it was [George Washington] Plunkett who said an honest politician is one who when they’re bought they stay bought. You can make the argument that they took the money from the bankers and they then decide they changed their position when they saw what had happened but they’re afraid to vote that way because they’re going to lose the money. That could be.

That's an argument that people make on the NRA, the National Rifle Association. People run for office supporting the NRA position, then get into office and find out that it's wrong but don't want to stop taking the money and the support of the NRA. With the NRA it's a lot more support than it is money. But the whole campaign finance issue—if there's one thing I could do if I became czar of the world (I couldn't do it as president or chief justice of the Supreme Court), I would put in a public financing system with real teeth in it, because I think it so distorts the priorities of the country because certain kinds of people get elected who basically agree with the very wealthy of this country.

**RITCHIE:** I was surprised to hear the other day that Senator [John] Cornyn, who is the Republican Campaign Committee chair, said that in the next Congress “perhaps we need to look at campaign financing.”

**KAUFMAN:** I like Senator Cornyn a lot, but that is one where he is not saying pass, he's not saying do anything about passing it, he's saying look at. The one I love—I'm being sarcastic—the great ironies of the Congress are incredible. Mitch McConnell as a senator argued every single Congress when campaign financing reform was brought up, “all we need is transparency.” I mean, if there was a campaign finance debate and Mitch McConnell was coming to the floor, it was going to be about transparency. Since *Citizens United* passed, the Democrats proposed a bill to make things at least transparent, and Mitch McConnell says we don't need it. And this is not just Mitch McConnell and the Republicans, some Democrats if you watch their careers over twenty, thirty, forty years, you watch how—one of the great things about Vice President Biden when he was a senator, and I did it for the two years I was there, is he's very much a process person: look to the process. Be consistent. Know what you believe in. He knows what he believes in, look to the system, and then look to the process. Far too many senators look to the end result and will use whatever process is involved—I'm talking about people to the left of the spectrum and right of the spectrum—use whatever process there is in order to get there, where the ends justify the means. I say, when that happens, you're going to be embarrassed about the ironies and the vagaries of political life that you are going to be one embarrassed son of a gun, because at some point there's not going to that consistency in what you're doing and you're going to look like, to yourself, not to anybody that follows this thing, but to your families, a fool, because you say something and then two, four, six, ten years later you make absolutely the opposite argument. I must say, I feel bad for Governor Romney sometimes. I don't know how it hurts him politically but he consistently has to take a different position from the position

that he's taken in the past as governor of Massachusetts. I often say that running for the Republican nomination for president having been governor of Massachusetts is like running for the Democratic nomination for president having been the governor of Texas. To be elected governor of Texas you just have to hold a whole set of views that are just totally inimical as to where the Democratic party is, and I would say the same thing for Governor Romney for the positions he took in order to be governor of Massachusetts, which are inimical as to what the Republican party believes in. I'm not questioning his motivation; I'm not questioning how he did it. He says he had an epiphany. I'm a big believer in epiphanies, but boy it sure makes campaigning tough when you say one thing and then someone comes back and says, "Wow, you know, he said something different two years ago."

**RITCHIE:** That's the theme of Robert Caro's biography of Lyndon Johnson. He was elected locally but he had to had to try to appeal nationally, and there's always that tension between the two.

**KAUFMAN:** Well, one of the things about having spent eight years in North Carolina is the '60s, if you were going to run for office—like Johnson running from Texas—if you wanted to run for Congress this was not a negotiable position: You had to be for segregation. So that's a base decision if you're going to run for office. It's pretty much true now about guns. If you don't accept the NRA's position, you cannot run for the Senate or the House in most of the southern states. There's no way that you can get elected if you don't have the NRA position on guns. It's kind of interesting how many "liberal" Democratic senators come from Border States who have a very NRA position on guns. Again, it's a selection process. If two people are running in many of these states and one of them is pro-guns and the other is opposed to the NRA's positions, that's the end of that race. It's over. The NRA supporter is going to get elected. So you're not going to elect anyone from that district that does not support the NRA position. The only way that you get Democrats is Democrats who are pretty progressive on just about every issue but do believe strongly in Second Amendment rights to bear arms.

**RITCHIE:** There are a lot of interesting demographics coming out of the South right now. Because of in-migration, the southern cities are growing. Some states that were essentially rural states are becoming more urban, and the Democrats' choice of meeting in Charlotte was driven in part because a state like North Carolina is now more competitive because its growing cities counterbalance the rural areas that tend to vote

Republican.

**KAUFMAN:** I think the main thing in most of these states is the incredible growth in the Hispanic populations and African American populations. One of the great things about doing this for a long time is you really learn some things. It's like reading detective novels. I like solving the problem before you get to the end of the book. One of the things I found about myself that I really love being a senator, and I liked about staff, was if you look on public policy as a whodunit, what is the answer to healthcare reform, what is the answer to our policy in Afghanistan, the idea that you can get information, just incredible amounts of information, is great. It's just great to be able to sit down and know a lot about what we should be doing in Afghanistan, not that you have any answers but you're allowed to get a lot of information. As I've said many times, the great thing about being a senator is when you call someone they call you back, I don't care who it is. Just the ability to have the information allows you to know a lot of things.

After the census was announced and they talked about how there has been a redistribution of congressional offices, the headlines said big win for the Republicans because all the states that are losing congressional districts are in blue states and all the seats are being gained by the red states. I looked at that and said, "That is not necessarily good news for the Republicans." The reason why those red states are getting those seats is because of the growth in Hispanics and to a lesser degree in African Americans. You look at what's happening to the red states, they're going blue. That's the real story. When you look at a lot of states, North Carolina being at the top of the list, when you look at the growth in Hispanic voters who are Democratic voters—Obama won 67 percent of them, I forget what it is exactly—and African Americans are even more Democratic votes. As their population grows as a percentage of the population of the state, the state moves from being a Republican state to being a Democratic state, and that's absolutely what happened in North Carolina. Part of it is urban-rural, I agree with you, but I think the even more basic thing, having sat in a number of strategy discussion sessions on where the Obama campaign should place its emphasis, North Carolina is there, and that's because the balance of people who agree with the Democratic point of view as opposed to the Republican point of view is shifting, and that's right across to Texas. I mean, Texas is heading to be a Democratic state. The idea that the Republicans are going to figure out some way to get the Hispanic votes after all they've said during debate on immigration that is a total and complete pipe dream, at least for the next ten years.

**RITCHIE:** And that's one of the arguments about the voter ID laws that the same states are trying to discourage voters.

**KAUFMAN:** Right, and if they think that this Hispanics, and African Americans, and poor people aren't noticing what they're doing. They went through the Republican debates and just savaged Hispanics, just savaged them not just because of illegal aliens but denigrating them because they were Mexican, and doing it time and time again, and then think that they are going to pivot and do the etch-a-sketch, as one of Romney's staff said, and then win Hispanic votes, they're wrong. I'll never forget when Reagan became president, one of the architects of his success was a political operative named Lee Atwater, who was from South Carolina and supposedly invented the wedge issue. For Republicans a wedge issue is one that splits the Democrats and creates what became Reagan Democrats—people you would think would be Democratic voters but because of the social wedge issues would end up voting for Reagan. Lee Atwater announced that he was going to speak at Howard University and they were going to start getting the African American vote. I'm like "You gotta be kidding me! You think these people don't see what you do?" He went to speak at Howard and then two weeks later Ronald Reagan went to speak at Oral Roberts, which to most African Americans is not a place someone would go who was supportive of their futures.

I think these stories have been written in terms of the future of the Republican Party being in doubt because of the demographics and because of the positions they are taking, and continue to take. Articulate Republican writers and philosophers have been warning the party themselves that this immigration position that they are taking and wrapping themselves up in is incredibly shortsighted in terms of the future of the Republican Party. When you looked at the Republican convention and the Democratic convention, there were a lot of color and women on the stage at the Republican convention, but when you looked at the crowd it was basically an all-white crowd. When you looked at the Democratic convention there was a lot of color and different groups on the stage but also when you went down into the body. So in terms of the Democrats, whatever you think about the policies of the two parties, they are much better positioned demographically for what's coming.

**RITCHIE:** Even Karl Rove has been speaking out on this issue.

**KAUFMAN:** Oh, yes.

**RITCHIE:** But the problem is you've got a party base that's not amenable.

**KAUFMAN:** Well, it isn't just a party base. Again, go and look at the seven or so candidates for the Republican nomination. This is the leadership of the party, listen to what they say. Listen to what [Reince] Preibus, the head of the Republican National Committee, says. This is not just the base. Look at the votes on the House and Senate floor. Listen to the speeches. This is a pretty widely held position by Republicans and not just the base of the party. That's why so many people have left the Republican Party and become Democrats and Independents, because they just don't agree with the social policy and the kind of immigration policy, and a lot of the decisions that are being made by the Republican Party. The Republican Party in my state, Delaware, keeps getting smaller and smaller, and more and more united on the fact that immigration is a big issue, and abortion is a big issue, the kind of social issues that are driving out a lot of young people, a lot of minorities, and making them into Democrats or in many cases Independents.

**RITCHIE:** Do you think there's much chance for immigration reform in the next four years?

**KAUFMAN:** Oh, is there a chance, absolutely. But a lot depends of what we talked about before, and that's the dynamic—how does the Republican Party face up to the results in November, and how does the Democratic Party face up to the results. There is an excellent book written by Tom Mann and Norm Ornstein, who I look to for their writing on the Congress.<sup>5</sup> Norm is at the American Enterprise Institute, which is basically right of center. Tom is at Brookings, which is left of center. But in their book they point out that the gridlock is primarily caused by what the Republicans did, which I've talked about at length in terms of their decision that their only way out of the woods was to develop a gridlock strategy, just like Gingrich did in 1993-94. That's really where the gridlock is.

The problem with modern media now is they always want to say on the one hand and on the other hand. It drives me crazy. The classic one is: "The Republicans won't have tax increases and the Democrats won't touch entitlements," which is totally untrue.

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<sup>5</sup>Thomas E. Mann and Norman J. Ornstein, *It's Even Worse Than It Looks: How the American Constitutional System Collided With the New Politics of Extremism* (New York: Basic Books, 2012).

The Democrats just say the only way we're going to deal with entitlements, if in fact we get some revenue, which is where we should start. In terms of balancing the budget, George H. W. Bush supported this. Bill Clinton supported this. We actually ran a surplus. The Republicans are saying, "I don't care what." What was it their presidential candidates said in answer to a question at the Republican primary debate? "Ten to one spending cuts over taxes, I'm still not going to support it because I'm not going to support one dime in tax increases, no matter what." It isn't two parties that are having this problem. The Democrats aren't always right, I sure know that. But on this one, this is totally a Republican gridlock, not to increase taxes. Every Republican member of the Congress except for seven has sworn that they will never vote to increase taxes. I don't see any Democrats signing on to not cut entitlements. In fact, they will decrease entitlements that are no big secret. I've been in the caucus and made suggestions. They voted for doing something about entitlements, but they will not make it part of a grand deal unless it includes some revenue, because that's the only way you're going to get this thing done. As President Clinton said so articulately at the convention, "It's all about arithmetic."

Do you want to take a break? Let take a break and get some lunch.

**[End of the Ninth Interview]**

*Photos on the following page:*

Senator Kaufman's staff in Washington.

The Senator and his staff in Delaware





**THE MAN IN THE ARENA**  
**Interview #10**  
**Thursday Afternoon, September 27, 2012**

**KAUFMAN:** I talked about Dodd reading the [Ted] Kennedy thing, didn't I?

**RITCHIE:** About him reading the passage from his memoirs? Yes, you did.

**KAUFMAN:** About healthcare. I talked about that.

**RITCHIE:** Yes, I think you did. But I would like to ask you a question about that. That was an interesting insight into somebody in the conference standing up and inspiring people. Really, how important were those conference meetings?

**KAUFMAN:** Oh, the conference meetings were absolutely, positively necessary if you ever hoped to get everybody on the same page, regardless of what went on. There is just too much going on, too many things going on, that if you didn't meet regularly and kind of all join hands—not agree on everything but at least agree on the general area of what was going on, what the facts were and the rest of it. Being a majority leader in the United States Senate, or minority leader, is like herding cats. You've got all of these strong personalities. If you don't give them a chance to find out what's going on and to comment on what's going on, you've got chaos. You've got to have caucuses. I think there's a lot more now than when Joe Biden was there because one of things I noticed is nobody ever goes to lunch anymore. There's a caucus on Tuesday and the Policy Committee on Thursday, so there's a lot more meetings than there used to be.

**RITCHIE:** And they are not there on Mondays and Fridays.

**KAUFMAN:** They are not there on Mondays and Fridays, right. So it's essential, that's the first thing, absolutely, totally essential. I have to say, and it's really strange because a lot of people didn't like them, but it's one of the things I miss the most. It's funny, I learned this when I left the senator's office and I was out—not retired but not going to work every day—is that older women do a lot better job socializing than men. When they get to reach retirement, or are in their sixties, they have a built-in social network that men don't have. Men's social networks are built around the people they work with. It's not a cliché to say that a lot of men when they retire and get together with

old friends for lunch, they find out after about fifteen minutes that the only thing they have to talk about is the job. They don't have anything else to talk about.

I'll give you an example. I live in an area, and one of the reasons we moved there is because it's a great place to walk. So my wife gets up every morning and meets two, four, five, six, eight other women and they walk for an hour through this area. We've been there now for fifteen years, so I've driven out of there in the morning at everything from 5:30 to probably 10. I've seen as many as ten women walking together. I've seen a man walking alone. I've seen a man walking with his wife. I've never seen two men walking together. One of the things when you're growing up, men used to get together all the time, and they still get together to play golf and things like that. This is a long way to get to the caucuses, but the caucuses are a great social event. I enjoyed the company of the other senators, men and women. I enjoyed hearing what the other senators had to say—I may not always agree with it. But you go to lunch and hear different people express different strategies, it was a good group to get together. The same way on the floor when there was a whole series of votes, hanging out with the other senators, men and women, and talking about whatever, joking, they're very funny people, very interesting people. So the caucus provided an opportunity for everybody to get on the same page and to reinforce the fact that we're all together, working together.

There are just so many things going on that it's really important that leader and other members get up and talk about things. And then it's really important that there be some kind of debate. I know that to a lot of people outside it looks like the entire Democrats vote for Democratic issues and the entire Republicans vote for Republican issues. It's a lot more complicated than that. One of reasons why it works is the fact that there is an opportunity to get some debate in the conference. And then we've got our moment of history at every caucus meeting that you give. You're in the room, and when you look up on the wall and see [the portrait of] Mike Mansfield, the former majority leader, and you're taken—at least I was, and I think the other senators were too—you're taken with the fact this is very historic. This is not just some conference room at the Holiday Inn, there is a history here.

I remember Bill Moyers did a TV show during Watergate when Attorney General [John] Mitchell was testifying before the Watergate Committee and saying just awful things. A lot of people were saying awful things and nobody was critical of them. In the end it all worked out alright, but the committee didn't look to be that critical with some

notable exceptions. Moyers said, “I moved up here from Midlands, Texas, and I was in the Johnson White House, and there wasn’t a day that went by in the White House that I wasn’t taken with the history of the place. I’m standing in the place where Andrew Jackson stood.” He said, “None of this with Watergate ever would have happened if the people in the [Nixon] White House had a good sense of history and the obligation to do honor to those who came before.” In the end that’s the key, a lot of time in the caucus and on the floor, at a time when a lot of Americans don’t have that feeling, the idea that you are there for a higher purpose—not better, not that you’re smarter or anything else—but that you are there and you are standing in a place where so few others stood.

Now there are some senators who are the exception, but for most of the senators I think that’s how they were affected and how they approached things. Being part of a process, an incredibly important process, like speaking on the floor, or presiding over the Senate, but the caucus was really an opportunity to me that was a very positive experience. I looked forward to them, except on the days when I was really busy and didn’t have the time! But most days I looked forward to them. There were times when I was sitting there thinking, “What in the hell? What is going on here right now? I don’t agree with what’s happening.” Or “I can’t believe this.” But that was a very small portion of the time. Most of the time I found them very interesting and I was glad that I could go. It’s one of the things I really felt there was a big advantage in being a senator over being a staff person, because the meetings for the staff were never like this because the staff all had to be responsive to what their members wanted them to do. Not that it was a whole lot different, but you don’t have that freedom of action when you’re a staff person because you are a staff person. You’ve got to be cognizant of the fact that you’re representing your boss. There’s a lot of candor in those caucuses. So I found the caucuses to be incredibly positive.

There were lots of things, just little things, like when we were in late at night and you would just be there until 8 or 9 at night or later, what would happen is some of the wealthier members, like Jay Rockefeller or Dianne Feinstein would order out food for back in the cloakroom, off the Senate floor. There would be a big table put up, like the tables you see in the basement of schools and churches. They’d put on top of them an array of food. Sometimes they would order Chinese food, sometimes pizza, sometimes barbeque spare ribs or whatever it was, and senators would come back and get a plate and sit down and just talk. It was a nice feeling. Now, it was different if you had to be somewhere else, or you wanted to get home, or you were running for the train or

something like that. But that's why I had an apartment in Washington. I didn't have to catch the train or anything like that. But on the floor, talking to them, and the repartee back and forth, the opportunity to hear stories and find out about people and see where people are coming from, and the rest of that, it was a very positive experience.

Then there's the famous Senate gym. It's not a very fancy gym. I remember when Senator Biden first came there they had a medicine ball or something like that. He and former Republican Senator Bill Cohen from Maine were both into lifting weights and they got the first set of weights, I think, for the Senate gym. Now they have some fitness equipment, some treadmills, and Stairmasters, and things like that. But a lot went on in the gym. It was amazing to me how many times I would be embarrassed for the women because they were off in a separate section of the gym. We would be in a meeting, this came up a number of times in the Judiciary Committee where a senator would say, "Well, I saw a Republican senator in the gym and we decided to do this thing or the other thing." I would cringe because this is exactly one of the problems in our society for women. Having three daughters and three sisters, I've always been very concerned that women be treated well. But a lot of stuff did go on in the gym, especially bipartisan stuff. There would be somebody there and you'd be talking to them. Plus it was really great for me because working out is a really important part of me—I hate it but I mean in terms of being able to feel good and stay in shape, so exercise is an important part of that.

I try to stress this when I talk to people: The overall intelligence, hard work, and competence of United States senators would be hard to match in any organization I've ever seen for the overall quality. Very different people, but if you were trying to solve a problem, by and large a good group to try to figure out what to do.

**RITCHIE:** When senators stand up to speak in the conference, do you ever get a sense that they could change others' opinions?

**KAUFMAN:** Oh yes, absolutely. Remember, a lot of times you're talking about something that hasn't really been vetted in public. I saw a lot of bad ideas get killed in the caucus. There's an old southern expression—if you look around the room, everybody would get up and say, "This dog won't hunt." A lot of decisions were made by the caucus; most of it was the leadership. Harry Reid was very good at reaching out to other members. He had his whip team and the rest of it. There were some exceptions where a lot of people in the caucus were surprised by something, which is just the nature of the

way things are right now. But oh no, people were definitely affected by the debate in the caucus.

**RITCHIE:** Is some of these senators defending their state, saying “this isn’t going to fly in my state?”

**KAUFMAN:** I think when Senator Biden was there was more of that than there is now. People were doing that, but they don’t say that. They get up and make the overall argument. Like Mary Landrieu all during the BP crisis would get up and make the argument on what we should do. I remember she and Senator Menendez got into it one day because there had to be a new requirement that licensing fees for drilling wells in the Gulf. Menendez was very strongly for that, and she was saying, “Look, a lot of the smaller drillers can’t afford it.” They went back and forth on that. Frankly, it got pretty heated. But she was not making the argument for her state. Clearly, it was a Louisiana issue, but she was making the argument more for the overall economic reasons: We need more people in the Gulf drilling because we need more oil. Menendez was basically saying, “Yeah, but we’ve got to have them there. But it doesn’t matter if there’s a gigantic leak from a small driller or a big driller, the fact that a small driller can’t afford it.”

One of the things that amazed me while I was there was this kind of government by anecdote. Someone would get up and say—I think I mentioned this already about Senator Enzi, a Wyoming Republican whose office was across the hall from me, I liked him a lot but I can remember we had a discussion about lead paint, on requirements about what equipment contractors had to have in order to remove lead paint. Senator Enzi got up—and this happened all the time, I’m just picking him out as an example—he said, “You don’t understand, I’ve talked to some contractors in Wyoming who can’t afford to buy the equipment.” I’m thinking, “Guys, this is about lead paint. This has got to be bigger than the fact that some contractor can’t afford to pay for the equipment.” If *every* contractor in American can’t do it, or a majority can’t do it, then there’s no way we can get this done. Not that *a* contractor can’t do it, which is what Senator Enzi was arguing to kill the bill. It was government by anecdote. It was like “I’ve got a driller off the coast of Louisiana and he can’t pay for the fee, therefore we shouldn’t have *anybody* pay.” Way too much of that kind of thing on both sides.

But to answer your question, no, I think if you were going to make the argument



for your state you would probably do it one on one with another senator.

**RITCHIE:** I've always been impressed with how much senators know about their states. In passing you hear the conversations where someone says, "What's the unemployment rate your state?" and they'll rattle it off right away, and break it down by region within the state. They clearly see themselves as representing the interests of their states.

**KAUFMAN:** Well, it's an important part of what our job is. I mentioned before about the reporter who came up to me and said, "Why are you doing this, just to help Delaware?" I said, "The last time I checked, if you go down the list and find my name, it says Ted Kaufman D-Delaware. I do represent Delaware, It is part of my job. I do have a major responsibility for that." Of course, Edmund Burke and others, lots of people have talked about the great trade-off between: Do you represent your state interests or do you represent national interests? Of course, the issue that always comes up on is defense procurement, where now companies go out and manage to build an airplane that has some part from every one of the fifty states in order to get members to sign on. And it works. It's amazing to me no matter how small it is. I remember Senator Dodd on another nuclear submarine that affected three thousand employees in his state. Three thousand employees would be a lot of employees in Delaware, but even so. He was for this whole weapons system based on the fact that it was going to save three thousand jobs in Connecticut. My students absolutely deplore this pork thing; they deplore the idea that members would put their state's interests, and jobs, over the national interest. I think there is a trade-off between jobs in your state and the national interest, but it's got to be somewhat in alignment. There's nothing pure. You're not purely state or purely national. There are always trade-offs.

**RITCHIE:** I can imagine if a senator voted for a bill that was going to cost his state three thousand jobs that would be the campaign ad against him in the next election.

**KAUFMAN:** It may be, but I'm not so sure where people are today. It depends on the size and the rest of it. But I don't know, I think that people are so upset with elected officials who do something that's clearly in what they view is in their political interest over what is in the interest of the country that you have to be careful in that area. I'm not so sure that a spot saying "I saved three thousand jobs in XYZ" in a state the size of Connecticut—it's very important to three thousand people, but the other spot is going

to be, “This multi-billion dollar program is going to cost the people of Connecticut this much, plus it’s going to hurt our defenses.” There are all kinds of other interests. I haven’t seen very many people running either one of those kinds of ads.

**RITCHIE:** There have been ads about the sequestration and the impact that would have particularly on military-related jobs. It hasn’t even happened yet, but they are using it as campaign ammunition against each other.

**KAUFMAN:** Oh, yes, but there are a number of states that aren’t like Connecticut, like North Carolina and Mississippi, states that just have gigantic military presence.

**RITCHIE:** And Virginia.

**KAUFMAN:** Virginia, where sequestration is a big issue. There’s no doubt that it’s their number one employer. Clearly that’s a totally different story.

**RITCHIE:** One other issue I wanted to ask you about, again having stepped away from the Senate, to go back to the filibuster and cloture. There’s been so much written about it lately. There’s been so much focus on how it’s contributed to gridlock. Senator Reid has argued that there have been more filibusters in this Congress than ever before. Do foresee any kind of change? Do you think they’ll ever get to the point where the two parties won’t put up with it anymore and try to do something to resolve it?

**KAUFMAN:** Oh yes, I think they will. Let me just state first that there’s a wonderful book out by Rich Arenberg and Bob Dove about the filibuster.<sup>1</sup> Mark Udall and I wrote the foreword. Have you seen it?

**RITCHIE:** Yes.

**KAUFMAN:** I’ve written about it in my column, too. Just to start on the big picture, I think the thing that most distinguishes our form of democracy and makes America unique and so incredibly successful is our protection of minorities, but

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<sup>1</sup>Richard A. Arenberg and Robert B. Dove, *Defending the Filibuster: The Soul of the Senate* (Bloomington, Indiana University Press, 2012).



especially our protection of political minorities. Too many people think that democracy is about elections. Democracy is not about elections. I know President Bush and a bunch of folks said we should start having more elections because we're going to bring democracy to the Middle East. Well, there's a lot more to democracy than just elections. Elections are about majorities to start with, and then you've got to have a culture and the rule of law. But the big thing is they are about majorities. Far too often, we've seen around the world where you install just the election part of democracy and the majority comes in and the first thing they do is crush the minority. Which makes sense—the majority rules? Look at Hamas and the Palestinian Authority. Look at what goes on in Russia or most of the “Stans” where they have elections and the minority gets crushed. What makes our system so great is the fact that we protect political minorities. It's in the Constitution. Most of it was developed in the works by John Stewart Mill, which came after the Constitution but which talked about why it was important to protect political minorities. In cities in the United States there's a tendency sometimes for a mayor to get elected by a majority and then be punitive to the minorities. But the Supreme Court makes sure that the rights of minorities are protected.

Now, under our system where that works out and the reason why that is so powerful is because of the filibuster. The president gets elected by a majority, there's no real constitutional problem with that—I guess there are some things that the president could do. The House of Representatives is run by a majority. I'm a died-in-the-wool Democrat but the House in the 111<sup>th</sup> passed three hundred bills that the Senate never dealt with, and I'm sure that there are some of those bills that I think it was damn good they didn't get dealt with! I think there were a lot of good ideas in the healthcare act and in Dodd-Frank. Even though Republicans never voted for it, because of filibusters the Democrats were forced to put their ideas in. I do not believe that either party has a monopoly on all the good ideas. I think the fact that the Democrats were forced to take the ideas of the Republicans was a good one.

I believe that when you're in the minority—one of the great things about the Senate, and why it works so well in so many ways over the last twenty years is that you never knew when you were going to wind up in the minority. Before that, committee chairs would take all the staff. They wouldn't give any to the ranking member. Now they know that two or four years from now, I may be the ranking member, so I'm going to be a lot more considerate of the minority than I would be otherwise.

**RITCHIE:** In this Congress the majority leader has had to file cloture constantly. He's actually achieved it quite often, and a lot of times it's been on nominations. In the end, when they take the vote it's 94 to 6.

**KAUFMAN:** I've got a PhD in this because it always happens in the Judiciary Committee. It's quite clear what the Republican caucus decided to do with judges. That was they're going to hold up everything they can with the understanding that at the end of four years Obama will have only gotten 623 judges instead of 814. I mean, every single judge was held over for the next meeting. There is a rule in the Senate Judiciary Committee that you can hold them over for a week, in case everybody didn't have the required information. That was no longer arbitrary. Every single judge was held over for a week. And then, like you say, the nominee would have a majority in the committee, they'd go to the floor, they'd be held up for three months, and then the vote would be 100 to 0. It was clearly not trying to improve the quality of the decision or anything else, just trying to cut down on the number of judges that the Democrats could get through.

But when you have a situation where we're under a major economic crisis and three months into the administration the only person of high rank who has been confirmed by the senate, in the Treasury Department is the secretary, and he doesn't have any assistants because they are being held up in the Senate, then clearly we have to do something about it. I will guarantee you that if in fact the Republicans win the Senate, Mitch McConnell will use a lot of the arguments by the Democrats on why we should limit the filibuster, and eliminate the filibusters. I will guarantee you that every single person that was opposed to filibusters in the Democratic caucus will rue the day because Mitch McConnell with no filibuster will make the trains run at 120 miles an hour through the station, one right after another, and there will be no minority rights. That's just Mitch McConnell. He's interested in getting things done that he wants to get done. I think he's a good person, I really do, but he would ram it through, just like they did with prescription drugs. They had the votes.

**RITCHIE:** Despite the fact that there have been so many failed cloture motions, actually the Senate in this much divided Congress has passed some major legislation by bipartisan coalitions, because the issues were important to them: farm bills, post offices—everybody was in favor of not closing the rural post offices—the highway bill. So in the midst of all this polarized politics, people do come together.

**KAUFMAN:** Oh, yes. Look, a lot of what goes on in the Senate, you can have some bills that are extremely important that nobody ever heard of, one of the things is there are high-profile bills and low-profile bills, just to start with. It's scary sometimes the bills that pass because the electorate really doesn't know what's in the bills, or what the implications are. They can find out what's in the bill but don't realize what some of the implications are in the bill. Where if in fact a bill that's hidden the lights go on and everybody looks at it, the *New York Times* and Fox News starts reporting on it, and the bill dies. So a lot of it is how much light there is on it when it goes through. The second thing is that there are certain issues where it doesn't matter what the Congress does on it. The only thing your electorate is going to ask is: Why did you not vote for the post office bill? So the idea that the Republicans are going to foster gridlock and not get blamed for it because the Democrats control doesn't work, because I'm a member of the House of Representatives from the Third District of Kansas, people in the Third District are asking: Why don't we have a farm bill? Why don't we have a post office bill? We don't have it, how did you vote on that? So it won't be like, "Uhhh, the Democrats were ramming this thing through and I really had to stop them." "No, I don't understand; tell me again slowly why you voted against the post office bill, why you voted against the farm bill." That is the reality of the fact that in a democracy the majority rules and people can identify with the majority rules, and if you are in a majority on an issue they really care about that doesn't get passed, what happened?

The reason why there is so much gridlock is because on so many issues important to the country there's been a lot of money spent, and a lot of effort spent, to polarize the community on it. There isn't a whole lot of money being spent against the post office bill. There isn't a whole lot of money being spent against the farm bill. If you look at the 112<sup>th</sup> Congress, and you had to list the ten top issues in terms of the future of the country, none of them passed. The fact that something passed is good, but in terms of when you look at the urgency of some major problems—and again, that list of ten will differ depending on whether you're a Republican or Democrat—some of them would be on both.

**RITCHIE:** It's been interesting to me that on some of these big issues there has been bipartisan agreement in the Senate, which is supposedly the body where it's harder to pass anything, and they've never even come to a vote in the House, where supposedly the majority can get what it wants. It seems that the majority in the House is having trouble sticking together on some of these issues.

**KAUFMAN:** Well, I think the majority of the House doesn't want to pass this. Clearly, the Republican House has planted their flag very far to the right of center on these issues. They have taken positions because of the Tea Party—and I think genuinely held, not for partisan gain but because they genuinely believe it—that are really out of the mainstream. There have been a number of studies to show that these are the most out of the mainstream decisions in a long, long time. When the House decided to do that, there were a lot of members of the Senate who are not nearly as conservative or that far out of the mainstream as the House Republican caucus is. I mean, John Boehner has had major problems with where the caucus has been because he said he was going to do something and then he turns around and can't do it. There were a number of times when Mitch McConnell was left thinking "I never thought the House wouldn't buy this." So I don't think the problem is an institutional one. You have a body that is way out of the mainstream of political thought that only represents a minority of the people of the country and therefore takes positions that it is very difficult to get Republicans in the Senate to vote for because they don't agree with it. They've got two problems. One is they don't agree with it and two it would really hurt them back home. I think that's the problem.

**RITCHIE:** As I've told reporters, it's not that the House and Senate have been unproductive. Each one in their own way has passed a lot of bills. They just can't sit down together and agree on them.

**KAUFMAN:** That's true, but I saw Congressman [Paul] Ryan in the VP debate the other night talking about how he's passed all these bills and the Senate won't pass them. The only way you get legislation passed is when you pass a Senate bill you realize that you have to position it so you get votes in the House. These are not two institutions that are five thousand miles apart and nobody talks to each other. Every single Senate bill that's written, whoever is managing it on the floor, Republican or Democrat, they're trying to pass a bill in the Senate that they know can get passed in the House. What the House did over the last two years is pass bills that they knew the Senate wouldn't pass. What was it the Republican candidate for the Senate in Indiana said, "My idea of compromise is the Democrats take our positions"<sup>1</sup> He actually said that. If your position

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<sup>1</sup>In 2012, Indiana Republican senatorial candidate Richard Mourdock said: "My idea of bipartisanship, frankly, going forward is to make sure we have such a Republican majority in the US House, in the US Senate and in the White House that, if there's going to be bipartisanship, it's going to be Democrats coming our way."

is that my idea of compromise is the Democrats take my position, you then can't say, "Oh, look, I passed a bill and you wouldn't sign it." So I agree with you that they may have each passed individual bills, but the other thing, as you know as a historian, it's a lot easier to vote for a bill that you know is never going to become law. As long as the senators know that it isn't going to pass the House, they're a lot freer in what they're doing. If you have to vote for a bill that has to get Senate and House approval, it can't be too extreme.

**RITCHIE:** There have been some remarkable alliances. The fact that Barbara Boxer and James Inhofe can co-sponsor a highway bill together—

**KAUFMAN:** Well, a highway bill [laughs], come on, that doesn't pass the laugh test. Highway bills are about highways. Let's see Inhofe and Boxer get together on a global warming bill. You can get them to agree on highways. I loved watching the press reporting on how now that we're done with earmarks we can't get a highway bill because nobody has anything in the bill, so we ought to go back to earmarks. [laughs] That has got to be one of the most extraordinary arguments I've ever heard. We've got to go back to earmarks so that members of Congress will vote for highways. Like the bridge to nowhere? No, there are too many problems. You could fix every bill so every bill would pass. Would it be good for the country? I don't think so.

**RITCHIE:** Congressman Bud Schuster, when he chaired the House transportation committee, made it the largest committee in Congress because he figured that the more members who were on it, the more who would vote for the bill when it came to the floor.

**KAUFMAN:** Exactly. Just like Boeing wants to build an airplane that has a part made in every congressional district in the country. You don't have to be real smart to figure that one out.

**RITCHIE:** I've covered my territory but I know you have some other things you wanted to talk about.

**KAUFMAN:** Yes, there are a couple of things. One is follow-on to the idea that

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all members of Congress care about are reelection. I want to talk a little bit about Harry Reid. Every majority leader and every Speaker of the House for I don't know how many years has been reviled. If you want to be popular, don't take one of those jobs, whether it is Tip O'Neill or Newt Gingrich or Mitch McConnell or Harry Reid. I want to talk about Harry Reid for several things. The first thing is in regard to this idea that all members care about is reelection. Harry Reid was in a race that I never thought he could win in Nevada. Because of a lot of tough decisions he made as majority leader, he was not very popular. He ended up winning, but it was only because he ended up running against someone who turned out to be less popular than he was. But I watched him for two years and with just a couple of exceptions this man who controlled what came to the Senate floor did not bring things to the Senate floor that necessarily would help him win his reelection. I was saying to somebody, one of the vast majorities of people who say all members of Congress care about is reelection, and I said, "Go and look at Harry Reid's record. Look at every single vote and try to figure out how that helped him or hurt him in Nevada. Then realize that nothing came to a vote on the floor that he didn't approve." I think you would find with only a couple of exceptions that's what he did. He clearly was much more committed to getting something done than he was for his reelection.

The second thing is, it was amazing to see on extremely complex pieces of legislation how in the end he would sit down and really negotiate the final pieces in the bill, healthcare reform being a good example. He knew a lot about healthcare reform, but even so he would negotiate just extraordinarily complex parts of the bill and bring people into the room on either side and work it out in order to get all of the Democratic votes to get it passed. What was even more extraordinary, especially since I was so involved in Dodd-Frank, that Wall Street reform, was he *didn't* know a lot about Wall Street reform but in the end he actually sat down with everybody and worked out the agreements. Chris Dodd did a great job getting the bill passed. There were a lot of things I didn't agree with what Chris did but it was an honest disagreement. But Harry Reid was extraordinary in the way he would sit with groups and work it through. He is really quite an incredible legislator. Again, I didn't agree with some of his strategies in terms of getting things passed. I think he was much too focused on getting sixty votes to get things passed, but in the Congress I served we passed more legislation than any Congress since FDR, maybe even more. The biggest reason of all was Harry Reid's ability to manage the body and manage legislation, to get involved it and hold it together, and keep the caucus informed, and deal with Mitch McConnell, and deal with the president, and all those other things. He did an extraordinary job and I just wanted to talk about that.

This has been an extraordinary experience, to go through this. I want to thank you for taking me through it, and I am just pleased that I could put this down on paper. Before I ended I wanted to end on a point I've talked about a lot and that is public service, and what high regard I hold folks involved in public service, and especially hold federal employees and congressional staff. But I don't think we've talked about how important public service is and the real bonus of public service enough. What we don't talk about is how incredible the rewards are that come from just dedicating a portion of your life to public service. During my very long days in the Senate as a senator and a Senate staff, many times like every other Senate staffer I would leave the Russell Senate Office Building after dark, either to go, when I was a senator, and get my car to drive to my apartment, or when I was a staff person to walk down the hill to the train station. I would come out of the Russell Senate Office Building and look over my shoulder and see the Capitol framed against the night sky. Every single time I got Goosebumps. It's the same thing when I would ride into work in the morning. I would drive down Pennsylvania Avenue and Constitution and see the Capitol, just the pride of working in the United States Senate. Those days that I was there, they would be long days and we would be wrestling with incredibly tough problems—not that everybody doesn't have tough problems—but these are extremely complex and tough to figure out what's the right thing. But you know, during all those years, I never once went home and wondered what I was doing with my life. That is an incredible thing to have happen. No matter how bad things are, you say "I'm doing something that I think is worthwhile and I'm not wasting my life."

But the biggest bonus came at the end of my career. I hadn't really thought about it and I wish we could communicate it to people when they're making the decision about what they are going to do with their lives. I spent a lot of time in the private sector. I have many friends who have spent time in the private sector and doing a lot of good things. Many times, people who have spent their career in the private sector, friends I have now, accumulated significant wealth and frankly wonderful pensions. But even so, I find a lot of them are wrestling with the question: What have I done with my life? The big bonus, the part that we should talk about more, for those in public service is the satisfaction of knowing they tried to make the world a better place. It's not even that they succeeded, but that they tried. When I was working in the Senate for Senator Biden, many times—and I mean many times—we would talk about the title to the movie, "What Did You Do during the War, Daddy?" The big bonus, which we do not talk enough to young people about, is to tell them the satisfaction that comes from reaching the end of

your career and knowing they did all they could to answer the call to duty in the war for what they believe in. The quote that I've always felt sums this up best for me is from President Theodore Roosevelt at the Sorbonne in 1910 [reading]: *"It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, who comes up short again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who knows great enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat."*

**RITCHIE:** That's an inspiration for I'm sure a lot of people who have served in public office to realize that you can't win all of your battles, but it's being in the arena that makes the difference.

**KAUFMAN:** Yes, and when you're in public service and in the last ten years even more so, time and again people feel very free to be critical, to be sure they are right. There is a great quote from Irving Shapiro's book that goes, "The problem is not what people don't know, it's that so much that people know is wrong." Whereas maybe even fifteen or twenty years ago, and definitely thirty-five years ago, people would come up to me and say, "You've spent some time in Washington, this doesn't seem right to me or what about this." Now, it's like the other night I was at a cocktail party and a guy just came up to me and started out, "What's wrong with this country? Its way too partisan, and we don't have enough statesmen. It's all about partisan bickering. Nobody in Washington cares about anything except to get reelected." That was the first thing out of his mouth. It wasn't "Hey, how are you doing, senator?" Then I started talking to him, and he was a very smart guy. He wasn't buying what I was saying. He doesn't have to buy what I'm saying. People just feel that it is like a stadium and there are people down there fighting, and what they're getting from the audience is just exactly what Theodore Roosevelt was talking about. They get a lot of grief. I don't want this to sound like personally I'm upset about it or personally I'm upset with the people who do it. I'm not. I was not personally upset with the man the other night. We talked for a long time and I don't think I convinced him of very much, but I'm perfectly willing to talk to him. He kept apologizing, saying, "I know its Saturday night and you don't want to talk about



this.” I said, “It’s no problem for me to talk about it.”

I’m looking at the positive stage, and that’s in the end as Shakespeare said to thine own self be true. It is a great sense of satisfaction to say I tried to make a difference and I did everything I could to make a difference. There really is something, looking back on it, that’s ennobling. It’s exactly what Roosevelt said, of being in the arena, of fighting it out, getting bloody, but in the end you walk out of the stadium and say “if he fails, at least fail while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat.” That’s it exactly, and we don’t do nearly the job we should do telling young people about that. What’s great is that all the surveys show that young people coming out of high school, two thirds want to make a difference with their lives.

**RITCHIE:** There are lots of young people who always come to the Capitol, as pages and interns and others. Now when new senators arrive, it often turns out that they were pages and interns and volunteers and low-level staff years ago, and they stayed in it.

**KAUFMAN:** No, it’s amazing. One of the great things in my life is the obvious thing. One is teaching and all my ex-students. So many of my ex-students work in Washington, work in the Senate, work in the White House, work in the administration, and work downtown. The other is all the people who have worked on Senator Biden’s staff over the years, either as paid staff or interns. The final group is all the wonderful people I’ve worked with from the Senate staff and congressional staff. That’s why I did all those floor statements honoring federal employees. Every week I would get up and recognize a great federal employee. And by the way, I met lots of great people in my corporate experience, too. But I guess the reason why I raise this is because there is such a disparity between people’s view of federal employees and the reality of federal employees. For two hundred years, this country has done pretty well with federal employees, and the federal employees today are the best they’ve ever been, especially when you go back and read about federal employees in the past. Federal employees are by and large bright, hardworking folks. If I could talk to every young person in the country I’d say, “One of the things you ought to consider when you’re figuring out what to do with your life, having a career in federal service is a pretty good way to spend your life and feel good about yourself when you get to the end.”

When I look back on my time working in the senate, I genuinely could not have

done this without strong family support and enthusiasm. Starting with the love of my life, Lynne who has been my partner in all I have done. My three daughters and their wonderful husbands have been incredibly supportive throughout. Finally, the positive experience of being a senator was magnified a thousand times by seeing the joy of my grandchildren.

Don, your knowledge and assistance have been invaluable during this process.

**RITCHIE:** That's great. I appreciate that.

**KAUFMAN:** No, I appreciate your help. I couldn't have done this without you.

**End of the Tenth Interview**

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*Kaufman with wife Lynne after his swearing-in ceremony.*

# THE ACCIDENTAL SENATOR

BY TED KAUFMAN

FOR MORE THAN 35 YEARS, MY LIFE has been intertwined with Congress. But I had always worked in the legislative wings, serving first as a volunteer on Joe Biden's 1972 Senate campaign, then as his longtime chief of staff, and later as co-chair of the Center for the Study of Congress at Duke University, where I continue to teach. When Biden traded his Senate robes for the vice presidency last year, I was part of his transition team; I never considered that then-Delaware governor Ruth Ann Minner would appoint me to his old seat. After all, in politics, like volleyball, there are servers and spikers. So it came as a genuine surprise when Joe's son Hunter turned to me on a flight and asked, "Why not you?"

I could think of more than a few reasons why it shouldn't be me. I was almost 70 years old and had already paid the rent on a beachfront Florida condo for the winter. I was ready for a more contemplative life and greater stretches of time with my seven grandchildren. And I knew the less-than-flattering conventional wisdom: I would be a lame-duck senator with little ambition and no ability to get anything done. But the more I thought about it, and talked it over with family and friends, the more I realized that my situation was full of advantages. Far

from being a bystander whom "no one will hear from," as one op-ed put it, I would be in a great spot—ideally positioned to move straight from the sidelines to the Senate floor.

With a great staff already in place and no plans to run for election in 2010, I could take on Wall Street—funneling my outrage at the financial crisis into concrete reforms—without worrying about the political blowback. I wouldn't have to fundraise or campaign, two tremendous time drains. And as a temporary senator on a two-year tour, I would not have to pace myself. Most important, I would already know how the game is played. The Senate is a go-with-the-flow place, the proverbial saucer that cools the tea. But unlike the typical new senator, I wouldn't need any on-the-job training, and I already had relationships with the Senate's most-senior Democrats—many of whom were important committee chairs—including Dan Inouye, John Kerry, and Pat Leahy.

As a result, I was able to break out of my legislative pen early, helping to push through a key antifraud act, which not only funneled millions into law enforcement but created the Financial Crisis Inquiry Commission—a 9/11 Commission-style investigation into Wall Street's role in the

Great Recession. (To get on the bill, I just asked Judiciary Committee chairman Pat Leahy, who gave me carte blanche to push it in the Senate and the press.) Although I am not a member of the banking committee—the traditional place to take on Wall Street—my knowledge of the Senate (and my Wharton M.B.A.) has helped me tackle market issues through other means. Last fall I served as lead witness at a banking-committee hearing on computer-driven trading, the high-frequency strategies that allow traders to make money by merely churning the market, buying and selling stocks in milliseconds. In December I chaired a full Judiciary Committee hearing on the pursuit and prosecution of those responsible for the crash of 2008.

We're making progress. The Financial Crisis Inquiry Commission is rolling; the Securities and Exchange Commission seems to be regaining its footing. And those people responsible for the financial catastrophe are under active criminal and civil investigation. Like most Americans, sometimes I get frustrated with Washington. But after 37 years, it feels good to be spiking the ball.

*KAUFMAN is a Democrat representing Delaware.*



# The Replacement. Ted Kaufman says his party is ignoring the roots of the financial crisis

BY MICHAEL SCHERER



**Joe's seat** Biden's appointed replacement, Kaufman is making his last months in the Senate count

**A**S THE LAMEST OF THE SENATE'S lame ducks, Delaware Senator Ted Kaufman should be coasting at this point. No matter what happens in November, he will be out of a job a few days later, when his two-year turn as Vice President Joe Biden's appointed replacement comes to an end. "I'm junior," the wild-haired, 71-year-old former Biden staffer admits. "I can't get more junior."

But instead of sailing quietly into oblivion, Kaufman has decided to make waves. Most notably, he is challenging his Senate colleagues—and the Obama Administration—to get behind far tougher financial regulations than they have yet proposed, a move that has been unsettling to both bank lobbyists and White House aides. "I think most people know that I am really cranked up about this," Kaufman says with a smile.

In late March, after most of his colleagues had split for the Easter holiday, Kaufman lingered on the Senate floor, waiting for his chance to address rows of empty chairs, a few pimple-faced pages and the C-SPAN cameras in his latest well-sourced broadside against the conventional wisdom on Wall Street and in the White House. "Unless Congress

breaks up the megabanks that are 'too big to fail,'" he declared to an empty chamber, "the American taxpayer will remain the ultimate guarantor in an almost-certain-to-repeat-itself cycle of boom, bust and bailout."

As a policy matter, Kaufman's prediction is heavily debated among economists. But as politics, his critique threatens to undermine the White House's finely tuned election-year story line. To hear President Obama or his aides tell it, the coming Senate debate on financial regulatory reform will offer a clear choice to voters this fall between most Democrats who are defending the interests of Main Street and most Republicans who are in the pocket of Wall Street. Kaufman, by contrast, argues that neither party has yet shown much seriousness about undoing decades

**Kaufman has little faith in the White House's financial reforms. A key provision permitting the Fed to safely dissolve failing banks, he says, is 'an illusion'**

of deregulation, and nonregulation, that created the conditions for the financial collapse in the first place.

"Little in these reforms is really new," Kaufman says of the current White House-backed Democratic Banking Committee plan. He calls the provisions for new "resolution authority" to dissolve failing banks "an illusion," since the sheer size of the institutions makes painless, prepackaged liquidation unlikely. He worries about loopholes that exempt certain highly profitable derivatives from federal oversight. But most of all, he believes the current Senate plan, which relies on the wisdom of bank regulators, won't prevent another crisis. "The sad reality is that regulators had substantial powers," he announced during another Senate-floor speech in March, "but chose to abdicate their responsibilities."

The White House has mostly avoided direct public engagement with its unlikely critic. On ABC's *This Week* recently, White House economic aide Larry Summers dodged a question about Kaufman's complaints. "Senator Kaufman is exactly right," he said instead, sympathizing with the concern about large bank failures. In fact, on whether to dismantle the largest banks, it would be hard for the two men to disagree more.

**Kaufman, who has taught politics at Duke and holds an MBA from Wharton, traces the roots of the collapse to what he calls the "great regulatory meltdown" of the past two decades, a move that was largely endorsed by Summers when he served as Treasury Secretary under President Clinton. But the Senator has been careful to avoid criticizing Democrats directly. He says he has not talked with the White House—or former boss Biden—about these issues and has only words of praise for Connecticut Senator Chris Dodd, a onetime champion of deregulation who wrote the Banking Committee bill. "We just have a very different view," he says.**

In his Senate office, Kaufman has stacked the latest books on the financial crisis on his desk, background reading for his regular trips to New York to meet with bankers and analysts. Financial regulation is a crusade he never expected to take on when he accepted his two-year posting. But his 32 years as a Senate aide taught him not to be discouraged by long odds.

"One of the reasons I love this place is, I have been hanging out here since 1973, and you never know what's going to happen," he says. In other words, Kaufman is confident that the last big fight of his short Senate career has only just begun. ■





Joe

# Klein

## Mr. Smith Has Gone to Washington. Ted Kaufman never wanted to be a Senator. Maybe that's why he was so good at it

A FEW HOURS AFTER CHRISTINE O'Donnell, the Republican U.S. Senate candidate in Delaware, learned, to her surprise, in the midst of a debate, that the U.S. Constitution contains a provision that separates church and state, I sat down for lunch with the man she would replace, Senator Ted Kaufman. Most Americans have never heard of this man, but they know who he is: the perpetual Hollywood political fantasy, a Mr. Smith who has gone to Washington and, freed from the shackles of electoral politics, has simply done what he thinks is right. Kaufman was appointed to fill out Joe Biden's Senate term in 2009. He wasn't a complete political virgin: he was a former Biden chief of staff. The conventional wisdom was that he was a placeholder for the next Biden, Joe's son Beau, who was serving as Delaware's attorney general. "That's baloney," Kaufman told me, only he didn't use the word *baloney*. The younger Biden hadn't decided whether to make the race. "But it is true that I was never going to run for re-election. Why? Because I'm 71 years old. I figured that if I tried to run, it would consume 50% to 60% of my time. I would never have gotten the chance to actually be a United States Senator."

**Not that Kaufman ever wanted to be a Senator.** "It's like volleyball," he said. "There are setters and spikers. The chief of staff is a setter, putting the ball in the air so the Senator can spike it. I never had any desire to be a spiker. But I was wrong. I've really loved being a Senator." Rather quickly, Kaufman developed a reputa-

**Kaufman's lack of ambition freed him to tackle some of the more abstruse aspects of issues like the Afghanistan war, financial regulation and education**

tion as an extraordinary member of that body—literally, since he is the only U.S. Senator to have worked as an engineer (he also has an MBA), and figuratively, since his lack of ambition liberated him to tackle some of the more abstruse aspects of crucial issues like the war in Afghanistan (he focused on coordinating the civilian aspects of the surge), financial regulation and education, specifically the need to



produce more scientists, engineers and mathematicians. "I became an engineer because of Sputnik," he said. "The President [Eisenhower] called on us to catch up to the Russians in space. The funny thing is, in those days, the kids who weren't smart enough to become scientists and engineers became business majors. Now you have 11% of MIT's engineering graduates going to work on Wall Street."

Indeed, Kaufman has spent a great deal of his time in the Senate trying to make the world less profitable for Wall Street speculators, working on the nuts and bolts of financial regulatory reform. When I mentioned that many people thought that work was doomed to failure, since the wizards will always find their way around the rules, Kaufman exploded, "Baloney!" Only he didn't say that. "That is the stupidest argument. It's like saying you don't put cops in the toughest neighborhoods because there's always going to be crime there. We need cops on the

street, on Wall Street. Good cops, like the ones in the current Justice Department, Securities and Exchange Commission and FBI. Our problem was that the cops weren't doing their job. They'd stopped regulating—not just on Wall Street but also food and drugs and in the mining and drilling sector. Look what happened in the Gulf."

Still, Kaufman nearly voted against the financial-reform bill because it placed too heavy a burden on regulators. Fifteen years ago, the top six banks had assets worth about 17% of GDP, he said. "Do you know what the figure is now? Sixty-three percent." Kaufman wanted to break up those banks. He also wanted a complete reparation of commercial and investment banking—the return to Glass-Steagall rules—which didn't happen. "These people nearly collapsed the world economy," he said. "Congress needed to pass the laws that would specifically prevent certain kinds of behavior, but instead we kicked it back to the regulators. What happens if Lawrence Kudlow becomes President?" he added, referring to the libertarian Wall Street bloviator. "It's hard to look the American people in the eye and say we did our job."

**In the Hollywood fantasy, Mr. Smith goes to Washington and flagrantly fights corruption.** That's also the current Tea Party fantasy: people like Christine O'Donnell, armored only in ignorance, will go rogue and shake up the system. Talking to Kaufman, I realized that what Washington really needs is the exact opposite: people with expertise who take the system seriously—who know that it will always be flawed, that there will always be crime in the tough neighborhoods but are willing to struggle to make things better. I suggested to Kaufman that the President should hire him to keep working on these issues. "No. No! Please don't write that." "Why not?" I asked. "I'm old. I don't have the energy," he said. "Baloney," I replied, only I used another word. "Tough luck, Senator." So, Mr. President, if you're reading this, you need to pass the Ted Kaufman Employment Act. Hire this man. ■



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## When Senate appointments go well



Sen. Ted Kaufman (D-Del.) requested a meeting after reading [my post on how Sen. Kay Bailey Hutchison \(R-Tex.\)](#) should avoid leaving her seat open to a gubernatorial appointee. He didn't take kindly to my comment that "there are way too many people sitting in the Senate due to the good graces of a self-interested governor than to the voters." One of those people being Kaufman -- Joe Biden's former chief of staff, who was tapped to replace his boss after the 2008 election.

The cheerful and chatty senator made a good point during our hour-long meeting in his Senate office last week: "If I were governor, I'd pick someone like me. Someone who knows his way around. Someone who can hit the ground running and do as much as possible for me as governor" to help my state.

I still believe that gubernatorial appointments are undemocratic. As we have seen in other states, they're prone to manipulation by the governor, the office seeker, or both. But it's true that by picking Kaufman, then-Gov. Ruth Ann Minner ensured a continuity of knowledge and expertise in the Senate for her state. There are times when gubernatorial Senate appointments work out well.



Kaufman has a "Wow! I can't believe I'm here" air about him. "I never wanted to be a senator," he told me. "There are two kinds of people: those who want to be a senator and those who are staff. I considered myself staff." Still, he has embraced his new role. He sits on Biden's old committees: judiciary and foreign relations. As the Senate's only engineer, he has championed improvements to education in science, technology, engineering and math. And he has focused intensely on the economy. Just last week, he delivered a lengthy floor speech on financial regulatory reform.

I got the gangly gesticulator going by asking him to talk about his push for reinstating some form of the uptick rule on short sales. "Since there have been markets," he said, "there have been predatory bears. They do everything they can to bring the market down to make money." Waving a copy of Andrew Ross Sorkin's "Too Big Too Fail" on his desk -- "This book is great and a fun read!" -- he warned, "The people in New York [on Wall Street] are ready to short sell again, and this will bring down the financial system." And he said the process will be hastened by the combination of lots of money, high-frequency trading, the lack of transparency and the absence of regulation.

Kaufman made it clear upon his appointment that he would not seek a full term. (A vow he reaffirmed to me.) Some folks thought that was proof that he was a seat warmer for Biden's son Beau, currently Delaware's attorney general. Okay, I was one of those folks. But a funny thing happened after Beau Biden returned from a tour of duty in Iraq: He decided not to run.

So in November, the people of the First State will face a range of choices -- but an appointed incumbent and a legacy candidate won't be among them. We'll see if they elect someone with as much passion and experience as the person sitting in the seat now.

[This is the print preview: Back to normal view »](#)



## Arianna Huffington

Posted: March 18, 2010 08:09 PM

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## Celebrating Sen. Ted Kaufman, Accidental Leader

At a time when our political and financial landscapes are littered with villains and those unwilling to take them on, it's refreshing to find someone in the halls of power that we can unabashedly celebrate.

Enter Sen. Ted Kaufman of Delaware. Kaufman, Joe Biden's longtime chief of staff who was appointed to serve out his old boss's term, was originally thought to be a Senate placeholder.

But, far from biding his time, Kaufman has emerged as one of the Senate's fiercest critics of Wall Street and a champion of the need to push for a serious rebooting of our financial system.

When I met with Kaufman earlier today in his small, basement "hideaway" in the Capitol ("it took Sen. Biden 15 years to get one of these; I was lucky to get one right away"), the first thing I wanted to know was what had inspired his transformation from behind-the-scenes staffer to fire-breathing accidental leader. Was there a Road to Damascus moment?

"In the beginning," he told me, "though I was very upset about what had happened on Wall Street, it wasn't one of my key objectives. In fact, the committees I got on were Foreign Affairs and Judiciary. But then I started reading more and more about the way the SEC was failing to curb abusive practices when it came to short selling. So I started speaking out on that... and the blogosphere really got involved, reporting what I was saying. Then people started reaching out to me: 'You think this is bad about short selling, you ought to take a look at this'... or 'you ought to take a look at that!' So we started getting all this information, and then checking it out with academics, folks from the industry, we just started building this whole repository of things that were still going on as if nothing bad had ever happened."



Kaufman, who turned 71 on Monday, has a very unusual resume for a senator. He earned an engineering degree from Duke, followed by an MBA from Wharton. He then worked at DuPont before shifting his focus to government, working as Biden's chief of staff from 1976 to 1995.

The first piece of financial reform legislation he cosponsored, along with Sens. Patrick Leahy and Chuck Grassley, gave federal prosecutors combating financial fraud more power. President Obama signed the bill into law last May.

Since then, Kaufman has immersed himself in the often byzantine battles over financial regulation -- and watched as financial reform has been watered-down and lobbied within an inch of its life.

Frustrated, Kaufman has moved to the forefront of those willing to stand up and demand real change. While far too many of his Senate colleagues tinker around the edges of our broken financial system, creating what Kaufman has derided as "compromise measures that give only the illusion of change and a false sense of accomplishment," Kaufman is fighting to create a financial infrastructure that will protect us from having another financial meltdown.

In the last week alone, Kaufman has taken to the Senate floor to deliver two major -- and blistering -- speeches. The first was a masterful overview, offering chapter and verse on what led to the financial crisis and what, specifically, needs to be done to ensure that we "build a regulatory system that will endure for generations instead of one that will be laid bare by an even bigger crisis in perhaps just a few years or a decade's time."

Kaufman quite simply wants to put an end to "too big to fail" banks: "We need to break up these institutions before they fail, not stand by with a plan waiting to catch them when they do fail."

He believes strongly in the need for a "Glass-Steagall for the 21st century," the need to radically clean up the over-the-counter derivatives market, the need to make the shadow banking world far more transparent, and the need to better address "the fundamental conflicts of interest on Wall Street" that lead to securities fraud. Kaufman, looking very Lincoln-esque with his long, thin face and lanky build, doesn't mince words.

"Individuals at Enron, Merrill Lynch, and Arthur Andersen were called to account for their participation in fraudulent activities," said Kaufman. "But it is quite possible that no one will be held to account, either in terms of criminal or civil penalties, due to the deception and misrepresentation manifest in our most recent credit cycle."

Monday, on his 71st birthday, Kaufman took to the Senate floor to lambast the loss of the rule of law on Wall Street -- his outrage sparked by the damning report from the bankruptcy examiner for Lehman Brothers.

He reminded his colleagues that the American taxpayer has laid out over \$2.5 trillion to "save the system," and asked: "What exactly did we save?" His answer: "a system of overwhelming and concentrated financial power that has become dangerous... a system in which the rule of law has broken yet again."



After saying that he was "concerned that the revelations about Lehman Brothers are just the tip of the iceberg," he explained the overarching reason reform is essential:

"At the end of the day, this is a test of whether we have one justice system in this country or two. If we don't treat a Wall Street firm that defrauded investors of millions of dollars the same way we treat someone who stole \$500 from a cash register, then how can we expect our citizens to have faith in the rule of law?... Our markets can only flourish when Americans again trust that they are fair, transparent, and accountable."

The great thing about Kaufman is that he isn't afraid to use direct, pointed language, saying that "fraud and lawlessness were key ingredients" in the financial collapse. And he's willing to name names: in his attack on derivatives, he called out Alan Greenspan, Robert Rubin, and Larry Summers as key cheerleaders for unregulated derivatives markets.

Contrast that with Tim Geithner who, during his interview with Rachel Maddow this week, not once, not twice, but three times ascribed the financial crisis to a "failure of government." One time it was "an outrageous failure of government." The next it was "a tragic failure of government." The third, it was "a terrible failure of government." But before it was failure of government -- i.e. of regulations -- wasn't it an outrageous, tragic, and terrible failure of Wall Street?

Spending time with Sen. Kaufman, and witnessing his passion and determination to fix the system, I asked myself: What conditions helped turn him into a fearless crusader? And how do we get more like him?

Leaving aside his personal character and wisdom, which we cannot duplicate, there is one very big condition we can: The absence of money as a factor in our leaders' decision making. Kaufman didn't need to raise any money to become a senator -- he was appointed. And he doesn't need to raise any money for his reelection campaign -- he's not running.

At 71, with a long, distinguished career in government under his belt, Kaufman is completely unencumbered by the need to curry favor and approach moneyed interests with his hat in his hand.

So let's all take a good look at Ted Kaufman. This is what it looks like when our representatives are not beholden to special interests, and are only serving the public interest.

# Ted's Exclusive Interview with Steve Forbes

February 2, 2010

**KaufmanConnection**  
HIGHLIGHTS OF TED'S WORK FOR DELAWARE



**Ted recently sat down with Steve Forbes for a wide-ranging discussion of his efforts to hold Wall Street accountable and bring about needed systemic change.**

## **FORBES**

Intelligent Investing

**The Short-Time Senator**

By Alexandra Zendrian

Ted Kaufman has said he will only have one term serving Delaware as senator. Free from the political and financial pressures of having to mount a campaign he's been able to take on some of Wall Street's most powerful interests, including NYSE Euronext, Nasdaq OMX Group and big investment banks like Goldman Sachs Citigroup and Bank of America.

"I'm not carrying a pitchfork or leading a mob; I'm not even running for election," Kaufman said in a letter to the editor April 13, 2009, adding, "I simply want to use my two years in the Senate to stand up for free and fair U.S. securities markets."

At issue: dark pools where big investors can engage in private transactions that the rest of the market only learns about after the fact, and high-frequency trading that favors big players over small ones. He's also taken on an American law enforcement apparatus that prosecuted fewer financial crimes in 2008 than in 2003.

"People know that if they rob a bank, they will go to jail. Bankers should know that if they rob people, they will go to jail too," says the senator, who was appointed to fill the seat left vacant by Vice President Joe Biden.

Kaufman's first triumph was the Fraud Enforcement Recovery Act, which has assigned more FBI agents to financial fraud cases. These agents were moved to counter-terrorism investigations after the Sept. 11 terrorist attacks-- switch in priorities that cut into financial crime prosecution throughout the last decade.

He's met more resistance on dark pools and high-frequency trading. High-frequency trading makes up more than 60% of the trading done in the markets, according to a recent Aite Group report. There has been banter that high-frequency trading could lead to retail investors getting their orders front-run by someone with more sophisticated technology.

"Under the current system, until empirical data shows up to dispel our concerns, we have little reason to believe average investors can compete with the high-speed traders they are up against," Kaufman said on the Senate floor Sept. 14, 2009.

Kaufman is looking for more information on areas of the market since technology and other innovations that have grown rapidly with little study or consideration by regulators.

"Banning flash orders and imposing limits on dark pools should not be the end of the story, nor should they be seen as sacrificial lambs offered up by a substantial majority of Wall Street players as the price to

ward off deeper review," he wrote in a New York Times op-ed.

Kaufman's interest in trading is rooted in the health of initial public offerings in the market. A recent Grant Thornton report by David Weild notes that at least 360 IPOs are needed to keep the number of listings steady; that number hasn't been reached since 2000. (See "[No IPOs Means No Jobs](#).") The crippling of the IPO markets means that small businesses are losing ways to gain funding to, among other things, hire people.

"How can we create a market structure that works for a \$25 million IPO--both in the offering and the secondary aftermarket?" Kaufman asked in speech on the Senate floor on Dec. 16, 2009. "If we can answer that question, this country is back in business."

Kaufman is working to restore the uptick rule, which has been used to abate short-selling. The uptick rule was in place from the 1930s until 2007. Kaufman says that though he supports the uptick rule being restored, strict pre-borrow requirements are needed to address short-selling. Pre-borrow requirements would mean that shares about to be used for short-selling would have to be flagged or otherwise set aside for each user, which would eliminate naked-short-selling.

Many people have called for the uptick rule to be reinstated and for an end to naked-short-selling. But despite the public outcry for these things, no concrete rule has been put in place in these areas. Kaufman has been frustrated by the lack of action in this area by the Securities and Exchange Commission. But he notes that the SEC has several steep hurdles to climb, not the least of which are unwilling participants.

"Why is it so difficult for the SEC to mandate some version of the uptick rule or impose 'hard locate' requirements to stop naked-short-selling? Then it became clear: None of the high-frequency traders who dominate the market want to reprogram their computer algorithms to wait for an uptick in price or to obtain a 'hard locate' of available underlying shares," he said while testifying at a banking subcommittee hearing on market structure issues Oct. 28, 2009.

## Prism – American Society of Engineering Education

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### ONE IN A HUNDRED

**The Senate's only engineer has his work cut out, and not much time.**

**By Paul West**

It's a safe bet that few U.S. senators would headline a newsletter "Engineering Update." But Delaware's Ted **KAUFMAN**, who did, is not your typical senator. He champions the federal workforce – hardly a popular cause among politicians. He's both a freshman and a lame duck in a chamber where seniority and electability spell power. Yet he also has a line into the White House and the insight of a longtime congressional insider. Free of political ambition, he's spared the chore of campaign fundraising. Finally, he's the only senator with both an M.B.A. and experience working as an engineer. And with just a year left in office, **KAUFMAN** sounds like a man in a hurry to help redirect national policy – on education, finance, energy, and, not incidentally, training engineers. "I know I'm going to make a difference," he tells Prism.

**KAUFMAN**'s becoming a senator surprised many, including him. A trusted aide to Joseph R. Biden from 1972 to 1995, most of that time as chief of staff, he rejoined his former boss as a campaign adviser after Biden became Barack Obama's running mate. After the election, **KAUFMAN** was looking forward to playing tennis in Florida, where he had just rented a condo. Instead, he was tapped as Biden's successor. Spurning other choices, then Gov. Ruth Ann Minner, a fellow Democrat, said she appointed **KAUFMAN** because, as a Washington veteran, he could assume his new duties "without any learning curve at all." A second purpose soon emerged: that of clearing a path for Biden's son, Beau, the state's attorney general, to run for the Senate seat after completing National Guard service in Iraq.

#### 'Unique' Qualifications

**KAUFMAN** has declared he won't seek election in his own right in 2010, whether the younger Biden runs or not. But once in the exclusive Senate club, he vowed not to be a mere placeholder. Indeed, having already won respect from senior members of both parties, he brought "qualifications as a newcomer [that] are almost unique," says Ross Baker, a Rutgers University political scientist.

Cerebral, lean, and craggy, **KAUFMAN** is not charismatic in a conventional sense. He's a practiced lecturer, having taught a course on Congress at Duke's law school for years. But he reads a prepared speech in workmanlike fashion, half-glasses perched low on his nose. At times, he speaks in a rapid-fire mumble, as though he's too impatient to form complete words. When a topic engages him, however, **KAUFMAN** projects a compelling intensity.

One such topic is the danger to U.S. competitiveness posed by America's failure to produce enough engineers and scientists. By not emphasizing the importance of science, technology, engineering, and mathematics (STEM), the country is missing an opportunity, **KAUFMAN** argues: "Young people today, kids in middle school and high school, want to make a difference. The problem is, they don't view engineering and science as the way to make a difference."

Meeting with a group of engineering deans last fall, **KAUFMAN**, 70, voiced concern about the kinds of jobs that will remain for his grandchildren's generation. He admitted that he hadn't spent much time thinking about the engineering pipeline until he found himself in the position of being the Senate's only engineer. He cited a prediction by Silicon Valley venture capitalist John Doerr that the green economy will have triple the impact of the Internet. Then he mused about China's potential to outpace the United States: Once eyed as a market for Western clean-energy technology, China is surging ahead to develop and export its own. He pressed the deans to suggest what more he should be doing to help prevent an eventual U.S. decline.

Eager for Congress to approve energy and climate legislation, **KAUFMAN** believes engineers must be at the heart of a green-jobs recovery: "When you talk about solar or windmills or biomedical or geothermal or any of those things, it means more engineers." Yet the challenge can't be met just by pouring money into higher education and the National Science Foundation. The choke point can be found in secondary school, he points out: "If you don't take calculus in high school, you can't go to college and be an engineer or a scientist."

Driven by such concerns, **KAUFMAN** is the prime Senate sponsor of legislation requiring coordination of STEM education activities and sharing of best practices across all federal agencies. It would establish a committee under the National Science and Technology Council, which the president chairs, to prepare a five-year plan and produce annual progress reports. A nearly identical bill, introduced by Rep. Bart Gordon (D-Tenn.), has already passed the full House. With a minimal \$2 million estimated cost and certain backing from Obama, who tried and failed to pass a similar measure while a

senator, the bill appears likely to become law sometime in 2010, possibly attached to another piece of legislation.

The paucity of women and minorities in the STEM fields also worries **KAUFMAN**. He helped insert \$400,000 – “small, but a beginning,” he says – into a 2010 spending bill, signed by Obama, for research and extension grants aimed at boosting participation by women and under-represented minorities in STEM fields. Land grant colleges serving rural areas are eligible to apply. “How can you have the best and brightest, if you don’t have women and minorities?” he asks.

**KAUFMAN** sees a chance to recapture a period, before Wall Street lured graduates hoping to strike it rich, when engineering beckoned the brightest. “I was there when we went through the Sputnik thing,” he told a symposium on K-12 engineering education last September. “All of a sudden, the best students in all the schools wanted to be engineers.”

### Early Career Change

For his part, **KAUFMAN** “drifted into” the field. He was raised in Philadelphia, where his father, trained as an artist, was a social worker and his mother was a teacher. “I didn’t know about engineering from a bag of donuts,” he says. But at the city’s Central High School, from which he graduated in the mid-Fifties, “if you were really smart,” you “went into STEM.” He did.

With a degree in mechanical engineering from Duke University (his M.B.A. is from the University of Pennsylvania’s Wharton School), **KAUFMAN** joined the DuPont Co., where he held technical, finance, and marketing positions. In 1972, he took a leave of absence from the Delaware-headquartered company to join Biden’s first Senate campaign. He never returned, instead accompanying Biden to Capitol Hill. Biden calls him “the single most important person in my career.”

**KAUFMAN** left Capitol Hill in 1995 to set up a political consulting business in Wilmington, Del., but maintained a connection to Washington when then President Bill Clinton named him to the Broadcasting Board of Governors, a bipartisan panel that supervises all U.S. international, nonmilitary broadcasting. He was reappointed by President George W. Bush.

Professionally, **KAUFMAN** says, he's guided more by his head than his gut, drawing on concepts and analytic tools from engineering and business. "I do find that a lot of things that were kind of inculcated in me in engineering have really helped me through my life in terms of being able to approach problem-solving and decision-making," he notes. "I think it's right side of the brain, left side of the brain. It's art versus science."

That engineer's mind sets him apart in an arena dominated by career politicians. "This guy is driven by logic," Biden tells Prism. "He and I will get in a hollerin' match, but . . . every single problem we're trying to solve, he goes, 'What are the facts? What is the specific problem we're trying to solve?' Then he goes, 'Okay, that's the problem.' Then, 'Here's the logical solution.'" **KAUFMAN**'s approach, says his longtime boss, is that "there is no problem we can't solve if we sit down long enough and argue it out."

**KAUFMAN**'s advocacy on behalf of engineering and STEM education generally has cheered engineering educators. "To find someone who actually understands the language was just unbelievable for us," says Darryll J. Pines, dean of the University of Maryland's A. James Clark School of Engineering.

But the engineer-senator is not just the engineers' senator. **KAUFMAN** has led a relentless, and already successful, push to crack down on Wild West trading behavior in financial markets. At the urging of **KAUFMAN** and others, the Securities and Exchange Commission proposed new rules to curb short-selling and is considering additional demands for more sweeping changes in market structure, including arcane practices like flash trading and dark pools.

**KAUFMAN** has traveled to Afghanistan and Iraq to gauge the situation first-hand, and gained congressional backing for a measure to align the work of U.S. diplomats with the military's counter-insurgency strategy in Afghanistan. His private advice is welcomed by Biden, to whom **KAUFMAN** is "the guy I most rely on and – to tell you the truth – I still do."

In addition, **KAUFMAN** launched a crusade on the Senate floor to promote government service, designed to counter political attacks on federal bureaucrats and highlight the work of individual public employees.

**KAUFMAN** says he's been bothered for years by the denigration of federal employees. "So what I decided to do when I was here – it just kind of came to me – was, every week, I pick out a different federal employee. And they aren't only the ones that won the Nobel Prize – I've got two Nobel laureates on there – it's people who came to work every day, made a difference, and did a job well."

Exerting the same kind of effort himself takes a toll. "This is intense. This is a load," **KAUFMAN** tells Prism with a laugh. "You know, when I come home at night, I'm really tired." It is no fun growing old, he reflects, "but you learn some things that are really important." One is that "you don't have to win. You just have to try, and if you can look inside yourself and say you tried as hard as you can, that's enough."

*Paul West covers national politics as the Baltimore Sun's Washington correspondent.*



10/8/10

## **Ted Kaufman was a model U.S. senator**

Joel K. Goldstein  
Special to the Star

Most Americans do not know who Ted Kaufman is.

They should.

Kaufman, who was appointed in January, 2009 to the Senate seat Joe Biden vacated, gave his final speech from the Senate floor last week and, having not run to retain the seat, will leave office following next month's midterm election.

His service as a senator, brief though it was, made a lasting impact and provided a model for the sort of leader all citizens should seek. Ironically, Kaufman's exemplary service also exposed part of what ails our political system.

I followed Kaufman's service closely because my son worked for him this past year. I am biased, but expert observers share my admiration for Kaufman. For instance, Norman Ornstein, a leading authority on Congress at the American Enterprise Institute, wrote in Roll Call last spring that Kaufman is "always high on my list" of admirable members of Congress.

Ornstein could think of no one who had come to Congress "better prepared to contribute immediately across the widest range of issues or with more of a commitment to act in the public interest."

A few samples of Kaufman's work are suggestive. Kaufman authored the Pre-Election Presidential Transition Act which Congress passed last week to enhance the ability of a new administration to hit the ground running. Kaufman became the leading spokesperson for the need to reform securities markets to protect average investors and he pressed regulators to remedy market bias which favored high frequency traders and to make markets more transparent. His proposed legislation to break up megabanks was unsuccessful but it focused attention on the perils of a system in which certain institutions are "too big to fail."

He promoted education in science, technology, engineering and math, played a leading role in combating financial fraud as a co-author of the Fraud Enforcement and Recovery Act, and encouraged public service by spotlighting the work of some exemplary government employees.

In addition to his intelligence, knowledge of public policy and deep understanding of the Senate, Kaufman brought other rare qualities to his public service which all should value in their

representatives. He was willing to invest time on complicated problems which attracted few headlines but impacted the lives of millions of ordinary Americans. His pioneering efforts to reform securities markets and his legislation on presidential transitions offer two examples.

He acted independently and courageously in discharging his public duties. Witness his legislation to break up huge banks, an effort which was opposed by the White House, many Democratic leaders, the financial interests who would be affected, and virtually the entire Republican Senate caucus. Or his support for the filibuster notwithstanding recent abuses and criticism of it by many Democrats.

And Kaufman worked in a bipartisan manner on various initiatives. He co-authored legislation with Senator Johnny Isaakson (R. GA.) to curb abusive short selling, founded a Senate caucus on global internet freedom with Senator Sam Brownback (R. KS.) and teamed with Senator George Voinovich (R. OH.) on the presidential transition bill.

In addition to his talents and character, Kaufman had an advantage over many of his colleagues. Because he was not seeking election he could be a full-time senator and focus all his attention on legislating in the public interest.

It is a sad commentary on our democracy that the burden of raising money to fund re-election campaigns and the never-ending campaign cycle prevent many senators from being effective legislators. We must address this problem to heal our political system.

In the meantime, we should appreciate the enormous contributions Kaufman made, and look for others who share his qualities.

*Joel K. Goldstein is the Vincent C. Immel Professor of Law at the Saint Louis University School of Law.*

Read more: <http://voices.kansascity.com/entries/ted-kaufman-was-model-us-senator/#ixzz11s3r62Pg>

# An Exit Interview With Delaware Sen. Ted Kaufman

November 9, 2010

NPR's Robert Siegel talks with outgoing U.S. Sen. Ted Kaufman, a Delaware Democrat, who was appointed to Joe Biden's seat when Biden was elected vice president. Kaufman's 22-month term in office will end next Monday when Chris Coons is sworn in.

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ROBERT SIEGEL, host:

If you count literally, then Ted Kaufman's soon-to-conclude Senate career is one of the shortest in the chamber. He was appointed January 15th, 2009 to fill the vacancy that was created when Joe Biden of Delaware was elected vice president. Next Monday, after 22 months as a U.S. senator, he will vacate the seat in favor of Delaware's Senator-elect Chris Coons.

On the other hand, if you figure that Kaufman's time in the Senate began as a staffer in 1973 when he went to work for Senator Biden and that he spent nearly 20 years as his chief of staff, in that case, a long career in and around that august chamber is about to come to an end.

Senator Kaufman, good to talk with you again. Welcome back.

Senator TED KAUFMAN (Democrat, Delaware): Hey. Thanks for having me.

SIEGEL: And I'll ask you about securities fraud and the state of the republic in a moment, but first, what's it like to go from being the career staffer - briefing, planning, hiring, firing for someone else - to be the guy who's having all that done for him?

Sen. KAUFMAN: Well, it's - I always thought it was a gigantic change, and I used to - you know, I taught about it. I've been teaching about it for 20 years at Duke Law School about the Congress, and I always used to say about, you know, there's - that the staff people are like - it's like volleyball where the staff people are the setters and the senators are the spikers. And it doesn't mean one is better than the other. You can't get by with either one of them. But I did find it's an incredible experience to be a United States senator. And it's - one of the reasons is that when you're a chief of staff, especially, you spend a lot - I remember one time a chief of staff introduced himself to a group and said I'm so-and-so's chief of staff, and my job is to worry.

(Soundbite of laughter)

Sen. KAUFMAN: And I think when you're a chief of staff, you really do. You worry about everything. And if you don't wake up one or two nights a week, staring at the ceiling, worried about something, then you're not really doing the job. But as a senator, not once did I ever wake up in the middle of the night worried about things.

SIEGEL: A senator can sleep soundly at night knowing that someone else isn't.

Sen. KAUFMAN: A senator can sleep soundly...

(Soundbite of laughter)

Sen. KAUFMAN: ...exactly right, exactly right.

SIEGEL: Now, one thing that you pressed for was a tougher crack down on Wall Street.

Sen. KAUFMAN: Right.

SIEGEL: And here back in April, you talked about the prosecutions you expected to come. A civil suit was brought by the SEC against Goldman Sachs, which was settled for half a billion dollars.

Sen. KAUFMAN: Right.

SIEGEL: But, you know, I read yesterday that the Financial Industry Regulatory Authority fined Goldman another \$650,000...

Sen. KAUFMAN: Right.

SIEGEL: ...I think the equivalent of my getting a parking ticket.

Sen. KAUFMAN: Exactly.

SIEGEL: Is it fair to say that the market crash of 2008 has essentially passed without prosecution?

Sen. KAUFMAN: No, I don't think we're done yet. I have had two hearings after we passed the bill that gave the Justice Department more FBI agents and more prosecutors, and it takes a while. These are very complex cases to run. They've had a number of civil rulings, and they've gotten rulings on, you know, Bank of America and Citigroup and others. This has not all played out, but, you know...

SIEGEL: But...

Sen. KAUFMAN: ...I don't think this is over.

SIEGEL: But to cases that are brought three and four years after the fact...

Sen. KAUFMAN: Right.

SIEGEL: ...do they have any deterrent value if they...

Sen. KAUFMAN: Oh, yeah.

SIEGEL: ...(unintelligible)?

Sen. KAUFMAN: No, I think they still have deterrent value. The (unintelligible) can you really bring them, though, because after three or four years, I mean, all of us that have watched "Law & Order" know that if you don't get somebody in the first 24 hours, right, it's hard to find them. So going back on the trail, and they point out - and they point out in the hearings and everyone has that Wall Street fraudsters are not like drug dealers. Drug dealers kind of just commit one crime after another.

When you commit fraud on Wall Street or endanger it, you have good attorneys around you to kind of clean up after you. So they clean up as they go. And then when you actually go to trial, these are very, very, very complex cases. But I still think we will have some good cases. And I also think that if isn't a deterrent, they will continue to do that. And I think we have the people in place now at the Securities Exchange Commission and the Justice Department to hold them accountable.

SIEGEL: Think back to the 1970s, when you were first working in Senator Biden's office, does the conventional wisdom that the Senate is a very different place, a less civil place today than it was then, does it check out for you, or is it pretty much the same?

Sen. KAUFMAN: Well, I think it's pretty much the same, but it's a lot more civil than it was 15 years ago when I left Senator Biden's office in 1995. In the Senate, the civility is excellent. I mean, you can watch it on C-SPAN. Members aren't down on the floor yelling at each other. Basically, the senators - I find the vast majority of senators like each other regardless of party.

And the other thing that you hear from people is the Senate is dysfunctional or gridlocked, but we passed more legislation in this Congress. I've been around - 40 years I've been around and talking to some of the experts around town who follow this, more legislation since FDR. So it's not like we have gridlock now.

Do people like legislation? They may not. And do some people wish that we could have - like I did - think to be good if we had a health care bill that had the public option in it? Absolutely. But you can't say it's dysfunction or gridlock when you passed such an incredible amount of legislation.

SIEGEL: By the way, based on your lifelong experience of the legislative process in Congress, would you say that the health care bill is pretty much immune to legislative attack now, or that it's extremely vulnerable and it could well be undone in Congress?

Sen. KAUFMAN: Look, every time we - this is one those things - every time we passed major legislation, I don't care what it is, we spend the next few years, you know, fixing it. So we're going to be changing health care reform, and I think it's healthy that we do.

SIEGEL: No, but I mean undoing. I mean, people who have come to town saying let's repeal Obamacare, very frequently heard from Republican candidates.

Sen. KAUFMAN: Yeah, no, I do not believe that'll happen. I believe the vast majority that would require people to really look in detail with amendments on what they want to remove.

For instance, I've not run into one person, a civilian, not on the Senate, the Senate staff or something like that, in America that knows that in that bill are incentives to create 20,000 primary care physicians.

Now, do we want to you know, they don't even know it's in there. What's going to have to happen, I think, is people are going to have to go back and actually look at the bill and say okay, this is what we want to do. And when they do, I think they're going to find that most of the things that are in that bill, when it comes to be actually litigated, most Americans really, really will like.

SIEGEL: Well, Senator Kaufman, thanks a lot for talking with us once again.

Sen. KAUFMAN: Thank you, Robert.

SIEGEL: That's Senator Ted Kaufman, a Democrat of Delaware, whose time in the Senate ends next Monday.