

A PARTICIPANT OBSERVER
Interview #5
Thursday Morning, June 10, 2010

RITCHIE: I was wondering, was there anything that you thought of after our talks yesterday about Senator Mitchell or anything else that you wanted to add into the record?

ARENBERG: Yes. The one thing that I thought would be of some historic interest is the so-called congressional bunker that was constructed in West Virginia. It was built during the Eisenhower administration under the famous Greenbrier Hotel in White Sulphur Springs, West Virginia. It appears that it was one of the best kept secrets, outside of White Sulphur Springs, where it turns out many of the town had guessed of the whole Cold War era. The deal was that the federal government built a new wing for the hotel in exchange for the agreement to allow them to put this bunker under it. As we recall during the Cold War there was always the assumption that there would be some warning, that the kinds of actions and movements which the Soviet Union would seem to be taking would give some period of warning that an attack was imminent. There's an existing rail line that goes right out to the hotel from Union Station. The idea was that Congress would essentially hop on a special train and go out there and disappear underground. The secrecy about the existence of the bunker was particularly crucial because it wasn't built in a way or deep enough to actually be able to resist a direct hit. In other words, if it was targeted and there was a direct or near hit, it wouldn't survive that. Secrecy was extremely important. It was designed ingeniously. It was very elaborate. The structure under the hotel had maze, a warren of rooms and corridors. It was all behind a humongous steel door.

Where I come into this is that for many years, aside from a few people in the NSC [National Security Council] at the White House and a very few members of Congress (the majority leader, the minority leader, the Speaker, and majority leader in the House—I'm not even sure that the House minority leader was in the loop—the architect of the Capitol, and Senator Byrd who at this point was the chairman of the Appropriations Committee and had been the majority leader), no one was aware of it. The funding for it was buried in the FEMA [Federal Emergency Management Administration] budget. Much to the consternation of the subcommittee chairman there was this little pot of money with no explanation and the chairman of the subcommittee was reminded to keep it in that appropriations bill. There were never any congressional staff that were aware of, or involved in it. You would think that the most logical person would be the Senate sergeant

at arms and the House sergeant at arms but they weren't in the loop. Today, with the concerns about terrorism, that would seem unthinkable that there would be security plans that the sergeant at arms was unaware of, but that was the case.

As majority leader, Mitchell was somewhat skeptical about how useful this was. We're talking about 1992. It's been there for 40 years. It's been kept a secret. It seems to make sense to continue it because the real expense was in building it and designing it. The actual operating costs to keep it repaired and stocked was relatively small. There were some modern day conceivable circumstances where it could be used. I think it's fair to say that Senator Mitchell was fairly skeptical about whether this continued to be a good idea.

He decided that one staffer for each of these members who was aware of this facility would be briefed on it. I was his representative. Subsequent to being briefed, I went out to West Virginia to tour the facility. It's fascinating because, as I said, it was ingenious. It could be closed off with these enormous steel doors that I mentioned. First of all, the bunker was more than 112,000 square feet and the walls were two feet thick and reinforced with steel. It was 20 feet under the ground. Those huge doors were 25 tons, 15 feet high, 20 inches thick, and they were built by the famous Mosler Safe Company which had tested them. The doors, at least, were blast resistant. They had been tested at the Nevada nuclear test site.

The interesting thing was that those doors were open and there was a main hall that was going to be the House chamber. It was used as a convention facility by the hotel. It was actually outside of the hidden part of the bunker but when the steel doors were closed it was within the bunker. Tens of thousands of people over the years were inside that facility at conventions and so forth, totally unaware that they were in the congressional bunker. The rest of the bunker was closed off by these additional steel doors. They were protected by, I'm sure they were locked, but they had put a sign on the door that said "high voltage." [Laughs] That appeared to be enough to keep people away from them for all those years.

I went through the facility. It was amazing how so many needs had been anticipated. When I was briefed by the NSC they told me they had even consulted the same doctors from NASA [National Aeronautics and Space Administration] that were consulted about the problems of being in a confined space for a long time in space to think about what sorts of things they needed to think about for this bunker. It really was remarkable. There was a huge cafeteria. There were enough supplies so that the Congress

could stay down there for a year to outlast any fallout problems. There was a whole communications center. There was a full medical facility with an operating room and a separate dental chamber. Huge boilers that generated electricity. It really was an amazing facility.

I thought it was really ingenious that there was a staff of people, federal employees, who tended this facility. I don't recall, four or five, maybe six people. Their cover was that, at the Greenbrier Hotel, there aren't televisions in the rooms. It's a country resort, very posh, and the idea is that if you want a TV set you ask for it and they bring it up to your room and set it up. There is a separate rental charge. And the company that provides those services and does the electronics work keeps the TVs up to date and everything was called Forsythe Associates, I think it was. Those were the technicians who were the caretakers and maintenance people and took care of all the communications equipment for the congressional bunker. They were out in the open, went back and forth, were known in the town and so forth.

I'm getting a little ahead of the story, but the way this comes to light is in 1992 the *Washington Post* learns about it and does a whole spread with photographs and everything like that. After the fact, you really learn that most of the local people in the town had figured this out. They had remembered this extraordinary hole in the ground when the wing on the hotel was being built. Over the years, two and two had fit together and they knew there was some kind of secret facility underground there. Whether people associated it with the Congress or not, I don't know. But it wasn't a particularly well-kept secret there. This is a very patriotic little small town and the secret never found its way to Washington and presumably to Moscow.

When I went through that facility, I came back to brief Mitchell about all of this. There were four issues that I thought were real problems. The first one was that there weren't any existing adequate plans for communication between this congressional bunker—although there was communications equipment there, it needed to be upgraded to 21st-century technology—but there were only the most rudimentary communications plans for communication between this congressional bunker and whatever survival plans existed for the president at the time. I don't know what the state of classification was of those plans at that time, so I won't address that, but just that it seemed clear that Congress was going to be underground here and it wasn't clear that the plans were well enough established for just exactly how Congress was going to be able to weigh in with the president in a post-attack environment. This seemed like a serious problem.

The second thing that I raised was that nobody had clearly thought out exactly what would happen with the Speaker and the president pro tem[pore] because they would obviously be a part of the executive branch plans at the point of warning. My guess is that somebody was going to show up and whisk away the Speaker and the president pro tem. As you know, they are in the direct succession to the presidency so they were going to disappear. What was this going to mean for the rest of Congress in the congressional bunker? Or, would they come to the congressional bunker? What was this going to mean in terms of whatever was going on in the executive branch? I think the kinds of people who had been focused on this, it's no fault of theirs, but they just didn't have the level of sensitivity, I think, about how Congress would look at these issues.

The third one was that, although there was a library well stocked with novels in it—they tried to think, what would senators like to read and all of these sorts of things—the members hadn't gotten down to this level of detail. There wasn't an in-depth enough understanding of what kind of materials Congress would need to continue to function—essential legislative materials, the *Congressional Record*, the precedents, would the parliamentarian be there? All of the sorts of things that people who live in the Senate all the time would think about but that people planning the bunkers really hadn't anticipated. So I raised those questions.

But really, the most fundamental one to me was that there wasn't room in the bunker and there weren't plans for spouses and children. Or really much for staff, for all that much staffing. I don't know about congressmen and senators in the 1950s, it was a different era. I think data would probably show that maybe they were older, I'm not sure. But knowing the current Senate and House as I do, I couldn't imagine that all of that many members—it's a complicated question—they had taken an oath of office, they are obviously extremely patriotic and sacrificing individuals. But it's a tall order to say, "Okay, you are going to tell your wife and children: 'I'm going off somewhere, I can't tell you where. By the way, good luck with the missiles.'" I felt as though, at the very least, there had to be an alternative plan. That the only chance of getting senators to go in large numbers down into a bunker potentially for a year was to at least be able to say, "There's an alternative secure site that your family will be taken to." The congressional bunker is not large enough to deal with family life. The sleeping facilities were basically double bunks, large dormitories of double bunks. I had a lot of trouble, in my mind's eye, thinking about Daniel Patrick Moynihan and Ted Kennedy arguing over who gets the top bunk!

I was imagining all these things. Putting that aside for the moment, this, it seemed to me, was not only a serious question but close to a fatal flaw. I did share the skepticism about the usefulness of this facility. It was ingenious and it was so comparatively inexpensive to keep it on the shelf, so to speak, that it made sense as long as it was a secret to keep it ongoing. I thought, well, maybe conceivably in some sort of chemical attack it's some place that Congress could go and there would be enough room to meet for a period of time while the normal facilities were being decontaminated or something of that sort. I was a little bit skeptical about that.

At Mitchell's instruction, we began, along with the NSC and with the people in West Virginia and so forth, to work on this problem and to look for a site that would be—maybe in a national park, it's a problem to contemplate—but to begin to look for an alternative site where families could be taken to so that there would be a reasonable chance of members going underground. It's not very long after this that the *Washington Post* contacts the Speaker and Senator Mitchell and tells them that they are planning this story, they are planning to publish it. And there was a meeting, there was an effort to dissuade them and say, "This has a continuing national security purpose." I think the publishers of the *Post* raised the same kinds of skeptical questions that Senator Mitchell had in the first place, and in the end decided that the requests of the leaders of Congress notwithstanding that they were going to go ahead and publish. That story was published and there were a lot of stories around the country about it. Mitchell then very quickly made the decision that this facility was clearly no longer viable as a shelter. I used to jokingly say within weeks it was just a smoking hole. We moved very quickly, the decision was made, to sell it back to the CSX railroad that owns the Greenbrier now. Basically the federal government ended its association with that. I think the hotel retains it as kind of a museum piece and I think you can go there and tour it and see it. It's kind of an interesting thing.

On a personal note, the last time I briefed Senator Mitchell on this, I said, "Senator, with all respect, I have one thing to say about myself and that is if it's ever used, I'm not going down there. The reason is very simple. I can't picture myself underground with 100 senators being one of only a handful people down there that are responsible for everything that's not there, that doesn't work right, whatever it might be. Explaining, you know, 'What were you thinking? Why isn't this here?'" I said, "That was beyond the call of duty, I think." It was very soon after that the *Post* story came out.

RITCHIE: It seems to me that another flaw in the plan was that if the members didn't know that it was there and there was an emergency, there wouldn't be enough time to tell them what to do. In fact, on September 11, one of the big problems was that the members had no idea where to go or what to do.

ARENBERG: That's right. I'm not an expert on this, but I think the assumption throughout most of the period of the Cold War was that there would be sufficient warning. They would know for 48 hours, or something like that, that they were seeing very bad signs. Of course then there was the installation of the famous hotlines. I think they believed that a decision would be made by the leadership that this is serious enough. The prudent thing to do would be to go there.

RITCHIE: Ever since September 11, they've been working on alternative meeting sites. Now there are close-by alternative meetings sites and far-away meeting sites.

ARENBERG: Not just that. Already on 9/11, I recall people scattered everywhere and it was a struggle to know where the senators were. Senators, when they have to raise money to run for reelection, often go to privately run offices off of Capitol Hill where they go to make fund-raising calls because it's not lawful to do it on federal property. So that was the place nearby and Senator Levin lives nearby so he went there first and then we went home. We were kind of able to stay in communication. But I think it was a very difficult thing for Senator Daschle, the leader, even to consult with his caucus or with all of the Senate because there just hadn't been enough planned communications. It was still a period when many senators didn't even carry cell phones. Certainly now virtually all of them carry and use Blackberries and so forth. Communication is a little easier. But on 9/11 that was a big question.

RITCHIE: The leadership was whisked away. They were all taken to a special site. Then they realized that they needed to be back with the rest of the senators.

ARENBERG: The same problem. It's really the problem that I was thinking about here. Whoever is going to be in charge in a sudden emergency like that—the Secret Service, the military, everybody that steps in. One of the first things they are going to do is secure the congressional leadership, particularly those two individuals that are in the chain of succession to the presidency. They don't know there's been an attack. There could be an attack directed at the president. All of those scenarios. The first thing they want to do is secure those individuals and probably secure them some place different than

where the president and vice president are. They are probably not together, as they weren't on 9/11. And very often after that, that seemed like a very serious question. What was the sudden disappearance of the speaker and majority leader going to mean to the ability of Congress to get itself to West Virginia and then organize itself there and begin to function? Obviously, there are other leaders and so forth. You could say it's a constitutional question. It's a very profound question. The Supreme Court was coming with us! At least that was the understanding.

RITCHIE: Obviously these are plans drawn up by the executive branch, not understanding the legislative branch. Now at least since September 11, the legislative branch has been figuring out its own continuity of operation plans.

ARENBERG: Right. I think it's a very serious question. I'm sure that post 9/11—I'm obviously no longer involved in these sorts of things—but it's a very serious question. This communication question is only one. When you think about in the event of a national emergency, particularly a nuclear attack where you might have communication out in parts of the country, all of these things that you can imagine. When we were talking about Iran-Contra we were talking about the view of some administrations in terms of what are the limits of executive authority when it comes to national defense and national security issues? In a national emergency you could imagine this being defined as such very quickly and the executive branch feeling, and maybe appropriately, that it would be a time when certain enhanced executive powers would be in place. But the question would be, where is that line drawn, how far does it go?

Congress would have to be, as you know better than I, the whole history of executive-congressional relations is that Congress has to assert itself. The question of how much it asserts itself or how much it fails to assert itself has had a lot to do with the ebb and flow of that relationship. Under those kind of circumstances, with hampered communication with Congress under the ground in West Virginia, that was a serious problem. But even looking forward to future plans, it's always a serious question. If the executive branch takes charge of making sure everyone is secure and everyone is safe, are there plans in place that assure that Congress will be in position to assert itself and not be: "Okay, you guys stand over here in area A and await additional orders." That's not the role of Congress. There are serious constitutional questions that come into play in this sort of thing.

RITCHIE: I have to admit that when the *Washington Post* story broke, my first reaction was, “Well, of course they would pick a golf course.”

ARENBERG: [Laughs] I put it in my notes. After it became public Tip O’Neill was asked about it. He said something like, “You know, I was out at the Greenbrier several times.” Apparently the bunker was under the tennis courts. He’d think to himself, “See those people playing tennis, that’s where we’re going to be, beneath the tennis courts.”

RITCHIE: We ended up last time talking about Senator Mitchell’s decision not to run for reelection. You also talked about how you went to Senator Levin’s office. I wonder if you could tell me about Carl Levin as an individual, and what he was like to work for.

ARENBERG: Earlier I told the story about my wedding in the Capitol building and I think in many ways it reflects volumes about Carl Levin—he was one of the family. He’s a very warm compassionate humanitarian. He’s a great boss. I described my hierarchy continuum. Nobody is further down the collegial end of that spectrum than Carl Levin. When you are meeting with him, other staffers are poking their head in the door and asking a question. It can be a little chaotic sometimes, but it is stimulating and dynamic. And everyone has access to the boss. He’s very comfortable meeting with 5 or 6 of his staffers at one time and hashing things over if it’s a productive way to go about doing it. He just is a terrific guy to work for. I described the major lesson that I took from him earlier. That was that you can be this kind of person. You can keep these qualities and yet have the internal fortitude, the internal steel to be, when the circumstance calls for it, to be a very tough bulldog.

As many a witness has learned, as Senator Levin peers down at you over those half glasses from up there on the podium and asks the kind of direct questions that he does, and he’s an extremely skilled attorney and extremely skilled senator, especially in terms of investigatory skills and that kind of examination of witnesses. He doesn’t give up and demands a direct question and he demands accountability. He can be incredibly tough. I’m sure you’ve witnessed it and I know many other people watching on C-SPAN and all have seen that as well. It’s instructive to know that the two sides of that coin—you don’t have to lose the one quality to be able to exhibit the other. When I think of some of the senators that I’ve known over the years that I’ve thought of as just the nicest people around here, sometimes they just are so nice that under certain circumstances it’s hard for them to turn

the screws. They are just too nice. Senator Levin does that trick pretty well.

Talking about other nice senators, by the way, it reminds me that my own personal rule of thumb in assessing senators is listening to what their own staffs say about them. When they are not in the presence of their own boss and they are talking to other Hill staffers, compatriots, that's usually extremely illuminating. The ones who love the people that they work for, those are usually pretty reliable. People who say that in those private moments amongst other people that they know who know how to keep those kind of confidences, that's usually a pretty good test. Also you can look around the corridors of the Capitol and see those senators who take the time to talk to the people who work here—other Senate staffs, the people who whether they operate the elevators or work in the restaurants or whatever. Those are reliably the nicer men and women. It's obviously not an ideological thing, a Democratic or Republican thing.

I remember when my daughter was just a little girl walking one time in the Capitol among the statues and coming across Senator Jesse Helms who was going in the opposite direction. Probably there wasn't a senator at the time, or maybe in all the years that I've been here, with whom politically I had less agreement. He didn't know me particularly, either, but he stopped. My daughter Meg was maybe three or four years old at the time. He bent over and spent quite a bit of time talking to her and asking her questions, that sort of thing says a lot.

One other quick story like that. Back in the days when I was working for Senator Tsongas, my oldest son, Josh, was visiting in the office for some reason that day. I was in a meeting with the senator. We actually had typists in those days because we didn't have computers yet, and they were kind of keeping an eye on him for me. He was playing with a Xerox machine—we did have one by then—and he was making a magazine. He'd Xerox a few things and staple them together. I came out of this meeting and I'm looking around. I can't find Josh and I asked various people. And they said, "I don't know, he was here a minute ago." So I can't find him in the office, so I go out in the hall and Senator Wendell Ford's office was right across the hall. Josh had Senator Ford pinned against the wall in the hallway and was trying to sell him this magazine! [Laughs] Senator Ford was engaging him on this and looking at it. I came up and said, "Senator, this is so nice of you!" He said, "I was trying to give him a dime, but he was demanding a nickel because it was bigger!" [Laughs] So those are two guys that I would list as nice guys.

RITCHIE: We have in the files the profiles that *Washingtonian Magazine* did of

all the senators in 1985. They asked them what's your favorite book, what's your favorite movie, what kind of car do you drive, how do you take your coffee? I looked up Senator Levin and his favorite book he had listed was *Heading Home* [by Paul Tsongas, 1984].

ARENBERG: Is that right?

RITCHIE: So I thought there's obviously an affinity there.

ARENBERG: That's terrific. Thank you for telling me that. That's a very nice thing to know. I have already said what a wonderful book I think that was. But, I never knew that Carl had read it even.

RITCHIE: It's interesting that you always work for senators that come from states that begin with an "M." You had done Massachusetts and Maine. Did you have to learn Michigan to work for Senator Levin?

ARENBERG: Yes. I really had no real experience with Michigan. My sister lived on the Upper Peninsula at one time and I had visited, but I didn't have much knowledge of Michigan. By that time he was a pretty senior senator who knew his state and had a very effective state staff with a lot of people on his staff in Washington who knew Michigan well and were able to guide me in that regard. He wasn't as concerned about the fact that I didn't know Michigan in depth because he knew that his staff had these resources and so forth. Of course, I had a lot of experience too by that time and my job focused a great deal on the Washington end. But, I quickly acquired an appreciation for Michigan and loved working on their issues. He probably didn't see my involvement on the Chrysler bill back in the '70s as a particular plus, although we've never really discussed it. It's not something I ever brought up with him. I'm not sure that when Tsongas was doing that, how happy Senator Levin was about that particular compromise that emerged. I know he was in the same position that Senator Riegle was at the time.

RITCHIE: I suppose that there are some affinities between Massachusetts and Michigan. De-industrialization hit both and they were also states divided between urban and rural areas—

ARENBERG: That's right. And there was really a lot for me to learn there. One interesting thing, there's a particular character to people who live on the Upper Peninsula that Michiganders recognize. It's almost a kind of frontier mentality, I think. They

sometimes refer to people on the Lower Peninsula as “trolls” and what they mean by that is that they live under the bridge. [Laughs] Referring to the bridge—a lot of what I had learned about Aroostook County in Maine applied to the Upper Peninsula in that way. It’s another similar area. One way in which they were both exactly alike is that a senator didn’t get credit for coming up there unless he came up there in the winter. It’s nice to visit in the summer and come up and hold town meetings and everything like that but they didn’t really feel like they had been visited by their senator unless he was there in the snow and ice. Although my understanding is that this past winter, the total snowfall in Washington was greater than it was up there in Escanaba.

RITCHIE: You were a legislative director for two senators. Does it make any difference the committees that those senators were on for the type of work that you do? Levin was on Armed Services, Government Operations, and Intelligence, I notice. But does that shape the types of issues that he’s going to be naturally interested in?

ARENBERG: I think it does. Certainly it affects what the legislative director does, too. I used to joke that the legislative director in a sense is in charge of the dark side of the moon, particularly when you are a senior senator. In Senator Levin’s case, he’s now chairman of the Armed Services Committee, he’s chairman of the Permanent Subcommittee on Investigations [PSI]. Between the two of them, he’s very active in terms of how his time is allocated and in terms of committee hearings and his leadership of those committees, in terms of moving legislation. He’s got a defense authorization bill that is a virtually year-long operation and other legislation that moves through the Armed Services Committee, a very vigorous schedule of oversight hearings. He’s a real believer in the congressional oversight function. I’ve described that he’s very good at that kind of function. That’s becoming a lost art in recent Congresses—particularly when the White House and Congress are of the same party. Levin deeply admires Harry Truman and knows that Truman was tough even on the Roosevelt Administration. I remember reading [David] McCullough’s book and his description of the jovial Truman entering hearings and the twinkle leaving his eye when he got down to business in the committee—it made me think of Carl. I think McCullough even makes reference to Truman peering over his glasses.

As you well know, having done the work you’ve done on the Permanent Subcommittee on Investigations, it has a very broad jurisdiction. It can essentially go and investigate whatever it decides is a problem that Congress needs to know about. It has unique subpoena powers, unique in the Senate in terms of the rules. Since his tenure as

chairman of that committee, he's investigated, I can't even come up with the whole list: off shore tax shelters, Enron, gas prices, credit card abuse, the financial collapse, on and on. I'm sure I'm leaving major investigations out just in making that quick list. We have very competent, very efficient staffs on those committees, as do most Senate committees. On the Armed Services Committee they are under his direction and he has subcommittee staff members under his direction on the Permanent Subcommittee on Investigations. What I mean with that somewhat flippant remark about the dark side of the moon is that his time and resources, very naturally there's a lot of demand on those things that go into those committee responsibilities. But as we've talked about earlier on, it's in the nature of being a United States senator and the kind of power that you have, the role in the body, the way the committee system works compared to the way it works in the House in terms of status. How that impacts what goes on on the floor means that senators can be major players on lots of things that are not in the jurisdictions of the committees that they're on.

That's obviously the case with someone like Senator Levin who always has more on his plate than I know I could ever deal with. But sometimes it's hard to imagine that plate. I can't hold it all in my brain at one time. It's just an enormous amount. For the legislative director and the personal legislative staff—first of all, those committee assignments have a lot to do with what things you need to focus on the most—generally all of the critical, pressing issues outside of his committee work. I would know things about it, but if it's in the jurisdiction of the Armed Services Committee, for the most part I don't have to worry about it. There's a very competent staff taking care of his interests on that and briefing him. And likewise with PSI. That then defines my area of responsibility as principally everything else. In areas of overlap like foreign affairs, sometimes it's a question of making sure that perspectives that are a little different are being represented.

In the Senate, going back to the Connecticut Compromise, since every state regardless of size has two senators, senators represent larger and smaller constituencies because they have larger and smaller states. The office staff resources reflect that. So a senator from a large state like Michigan would have a larger staff than would a senator from a smaller state. He has a considerably sized legislative staff. As I said earlier, they tend to be specialized in certain issue areas that each have their own—we think of them as portfolios.

To get back to your question, I think his committee assignments are very important in affecting where my area of concentration would be. That was really true even of the Intelligence Committee that I had spent a fair amount of time working with. The one real

role that I played there was in encouraging him to take that assignment. It happened after I came to his staff. Because I had been there at the time and I observed the role that Senator Nunn played on that committee when I was there—Nunn was then the chairman of the Armed Services Committee. I remember also his reluctance when Senator Nunn was rotated off the Intelligence Committee after several years—he stayed much longer than just the six-year term—but I remember that he was very reluctant to leave it because he thought it was very complimentary to his role as chairman of the Armed Services Committee. Although Carl at that time was not yet chairman of the Armed Services Committee, it was clear to me the potential there for how helpful that would be.

RITCHIE: Senators who chair Armed Services and Foreign Relations are dealing with huge issues that get a lot of publicity but they are often not state issues. They are international issues, which don't necessarily help them when they run for reelection. I wondered if part of the legislative director's job wasn't to flag issues that would be significant to constituents in Michigan?

ARENBERG: I'll say yes, but make it a muted yes. Senator Levin, if there is such a thing as a senator that went Washington, he's the furthest from that model. He goes back home to Michigan it seems like virtually every weekend. He travels the state when he's there for the weekend. How he physically does this, I still haven't figured that out. I can hardly think of a circumstance in which anybody on his staff had to flag an issue in the sense of going to him and saying, "Boy the people of Michigan really care about this one, we need to pay some attention to it." If anything it's the other way around. He has some lovable mannerisms and one of the things he does is that he writes things on little slips of paper and tears things out of the newspaper, little articles. All of these little pieces of paper get stuffed into his dress shirt pocket. Usually, if you look very closely at Senator Levin in shirt sleeves you'll see that pocket bulging pretty much all of the time. When he comes back from Michigan, one of things he would do is offload this to me. He'd call me into his office and out would come this wad of—by this time a wad of little pieces of paper all folded and had sort of turned itself into just one little wad of paper. He would unfold all of that and try to translate his own cryptic scribbling on it if he could remember what it was and give me instructions in terms of what to do with this one or call this person back. Or we need to get on this issue, or somebody came up to him and asked him about this. Also in there were pieces of articles from newspapers and magazines that he had read and wanted staff to follow up on in some way—"get a copy of the study," "call this person and see what this is all about" or "give me a memo on this issue." I guess my way of answering your question is to say that the keeper of the very first red flag was the

senator himself. He is very well attuned to his constituency in Michigan.

But you are right. We had someone at his instruction, we always had one legislative assistant in Washington whose function was the Washington end of the issues that were going on in the state. And here I'm not talking about clear legislative issues in Washington that we would be clearly working on anyway. But sometimes complimentary to the casework that the staff in Michigan would be doing, there would be some element of it which maybe required a private bill or some legislation or an amendment. Even just an ongoing contact with a federal agency or staying on top of something, whatever it was, we would have someone in Washington who was assigned to kind of keep track of all of that work with the state staff on that.

RITCHIE: In the '90s earmarks picked up. Municipalities started showing up looking for support. Was there much difference on that issue in Levin's office from what it was when you were back with Tsongas' office?

ARENBERG: The practice of the Appropriations Committee had changed considerably. Earmarks were becoming a much bigger thing. It was becoming a much more routinized, defined function for the various appropriations subcommittees. They were all developing their own set of ways of dealing with it and their own rules and regulations which was a real challenge for personal staffs, of course. And this is reflected in the constituencies, too. Now constituencies are very attuned to the whole process of that. They know they come to a Senate office and they fill out applications and they do all kinds of background information and so forth. In the days when I was working with Senator Tsongas this was a much more individualized kind of thing where the local government official or a school system or a college or some constituent in Massachusetts, a small business or something like that, might come to us for help trying to find federal grants to apply for or to try to get some sort of what we've come to call earmark in an appropriations bill. The judgments then were made on an ad hoc basis. If the senator decided to pursue something, then you began working with the appropriations subcommittee staff.

As is now so prominently reported, the number of earmarks has increased over the years and the desire to make that process more transparent and reportable and so forth has increased. The committees have gotten much more routinized in how they handle that. That is certainly reflected in Senate legislative staffs. It's really almost a year-long process in which you begin gathering these requests from the constituency, getting all of the

necessary documentation and so forth, putting together the briefings, the recommendations for the senator, the decisions about what are going to go into the request letters to the committee. But that's all handled, when it's done properly, when it's properly transparent and everything, I'm a big defender of appropriate earmarks. More importantly, certainly Senator Levin has been. He's proud of the earmarks that he's gotten. They are revealed, and now they are required to be, but he's very proud of those things—that funding that he's been able to bring back to Michigan.

I teach a course now on Congress and the federal budget and I do a whole lecture on earmarks because very often students come to the course with the orientation from the way that the media tends to handle it in recent years as kind of this scandalous activity and this wasteful federal spending. I do a lecture about this and then give them the opportunity to make judgments about what they think is appropriate or inappropriate. But the bottom line on it in my judgment is, what it ultimately comes down to when you really think about it is, whether you want these small gauge decisions about federal appropriations in members districts and states—where are the resources going to go? This bridge, or fixing that off ramp? Do you want those to be made in an open process through legislation by an elected member of Congress, or do you want this decision to be made by some bureaucrat downtown way down in the bowels of some federal agency, which is where that level of decision generally would be made? We all know there are abuses as there can be. That's where the openness of the system comes into play. By saying that, I certainly wouldn't be defending earmarks that are added into a bill in conference or in the dead of night and never see the light of day. And, when practiced at its worst in the past, nobody knew whose earmark it was. Of course there are notorious ones like the “bridge to nowhere.” I don't defend that one or some which were even added in the House in the enrolling process. But my experience over the years is that many earmarks are easy to ridicule because they are narrow gauge. They have a narrow, specific, sometimes localized impact. It's very easy to make fun of, but more often than not, if you really dig into this and you go back to the senator who asked for it, you get the details, you find out what was the rationale, why was this important? You find out that they make a whole lot of sense.

One of the examples I always think of, I don't recall whether it's a Harkin or a [Charles] Grassley earmark in 2009, maybe both of them, but it's something like a study looking into the odor of pig manure. I don't remember the amount, but you can see how if it was, let's say \$2 million for the sake of argument, you can see how in a newspaper article, how easily it would be ridiculed: “\$2 million study given to the University of Iowa to study how to deal with the odor of pig manure.” How easy it would be to ridicule that.

Then when you look into it the explanation is that the population of pigs in Iowa is larger than the population of people. It's a very important part of Iowa's economy. As the amount of farm land shrinks and as cities grow and suburbia grows, it becomes a very significant economic question. How do you deal with this factor? Are there ways that it can become easier to have people not engaged in pig farming living in closer proximity to these very often small farms? You want to help them to survive. Without putting my own personal seal of approval on that particular earmark, not knowing any more about it than what I just described to you, I'm using it almost as a hypothetical to explain that these things are easy targets. It's a really easy target of opportunity but there's a real important congressional function behind doing things that way. By the way, the Senate with a big bipartisan majority overwhelmingly defeated [Tom] Coburn's effort to strip that pig odor earmark from the Omnibus bill.

RITCHIE: When I read the *Congressional Record*, some member will stand up and say, "I'm totally opposed to earmarks but I don't think nameless bureaucrats should be making these decisions and I'm very proud to announce that we're sending a million dollars back to my district on this particular project." They see their role as bringing federal funds back to the district, they just wanted to separate themselves from—

ARENBERG: We even see that on the larger stage, without sounding too partisan about that. Many Republican members of Congress and senators steadfastly opposed the recent stimulus package. Then when those funds arrived in their states and districts and turned out to be pretty popular and the things they paid for to be pretty popular, they were at the ribbon cuttings and many of them took their share of the credit for having brought the funds there.

RITCHIE: Earmarks took off during the years when the Republicans held the majority in the Congress and the Democrats held the executive branch. They continued after President [George W.] Bush came in, but it seems to me that especially when the executive branch doesn't necessarily think the same way that Congress does, that Congress is going to want to do things its own way.

ARENBERG: It's interesting when you really start looking at this. What is an earmark? First of all, you notice that the White House, and I'll include the current one along with all the Republican ones, when they talk about earmarks they never mention presidential earmarks. That is a point Senator Levin often makes. Somehow an earmark is only something that Congress does. Certainly they do exist in considerable number. But

the second thing is just as a matter of what we mean when we talk about it, they can be very different things. Not every subcommittee did it in the same way. We think of earmarks as legislative language in the appropriations bill. Very often, earmarks were not that. When you go further back, even more frequently, they were not that. They may have been merely instructions or suggestions that were written into the committee report that went along with that appropriations bill. As I tell my students, in most instances, virtually all instances, it has the same impact as writing it into the law in the sense that every agency and bureau of the government knows which side of the toast is buttered and by whom. It's that Appropriations Committee that controls their appropriations. So when that Appropriations Committee puts in its report that, "There's this pot of money over here. Well, this much of that pot of money, we suggest that it be used for this project in this district," it might as well be in the law, is the point I'm making. In fact that's an earmark in the same sense. Sometimes these can be drawn in very indirect ways.

It's become popular in the media these days to say, "Members of Congress haven't even read this bill, haven't read all this bill." It's not easy to read an appropriations bill and figure out what it's doing, most of the time. [Laughs] And it's certainly true of the way some of these earmarks were artfully drawn. They would describe a certain amount of money to go for a project with these particular characteristics, these particular parameters and so forth. You'd be reading it and it would be kind of mind boggling. Why this and why that? But when you unpacked all of that and looked at all of these standards and caveats and clauses, you find it boils down to there's only one of these in the country and it's in this district and that's where the money is being earmarked for.

RITCHIE: I've heard it said that before earmarks came along it was fairly commonplace for committee chairmen to call agency heads and say, "I want this to be in your request when you send it to the Congress." In other cases, where the Office of Management and Budget supported the particular agency, the agency suggests that the member of Congress put the earmark in.

ARENBERG: All of those things probably still happen in some fashion. You raise an interesting point there because when you look from the perspective of the personal staffs process, it changes when your party is in the White House because this yearly effort to get certain projects funded begins earlier and it begins first with the agency involved, and then the OMB because you are writing to them and talking to them, the senator may be talking to the director of the OMB. If you can be in the president's budget that he sends up to the hill, ideally you would like to be there. If the president is of the other party, you

might try, and you might feel like in some specific instances that the case is so meritorious that you can approach them. Maybe you do it in tandem, if you have a senator from that other party, maybe you do it in tandem with that senator. So it does happen. But by and large the process changes so that the focus starts even before you get to the congressional part of the focus when you have a president in office. I mean it changes lots of things, obviously. You begin to view the agencies of the federal government, they are just a lot more receptive to senators of their own party. One of the places you can go for advice when you are drafting legislation and so forth is the agency that has that jurisdiction, particularly if the president is now of your party. It's just a whole different ball of wax than it would be when the other party controls the White House.

RITCHIE: When you switched from Mitchell to Levin you went from working for the majority leader to working for a senator in the minority party because that was just at the point when the Democrats lost. But you still had a Democrat in the White House. What was it like politically in the '90s to be working for a senator in the minority party?

ARENBERG: It changed after that when we then soon had a Republican in the White House too. I think in those circumstances—I've used this analogy before in a different context—but, in our system, the Senate really becomes, under those circumstances, "Horatio at the bridge" because of its roles, because of the rights and privileges that the minority party is able to exercise under the Senate rules. Talk about going to the dark side of the moon. Going into the minority in the House, particularly if you are a relatively junior member, you really do wind up on the dark side of the moon. As I've commented before, in recent years with all this polarization, it seems the majority hardly even consults the minority in the House of Representatives.

It's very different in the Senate. Obviously, Democratic senators, all senators, would rather be in the majority. They would rather have a president of their own party. They would rather have their party in the majority in the other house, but there is a form of reinvigoration when you move into the minority. You've shifted from, "Okay, how do we move this particular good legislation that's on our agenda?" In the Senate you are still trying to do that but it moves onto more of a side track and a lot of focus goes into, "Okay, how do we keep bad things from happening?" And hopefully, when the Senate is functioning well, "How do we try to help shape these things so that they're not so bad and keep the legislation flowing and address the problems that the country has but have an impact as the minority party on that?"

An individual minority senator's office reflects that, you are very much in that mode. In terms of how you approach all the decisions you make and the role on the committees, of course you move into the minority on the committees as well. We also had the experience in there for a while, in 2001, of being in a 50/50 Senate with all that implies. I have forgotten the number of days, but Senator Levin's first stint as chairman of the Armed Services Committee was for a very limited number of days. When Al Gore was still the president of the Senate we had a 50/50 Senate. Until the inauguration day, I guess that's the answer to the question, until January 20, he was chairman of the Armed Services Committee, 17 days. That was his first stint as chairman of the committee.

RITCHIE: Six months later he got it back.

ARENBERG: That's right, when Jim Jeffords changed parties.

RITCHIE: It's an extraordinary time in the Senate. Before the 2000 election, what was Senator Levin's relationship with the Clinton administration?

ARENBERG: He had a very positive relationship with the Clinton administration. There were times, if you think back, there was a period when the Clinton White House was doing what they were calling triangulation. There were certainly times when there were strains, when Democrats in the Senate had problems with some of the things the Clinton administration was doing. But the senator had a very good relationship with the president and he would weigh in on a lot of those things, try to shape it. He likes Bill Clinton personally a lot, I think.

RITCHIE: I remember from that period that the Republicans had won with the "Contract with America" and they promised to pass it within the first 100 days, which they did in the House. Very little of it got passed in the Senate.

ARENBERG: Senators who weren't there at the time who want very badly to turn the Senate into a majority rule institution—and I'm hoping in the end there aren't too many of those—what you refer to is a very good period for them to go back and review, along with 2005 and the nuclear option. That whole period. What you are referring to is right, it's a classic example of what I was describing when I said "Horatio at the bridge." From the perspective of Democratic senators, many of the items in that package were pretty extreme and they came through the House like a hot knife through butter, particularly behind the force of a newly minted sweeping mandate. Or a new president

coming in with a big mandate, as in the Reagan period. There the impact was more on the Senate which had become Republican, than it was on the House. But certainly in that “Contract with America” period, all of that legislation went through the House very quickly. Very little of it ultimately ever passed the Senate. It came over here, it slowed down.

I often joke that very little has ever been written about the filibuster without referencing two Jeffersons. One is Thomas Jefferson and that famous story about George Washington, probably an apocryphal story, explaining to Jefferson, who had been in France, why a Senate was necessary. In the story it’s sometimes reported as coffee, sometimes as tea, but in the case of hot beverages, the practice was often to spill a little into the saucer and blow on it and sip it from the saucer. The explanation which Washington gave Jefferson was that’s what he was doing. He was pouring his tea or coffee into the saucer and blowing on it. He said, exactly as what you’re doing with that hot beverage, is the role of the Senate, to blow on the hot tea when it comes over from the House of Representatives. The other Jefferson I’m referring to with some irony is the Senator Jefferson Smith in the famous movie, *Mr. Smith Goes to Washington*. Whether it’s an academic piece or a newspaper piece, or a speech on the Senate floor, about the filibuster, usually it contains a reference to one or both of those things.

Anyhow, I mention that because I was about to say that’s what happened. That hot tea came over from the Gingrich House of Representatives and when it got to the Senate the Senate blew on that hot coffee for some period of time. It ultimately never got cool enough, I guess. If my memory serves me, the one piece of the Contract that did make a lot of sense, and that did pass, was that up until then there had been a number of provisions of safety, particularly safety provisions, OSHA and EPA and things like that, regulations that Congress had the practice of exempting itself from when it passed those laws. This legislation, the Congressional Accountability Act, made sense and it ultimately became law.

RITCHIE: Actually it had a lot of support. It wasn’t a very partisan issue.

ARENBERG: That’s true and in that regard it was unique in the list of the Contract. And there were things in the Contract that ultimately the Republicans—I believe there were term limits in there, and ultimately when we got down to the nut-cutting stage on terms limits, it seems that everybody saw it in a very different light once it became real. In addition to that, many of the members who were elected in that election with a

term limits promise that they would only serve two terms in the House or whatever, some of them are still here.

RITCHIE: One of the issues that was hotly debated all during that decade was welfare reform, which Clinton had campaigned on and some people thought he should have brought up as his first issue rather than health care in his first Congress and which went back and forth. Eventually, he wound up compromising with Republicans on this. It's obviously a bill that would have affected a Michigan senator significantly. I wondered if you were involved at all from Senator Levin's perspective on that.

ARENBERG: Senator Levin was a strong proponent of welfare reform, even before Clinton came along, and did in the end vote for the compromise. Like most sweeping reforms, the devil is in the details. He wasn't happy with everything that was in the original bill as it was proposed. But he was ultimately satisfied with the compromise. He had some amendments of his own and tried to make some changes in it. I think he felt in that period that there was a need to reform welfare as we knew it at that time. And he did support it. Like most big comprehensive bills, you are never satisfied with everything in it. On a lot of those big final passage votes you wind up deciding whether to vote for it with a statement explaining what things you dislike in the bill or for it with a statement explaining what things you support. You write a statement which says, "on balance," I support or oppose depending. Interestingly, that can often be a very close call.

Thinking back to your previous question, another example is that he is one of those, probably a minority in the caucus, who is a proponent of regulatory reform and has been going way back. Certainly the form of regulatory reform that was in the Gingrich Contract was way too extreme. To way oversimplify Senator Levin's view on this, to put it in a nutshell, I think he feels that to the extent that some regulations are unnecessary, some have gone too far and so forth, that much like bad laws it gives the whole enterprise a bad name if you don't clean up those bad actors in the system, so to speak. He believes in good well-founded regulation that's been created by a good open process. He has tried at various times in his career, actually, to offer regulatory reform legislation and build that compromise and build that coalition. I used to kid about it with tongue in cheek, and maybe too cynically, that compromise was sometimes like an effort to build a bridge that didn't reach either shore. [Laughs] It's one of those issues where there tends to be camps at either end, like too many issues in the state of polarization that we're in now. It's very hard to occupy that middle ground on a very complicated, very nuanced, subject like that. We talked about immigration reform, which is another one like that.

RITCHIE: A lot of the tone of the Clinton years was, in some respects, anticipated by Paul Tsongas back in the '70s and '80s when breaking away from the traditional liberal responses to things. There was much more searching for a middle ground.

ARENBERG: Yeah, that's what I meant when we were talking about the Tsongas presidential campaign. When Clinton was in the White House it did seem as if he'd read Tsongas' book, both of them really. I think you make a good point there, I think there was that.

RITCHIE: Tackling issues like welfare reform which had been well established since the 1930s but they had really run their course by the early 1980s.

ARENBERG: Tsongas, very early on, was really quite willing to grab all of those things we sometimes refer to as third rails in politics, whether he was addressing social security, whether it was welfare reform, or, as I mentioned before, the gas tax, nuclear power, some of these things that didn't easily fit the liberal Democratic profile. Certainly at the outset he was viewed that way—as a doctrinaire liberal—on a lot of issues because often what he had to say about arms control and foreign policy and South Africa, and I mentioned Zimbabwe, then Rhodesia. He was viewed as liberal on environmental issues as anybody in the Senate because of Alaska. All of these things, he was viewed as one of the most liberal members of the Senate. Eventually these other issues began to cut against that as an understanding of where he was became more nuanced. Regulatory reform is an example too. When we start categorizing people on that ideological spectrum, those labels tend to miss a lot of nuance and that is true of Senator Levin as well. He had been a local official. On a lot of those local rights kinds of issues, he views it from a different viewpoint. On things like regulatory reform or unfunded mandates, which was another example, he had a very nuanced view of that because he had been chairman of the Detroit City Council. He may have been president of the council or the chairman. See, I show my ignorance about Michigan when I do that. He was the head of the Detroit City Council.

RITCHIE: We can't talk about the Clinton years without mentioning the impeachment trial in the Senate. Did you have any role in that for Senator Levin?

ARENBERG: We were talking about the role of the legislative director before and I described to you my management philosophy about that. On issues, even that one, I

didn't seek to step in and take over the issue directly in any regard. He had committee staff that were very helpful on that. He had a long time staff director of PSI, Linda Gustitus, who did a lot of staff work on that. We had many discussions about it. He was obviously very concerned about it.

Just talking about my own perspective, if you had asked me five years earlier, we've talked so much about the polarization of the Congress. If you had asked me five years earlier, was it possible to have a partisan impeachment come through the House of Representatives, I would have said, although it's mathematically possible, it wouldn't happen because political consequences of the other party pushing a partisan impeachment through the House of Representatives and trying to pull down a president would just be too devastating. Which all goes to say, never say never around here. The longer I served in the Senate the more I saw things that I thought I'd never see and hadn't seen before. There was always something new under the sun coming along. That one seemed to be a very great surprise. Without getting into the details or getting too partisan about it, I felt it reflected the polarization, it reflected the fact that it was a partisan impeachment and the fact that it had no support from the minority in the House.

When you contrast it with the Nixon impeachment, that becomes amply clear. As you know, in the Nixon story it was ultimately a group of Republican senators who went down to the White House and convinced Nixon to resign. Going back to the Johnson administration, the Andrew Johnson administration, the only other impeachment trial in the Senate, as you know even better than I know, it was the minority ultimately that saved him there too. It was the role of the Senate.

Fortunately, in the case of the Clinton impeachment, that held true, too. The proceedings in the Senate were much less partisan and much more judicial, so to speak, of playing that quasi-judicial role that the Senate plays in impeachment. I felt confident, and I know that Senator Levin felt confident, that would be the case. The problem with increasing polarization the way we are seeing it is that it gets harder and harder to have that confidence looking into the future as these things become more entrenched. Fortunately, the Constitution requires a rather stiff super majority, so the Senate is backstopped in that regard. But when I defend the filibuster I would point out that if you think about the Clinton impeachment process and you think about it taking place in a highly polarized, highly majoritarian Senate, there are all these decisions that take place that shape that trial—the decisions about who is going to testify. Will they testify in public? Will they testify before the whole Senate? The past precedents of the Senate

suggest that the debate take place behind closed doors and the Senate made the decision to leave it that way. Would some future majority, by majority vote, see an advantage to dragging it out or making it public?

What I'm suggesting is if you had a partisan House of Representatives pass a partisan impeachment and then you had a partisan Senate of the same party, but of the opposite party of the president, controlling that whole process, even though you might ultimately need two-thirds to convict him or her, there could be an enormous amount of damage done along the way just by virtue of the kinds of decisions that could be made by a majority. You could have a very partisan tainted process. There were decisions like that, or questions that arose like that during the decisions that were made around the Clinton impeachment where indirectly, and this is where the subtly about the filibuster that I think for the most part that many people outside of the Senate don't fully understand, it's there in the fabric of the Senate that the majority knows they have to deal with the minority. That we have to arrive at fair rules, that they won't be able to push them down the minority's throats. There doesn't need to be filibuster threats, even threats, let alone filibusters. There doesn't need to be threats, there doesn't need to be any of that in a lot of these instances. A majority leader knows, "I have to sit down with the minority leader, we have to get our caucuses together. We've got to decide how is the Senate going to handle this."

It's done in a way that is fairly bipartisan. I think, in the end, for the Clinton trial the rules were adopted 100-0. Again, that's the cooling of the hot tea, if you want to go back to Washington and Jefferson. Part of that, and the way it has developed, is the filibuster. Critics often will point back at the founders and say it's not in the Constitution and the founders never directly talked about this. They didn't know about the filibuster, it happened by accident and all of these things. My view about that is that it's developed, yes, over 200 years of Senate history and it's developed in a way that has been consistently viewed by the Senate as consistent with this design for the Senate. As many things that were part of the founder's design were determined not to be. We went to direct election of senators, there were things that militate where ultimately they evolved. I think that super majority requirement as in the right of extended debate in the Senate, the virtual unfettered right to amend in the Senate, these minority protections are a key part of the fabric of—it's a mixed metaphor—they are a part of the fabric of that saucer. [Laughs]

RITCHIE: I think that the impeachment case is the only case where the Constitution sets a different requirement in the House and the Senate. That the House can

impeach by a simple majority, but the Senate needs a two-thirds vote.

ARENBERG: Except for circumstances where the House doesn't have a role.

RITCHIE: Right, but in other cases the Senate is required to have two-thirds. People ask about what the founders thought. They clearly thought that there was a difference between impeaching or indicting somebody and convicting them. In this case the Senate required a larger vote to get somebody out.

ARENBERG: And the implication of that is that there are at least some circumstances in which a super majority is a good thing in a democracy. I recognize that part of that argument cuts both ways. Opponents of the filibuster say since there are five examples, five instances in which the Constitution dictates a super majority, it's implied that in every other circumstance, a simple majority would be the requirement. Opponents of the filibuster see it that way. I see it the way I just described. They clearly did not view a super majority requirement as something that would be *ipso facto* undemocratic. In fact, in this most sensitive and complex of democratic decisions, they demanded it.

RITCHIE: And if they hadn't, the president would have evolved more into a prime minister who could have been thrown out whenever his party lost the majority in Congress.

ARENBERG: Right. The whole evolution of what Congress was, the whole relationship would have changed very quickly.

RITCHIE: An interesting moment in the Senate's history.

ARENBERG: Absolutely.

RITCHIE: In the 21st century, the parties have switched back and forth. The Democrats were in the majority for one year and a half in 2001-2002. They lost the majority again in 2003, they were back in the majority after the 2006 election. This has been a pretty tumultuous period. Regarding Senator Levin in that period, I think of him in two respects: one, a lot of investigations going on, including the Enron investigation which got a huge amount of publicity; and then his stand against the Iraq War given the fact that he wasn't the chairman but the ranking Democrat on the Armed Services Committee. I wonder, how did his legislative director get involved in these events?

ARENBERG: In terms of the war, I described the situation before. It tended to be something where the nuts and bolts of it were handled by his committee staff at the Armed Services Committee. However, certainly in terms of the kind of tactical thinking about it, explaining it, there were a number of ways in which it would come over into my bailiwick. It's become common to call for the majority leader to deal with some of these filibusters more often by following *Mr. Smith Goes to Washington* model and trying to use attrition as a way of breaking the filibuster. One of the Levin-Reid amendments was one of those times when Senator [Harry] Reid made the decision that he would force the filibusterers to go all night. There was an all-night session.

My view about that has always been that I think for people who haven't studied the filibuster very carefully, that there is kind of a misunderstanding. One, it's very effective for what I would call a lone wolf style filibuster or a small group. We had an example of that with Senator Bunning not that many weeks ago. He was filibustering a matter and there was very little support, even within his own caucus, for the filibuster itself. As often is the case with that sort of circumstance, it didn't even have to go all the way to an all-night session or weekend session or something like that. The threat of doing it ultimately led to negotiations which ultimately brought the matter to a head. In those kinds of circumstances it is very effective. When you have a large group filibustering and certainly when it's the entire minority party, dealing with an all-night session really only becomes a scheduling exercise. They just have to make sure that they have somebody on the floor throughout the night and somebody is scheduled to speak and it becomes a question of "Senator A" will do 8-9 and somebody will do 9-10 and so forth and so on. Whereas the majority, the party that is trying to break the filibuster, they are in the position of having to protect the quorum because if they lose a quorum the Senate is forced to adjourn. They are really more on call than the filibusterers are. In those kinds of circumstances it tends not to work. Not to put words in the majority leader's mouth but I think the majority leader understands that and that's why we see some resistance to doing that more frequently even though it's a popular thing even among some senators, certainly in the media. and impatient critics are unhappy that the agenda isn't moving faster than it is.

I say all of this as background. Another function of forcing that kind of an all-night session is a circumstance where there is some value to turning on the spotlight and creating a media focus on all of that. I think the Republicans did that not so many years ago, in 2004-2005, when Democrats were filibustering the Bush judicial nominees. There

wasn't any question that an all-night session or going on and on about it was going to break the Democratic filibuster. In the end, Senator Levin didn't think that they were going to break the filibuster and get a vote on his Iraq War amendment. I doubt he thought that. The additional attention that was brought by being in session all night, by holding press conferences while that was going on, by saying, "We'll stay here until we get a vote on that amendment," and so forth, that can often have some value. I don't want to say it's useless, it's hopeless.

You often read that in the old days, this is how filibusters took place. People stood up and spoke forever. They are either thinking of *Mr. Smith Goes to Washington* or they are thinking of Strom Thurmond. Here's one of the problems with the filibuster. Many of us grew up in this era in which it was used almost exclusively to fight civil rights. We saw it, myself included, as an evil tactic at the time. But it was done very effectively—although the Civil Rights Act was really blocked in the House, not the Senate—and it was done effectively because there was a large group of southern senators. But the Thurmond filibuster—I shouldn't be lecturing the Senate Historian on Senate history but—as you know, the Thurmond filibuster when it occurred took place because Senator [Richard] Russell and all of, or most of, the other southern senators had abandoned the filibuster and so you no longer had this effective southern filibuster. But for Strom Thurmond that wasn't sufficient and he pledged to go on and so he held the floor for the record number of hours. And there are many interesting stories about how he physically was able to do that. I think people are thinking of those images, probably more often Jimmy Stewart than Strom Thurmond, but in their mind's eye they are picturing Jimmy Stewart standing up and ultimately getting worn down. They say, well that's the old fashion filibuster and these days we have what's been termed the "gentleman's filibuster" where the Senate goes on and does other things. We just know that we've got a filibuster and we're either negotiating to get 60 votes or we're negotiating a change in whatever is being filibustered, or we're waiting to file cloture or whatever it might be. If we just go back to the old-fashioned filibuster and require people who were filibustering to talk, well then they wouldn't be successful anymore and we'd have fewer of them. I think that's too simple and it won't work.

RITCHIE: There is a certain romance to the filibuster.

ARENBERG: It's a wonderful movie and I tell my students, who for the most part haven't experienced it, I tell them, "For God's sake go rent it." I may start showing it in class or something. It's marvelous.

RITCHIE: Senator Byrd once gave a talk about the Senate and how it was portrayed in movies and novels and he had never seen *Mr. Smith Goes to Washington*. So we got him the video and he took it home over the weekend. He came back on Monday morning with a critique of how it got the parliamentary procedure overruled.

ARENBERG: [Laughs] That's really funny! I always felt that what's really interesting is that they largely get the chamber right. They sought to and they weren't permitted to film in the chamber. So they constructed a set which looks remarkably like the real Senate Chamber which is, as you well know, very often not the case in Hollywood. It's one of the kind of comical things when you see movies, the Hollywood version of what the Senate looks like, or the Senate Chamber, or even sometimes they don't come to Washington to film the outside of the Capitol. They use some state capitol or something else for a quick shot. When you have a trained eye and you've been looking at the Capitol dome everyday of your life on your way to work, it jumps out of the screen at you. My God, that's not the Capitol!

RITCHIE: More likely it would be the Illinois capitol in Springfield.

ARENBERG: Yes. Which reminds me of another Tsongas story which popped into my head. This is a real short one. When he was first elected to the House of Representatives, he had been an intern here for Brad Morris at one time. He hadn't been to Washington in many years. He came here and as a freshman Congressman in a class of 92 freshmen, we had some office buried in the Cannon building. We certainly didn't have a view out the window where you could see the Capitol dome. But he was interviewed for the paper back home, the *Lowell Sun*. He was asked, "What's your first day in Washington feeling like?" And he said, "Boy, it's really inspiring to look out the window at that golden dome." [Laughs] I'm sure he knew better than that. But it's not a mistake you would make after you look at it every day of your life for a number of years. Of course what he was thinking of was the dome of the state house on Beacon Hill in Boston where the dome is gold.

RITCHIE: That's the only one I believe, of the state capitols.

ARENBERG: Designed by [Charles] Bulfinch who also designed, I believe with the same basic designs, the state house in Maine. So if you look at them, they look very similar. But the one in Augusta has a white dome.

His first day in the Senate was also memorable. He had surprised the state by beating Ed Brooke. There were all these “Mr. Smith Goes to Washington” references and a photo on the front page of the *Boston Globe* of the plaque on the door of Tsongas’s brand new Senate office. It read: “Mr. Tsongas, Massachussetts.” One “s” too many. I still have that sign. It’s one of things he gave me when he left office.

RITCHIE: You worked in the majority leader’s office before you went to work in Senator Levin’s office. How closely did you continue to work with the Democratic leader and the Democratic floor staff and the Democratic secretary? Was that all part of your regular routine as legislative director?

ARENBERG: Yes. There were some trivial reasons, like I knew all the internal phone numbers so that I could call the right person immediately and directly. Many of the leadership staff did carry over, particularly floor staff—the Democratic secretary, and people like that carried over from one majority leader to Senator Daschle. I had very close relationships with many of those people which was very helpful to me in my new job. I did keep a very close relationship, as I may have described to you already, certainly in the case of the Democratic secretary, first Marty [Paone] and later Lula [Davis], they were both very good friends. I stayed in very close contact with them, often multiple conversations during the day. As I said I would often call first thing on Monday morning to get the lay of the land for the week.

RITCHIE: What was your impression of Senator Daschle as the Democratic leader?

ARENBERG: I thought he was a very effective leader as I think I’ve said already. I think he took some of the changes that Senator Mitchell had made and extended them even further in terms of sharing power and in terms of additional consultation within the caucus. I think it was even more formalized with Daschle than it had been with Mitchell. I knew he was personally a very effective operator in the Senate as I think I’ve already said. He was very much like a right arm to Mitchell. He was the vice chairman of the Democratic Policy Committee. But even quite aside from that, very often he was very helpful to Senator Mitchell in terms of keeping in touch with other members of the caucus and so forth. Daschle would often play that role of being out there and talking to people and telling Senator Mitchell about various things.

RITCHIE: Like Mitchell, he started out on the staff. He was on Senator [James]

Abourezk's staff in the '70s.

ARENBERG: And was recruited to run for the Senate by Senator Mitchell. Maybe I overstate that. Senator Mitchell did recruit him when he was chairman of the DSCC, but that's not to say that Senator Daschle wouldn't have come to that decision by himself and probably already had. But he was certainly one of those House members that Senator Mitchell very badly wanted to run for that seat.

RITCHIE: And he did seem to have a nice feel for the institution. He had been around it for such a long time.

ARENBERG: I agree with that, I think that's absolutely right.

RITCHIE: It's often a contrast with him and Senator Frist, who was injected into the majority leadership before he had ever managed a bill.

ARENBERG: I felt like that was reflected in Senator Frist's leadership. I don't think he showed quite the same level of reverence for the institution. That was particularly clear when he was championing the so-called "nuclear option" to sweep away the filibuster for judicial nominations. That was different than all the other majority leaders that I experienced; Byrd, Baker, Dole, Lott, Daschle, Reid and of course, Mitchell. And, I've studied Johnson and Mansfield a fair amount. Senator Daschle worked very well with Senator Mitchell. I described when we were talking about that instance when we passed the same amendments seven times on the same day. If you go back and look at the *Record*, sometimes they were Mitchell amendments and sometimes they were Daschle amendments. I had written a set of talking points in defense of that amendment. Sometimes it would be Senator Mitchell delivering it, and sometimes Senator Daschle. And it's very interesting how good they both were. If you go and look at the *Record*, it won't be obvious to you when you look at the statements that they came from the same set of talking points. There are some sets of senators that if you handed them the same talking points you would get the same statement on the floor. In the case of both of them, they were able to go from that same set of bulleted talking points reminding them of certain key points to touch on that they were able to make very distinctive speeches based on that.

RITCHIE: I remember the race that Daschle ran to get the Democratic leadership position was very close. It was with him and Christopher Dodd.

ARENBERG: And it was one vote. You'll also recall that earlier on the race had been between Daschle and [James] Sasser. Sasser, much to everyone's amazement, was surprisingly defeated for reelection in Tennessee and that's when Chris Dodd came into the race. Many people thought, and again I say this with some trepidation because of what I was saying yesterday about leadership, we're looking at leadership races from the outside. It appeared that the Daschle-Sasser race was going to be a very tight race. Senator Sasser was also a very effective senator. It's interesting. One of the things that was very difficult for Senator Mitchell was that, as close as he was to Senator Daschle and I've described him as a right arm, Senator Sasser was one of those senators that Senator Mitchell often consulted for advice. He had tremendous respect for him and very much liked him. Fortunately, he wasn't in a position where he had to take sides. He was the retiring majority leader and he wasn't going to have a vote in the caucus on that decision but it was a difficult one.

I would add, parenthetically, Chris Dodd was also an extremely good candidate and it was reflected by that vote in the caucus. I've known Senator Dodd for many years, having grown up in Connecticut, and his father was my senator when I was growing up. I knew Chris Dodd very early on. He was elected to the House in that same Watergate class with Senator Tsongas. Because some of his back home staff knew me and Senator Tsongas ran for the Senate and came to the Senate two years earlier than Senator Dodd did that when Congressman Dodd was making a decision about whether to run for [Abraham] Ribicoff's seat, he called me and we had a very nice conversation at a restaurant in Norwich, Connecticut, my hometown. He wanted some insight into the decisions that Tsongas had made and how he put together the Senate race and so forth. It was a tough decision for him at the time because there was already a Democratic congressman, another young Democratic congressman you may remember, Toby Moffett, who was another member of that Watergate class, another great guy who had already announced when Senator Ribicoff retired for that seat. So the question for Senator Dodd analogous to the kind of decision that Senator Tsongas had made, do you give up a safe seat in the House in order to run a tough primary campaign and then a general election for the Senate?

RITCHIE: It's always part of the equation. You've got to take the gamble at some point.

ARENBERG: That's right. Parenthetically, and it will be obvious to people sophisticated about these things but I'll say it anyway since I sometimes belabor the

apparent, the two year term in the House sometimes seems anachronistic because given what it costs to run for a House seat these days, much has been written about the perpetual campaign in the House. If you just looked at it on the surface it would seem evident that there might be some virtue to saying, "Let's consider a constitutional amendment to make it a four year term in the House." That would never fly in the Senate because if you look at the math, it would mean that on occasion, there would be members of the House in your delegation who did not have to seek reelection when your reelection came up in the Senate. So you would have members who could keep their House seat and run against you for a Senate seat. I don't think many senators would want to opt for that.

RITCHIE: I was frankly surprised that more House members from Massachusetts didn't run for Senator Kennedy's seat in the primary given that they wouldn't have to give up their House seat to get the shot at it.

ARENBERG: I was a bit surprised by that too. I had predicted that quite a number of them would because not only didn't they have to give up their House seat but they were all relatively senior. In the nature of reelection in Massachusetts many of them hadn't been challenged for a while so they had amassed pretty large war chests. Even the question of having the funds to run a campaign was easier for them and in addition to the House members, there was a former House member, Marty [Martin] Meehan, who is now the chancellor of the University of Massachusetts at Lowell, and was one of the successors to Tsongas' house seat, who had been in the House for a number of years and had the largest war chest of them all. It was a federal account and it's not something that he has any way of spending now under federal law but could be translated into a federal race like a Senate race. A lot of people thought Marty Meehan might jump into that race and he didn't.

RITCHIE: Speaking of races, after the 2006 election there were a lot of senators who were seriously thinking about running for president. Just on the Democratic side you had Obama, Biden, Dodd, and Hillary Clinton. Of course you had a number of Republicans as well. How did that affect the way the Senate did business, especially after the 2006 election?

ARENBERG: There certainly was a logistical problem in terms of the majority leader having to make decisions about the timing of things, when things would come up, when a roll-call vote might occur. He had to take into consideration that there were for a while a number of members in the Senate who were running around the country

campaigning, as was Senator McCain on the Republican side. That had to be taken into account. Just in terms of some of the tactical politics that sometimes would take place, people would have to factor in how does this play in the presidential politics? Is this something we want to put them on record on now? Where's Obama on this, where's Clinton on this? Where's Biden on this? Where's Dodd on this? Just from my perspective I felt as though it was a remarkable field, it was a remarkable Democratic field of pretty outstanding candidates.

RITCHIE: Did you have any dealings with Barack Obama when he was a senator?

ARENBERG: Pretty limited. I did meet him once or twice and he certainly was very impressive and it's now obvious to the country how impressive he is. I thought when he first came, the early speculation that he was going to run for president, I guess as an old Hill rat, I thought, "It's early. Wait. Accumulate a few barnacles first." Interestingly, much the same could be said about Hillary Clinton when she first came to the Senate. You thought, "Slow down a bit. You've been in the White House and you were the first lady and everything. The Senate is different, learn the ropes." She was like a fish to water, just an incredibly effective senator very quickly. As was Obama I think, in ways which would have, a few decades ago, been unthinkable. We'd still be waiting for Senator Obama's maiden speech.

RITCHIE: Presidential politics spoiled a lot of really good senators, I think.

ARENBERG: It is a little eye opening. You sit down and make a list of members of the Senate who have run for president over all the years that I was here. Some of them are very short efforts at it—even Robert Byrd . When you think of a senator's senator, if you look up senator in the dictionary, there's probably a picture of Robert Byrd right next to it in his red vest. If you think about somebody with senatorial skills who you might be surprised would be interested in running for president. I certainly was a bit surprised by that. But he did run.

RITCHIE: I think we counted 50 in the last 50 years who actually officially declared their candidacies. Obama is the first one since John Kennedy to make it from the Senate to the White House.

ARENBERG: There is somebody who said somewhere along the way that every

senator, when he gets up in the morning and shaves, sees the future president looking back at him. That was obviously said in the days when that wouldn't be considered too sexist to say.

RITCHIE: With all the presidential politics going on, the election happens in 2008 and the Democrats are coming back in the White House. They've got big majorities in the Senate and the House. Just at that time you decided to retire. What was it that made you decide to step out at that point?

ARENBERG: It's funny. It was a very difficult decision for me. I had been thinking by that time for a number of years about what life after the Senate was going to look like. As you know, many of my colleagues, in the vernacular, "go downtown." They become lobbyists. You build up this expertise and it doesn't have a whole lot of applications in the outside world if you had been here for a working lifetime. The answer to that question that I always came to is that I would like to teach. I had always viewed myself as a "participant observer," as I described to you. It seemed to me to be the best application of the expertise that I built—if somebody would give me a room full of interested, committed, bright students and say, "Okay, motivate them. Go to it." I had that in mind for a number of years. It had almost become like a hobby.

As I've already described, I had a long standing desire to go back to the Boston area at some point. When I remarried, my wife, who I've already described as my high school sweetheart, owned a house in Massachusetts. The mortgage had been paid off on it. We had always just kept that and when we'd visit Massachusetts, we both have family up there, we'd just use it. Almost as a summer place. I had a home to go to. Whenever we were in Massachusetts, and we would travel back and forth a fair amount, I would go around and visit various—as you know there are lots of universities in that area—I'd go talk to the chairmen of the political science department and others and just chat about my interests. I was tickled pink by the kind of response that I was getting. It was very positive. Some of them would say, "We don't have the funds to do it, but it would be great. Stay in touch." Others would say, "Yeah, you know, I'd like to seriously talk about that." I began to feel like there was a receptive possibility out there and think about it a little bit more seriously. But I was still doing this kind of thing, I referred to it as exploration.

There have been a few times along the way, and I can come back and describe them if you are interested, in previous years where I had kind of come to the brink of

thinking about leaving and every time I had shrunk back from that. I loved it too much here. I was a real Hill rat. It was always something new and exciting right around the next corner. As you say, the inauguration was coming when I left. There was always something new and different and right around the corner to bring me back. I had never really done it.

I even had a couple of funny ones where I met with the chairman, for example, of the government department at Suffolk University in Boston. It's on Beacon Hill. We were talking about the Senate and just chatting and I was saying, "Sometime in the future I'm thinking about doing this." He said, "We sometimes hire adjunct professors. I think there's a real possibility there." We started chatting about things and I started going through my litany about the recent polarization in the Senate and the polarized politics and so forth. I said, "Sometime I'd love to teach a seminar on polarized politics, the culture, and how it's affected the Congress and the Senate in particular." He said, "That sounds interesting." I left him some of the vote studies, I always kept track of the percentage of time that other members of the Senate voted with Senator Levin. I used it as a way of quantifying the polarization in the Senate over the years. I left him a copy of that. We had a nice chat. I went back to Washington and a couple of months later I get a call from him and he says, "Well, good news. The course is in the catalog for next semester. We've got a room, we've got a course number, and we'd love to have you teach it. I described it in the catalog and I hope you like the description." I said, "This is really very flattering. It's very nice, but I haven't yet sorted out that I'm quite at the point of retiring from the Senate staff. I hadn't quite figured out my way back to Boston. I'm just tickled by this, but I hope that this isn't going to be a big problem for you." He said, "No. Students who sign up for it, we'll find something else for them. Don't worry about it. If you want to do it in the future sometime, come back to us." I didn't see that one coming! It was a real surprise.

A year or two later, right around October of 2008, I was up there in New England and I went by to talk to the director of the Taubman Center for Public Policy [at Brown University]. We had a really good chat about what I was interested in and what I'd like to do. Again I went back to Washington and some weeks later I got a call from Professor [Marion] Orr who is the director. He said, "A lot of the concentration of the Taubman Center has been on state and local government. We'd love to have somebody like you on board to teach courses about the Congress. We'd love to have you come in January. We'd particularly like to have you teach in the spring semester because we've got an external review of the whole center which is going to take place and we'd like to be able to showcase more of the federal aspect to our program." I said, "Let me think about that." I was familiar with Brown, I had grown up in eastern Connecticut. Obviously, it's an Ivy

League institution. It's a small school. It's a beautiful place. I love the city of Providence. It just seemed to me, if I could have designed the perfect opportunity for me, I probably would have designed Brown. I really had to give this serious consideration. I did over Thanksgiving.

You can see the time line that is quickly developing here. Coming out of that Thanksgiving break, because of the reasons that were in your question, I called the director back and said I think I would really love to do this. Ideally, for me, I'd love to do this next fall. What I'm thinking is, start next September. The whole idea of retiring so quickly, doing all of that, after 34 years, selling my house in Maryland. All of these things were making me a little dizzy. But most importantly, by then Obama had been elected. I was excited about the new larger majority and what that was going to mean in the Senate, the Obama administration starting. I thought that at the very least I'd love to have the first eight or nine months of that. That gives me a more familiar timeline for me to make a big change. But he kind of pushed back on that. I guess that's when he told me about the external review. He said, "From our perspective it would really be preferable if you could see your way to come in January." I thought about it some more. I just decided this is the opportunity of a lifetime to do my next step.

It was with a very heavy heart that I then went to Senator Levin and told him about it. I've described what he's like. He couldn't have been more gracious and encouraging. He said someday in his life after the Senate it's what he'd really like to do. We talked about what courses I might teach and what Brown was like. I made the decision to go. Parenthetically, I did call the chairman at Suffolk and said, "I'm going to be teaching at Brown next semester." This was going to be a night seminar at Suffolk. I said, "If you'd like to still teach that seminar, I'm willing to do that." He said, "Oh great. Okay." I got off the phone. Then over the course of the next week or so I discovered that the Suffolk semester started a week or two earlier than the Brown semester. I was already spinning. How was I going to do everything that quickly! I thought, oh, I can't do this. I called him with great trepidation and told him I had to bail out on Suffolk once again. The subsequent fall semester I did in fact teach that seminar at Suffolk. I really felt that I owed it to them. It was a lot of fun and I'm going to do it this fall again. I've also taught a course each semester at Northeastern in Boston where Mike Dukakis is a colleague on the political science faculty. I now teach courses at Brown in addition to the School of Public Policy. I also teach in the political science department. This past semester I also taught their basic Congress course. I can't tell you how much fun I'm having doing this. It's just wonderful. It's everything I had hoped for. Although I miss the Senate. After dragging through this

much of an interview, I hope it's obvious to you how much I miss the Senate and value it.

RITCHIE: What is the general reaction of students to Congress at this point?

ARENBERG: The students I have, and I guess if they are attracted to my courses particularly with my profile, there probably is a predisposition to be interested in it. So they are almost universally interested. In a larger lecture course, like the Congress course I teach at Northeastern, you may get some students who are kind of filling out the dance card, so to speak. They might have a more resistant approach to it. But certainly, overwhelmingly my students at all three of those institutions and particularly at Brown, are very interested, very excited about it. They tend to be activists. I certainly hope that as a result they come out of that greatly valuing the kind of real life experience that I bring to the job. I certainly get a lot of positive feedback in that regard. These kids are bright, focused, and incredibly motivated.

Many of them want to come to Washington and work after that. I try to help them with that. I had lunch with the Levin staff the other day. There was a student of mine from Brown in the room because he's serving an internship at PSI this summer. I'm hoping to turn that into a pipeline every summer so that I can send a Brown student to work on PSI. If I could design a perfect internship for a student it would be going to PSI. They are so deeply involved in all these investigations that your internship there is not going to be "Go fetch coffee," or "Go sit and watch this hearing." It's going to be, "Here's a stack of documents. Get to work." I'm happy about that. Hopefully my students value that background.

I have found—and this is especially true at Brown—I have lots of academic friends, career tenured faculty at various places. When I was thinking about this they asked me, "Are you sure you want to be an adjunct professor? They don't get taken all that seriously by full time faculty. They don't serve on any of the committees. There's no possibility of advancement." My response to that was always, "You don't understand. That's not what I'm looking for. I'm not looking to build an academic career, per se. I'm not looking for tenure. I'm not looking to climb the ladder. I'm not looking to serve on necessarily a bunch of academic committees." I would describe what I just described to you, about wanting a room full of bright students and to have my shot at energizing them. What I have found at Brown is no such prejudice about it. Quite the contrary. Two or three weeks into my new academic career I was asked to speak at a faculty brown bag luncheon on the subject of the new Obama administration, at that point only several weeks

new, on the subject of “The Obama administration: A View from the Senate.” I called Senator Levin and said, “I think you’ll be amused by this. I’m three weeks into my academic career and I’m already pontificating like the voice of the entire United States Senate!”

RITCHIE: It strikes me that certain fields, particularly political science and economics, value people who have stepped outside and had real world experience and come back to teach about it.

ARENBERG: It’s particularly true of the Taubman Center as I’ve mentioned. There are a number of such faculty members there who have had various kinds of real world experience. It’s really been a marvelous experience for me.

RITCHIE: As you know from the panel that we started talking about at the Brookings Institute, sometimes if your experience is strictly in the academic world, it skews your view of the outside world.

ARENBERG: I think that’s right. Particularly when you are talking about an institution like Congress where some of the mores, some of what I keep describing as the fabric of the Senate, is a little opaque to outsiders. Since it is a public institution and so much of it is visible, I think people feel, average citizens feel, and with some justification, that they have some level of expertise about commenting about the Senate and analyzing it. They know how it works. You can get this combination not just with academics but with journalists and others, a kind of hubris about it—“I really understand how that works.”

Certainly the academics that I’ve encountered, they do have a much more sophisticated, much deeper understanding of how things work. Many of them have spent some time up here. They have done fellowships. I’ve supervised a lot of APSA fellows over the years. For many years, when APSA had their orientation session, I’d be invited to go speak and give them an orientation. Many of them were political scientists, tenured professors who were coming here to serve one year fellowship in a congressional office. I would give them a briefing on that. I think in the Tsongas office, in the Mitchell office, and again in the Levin office, and in large part because I had a conviction about that, I think we had a very good reputation with that program. Outgoing fellows would give advice to new fellows about what offices to beware of. I was told we always had almost universally good grades. I was kind of proud of that and it was one of the reasons why I

would accept this opportunity to lecture to them every year. But I'm not trying to puff up my own position. Just by making the point that you did, that kind of fellowship was very helpful and very formative to those people. They see it as an additional credential to those people. It gives them street "cred" when it comes to their academic credentials. But it's not the same as living here for 34 years and seeing this place from the inside out.

I think some of the more subtle colorations (and I've probably worn you out with my speech about the filibuster), but there is one where I think, although those people who have written on it have a very deep understanding of it, it's not just superficial. We'll just look at the votes. Or confusion about every cloture vote as a filibuster. They understand all of those subtleties. They understand that the subtlety of a threat to filibuster is a very important factor in its own right. The implied right to filibuster is another step removed. But I think you have to spend a lot of time here to understand. Frankly, with all due respect, and I mean it respectfully, I think there are newer members of the Senate, particularly those who served a lot of years in the House, and it takes them a while to understand that themselves. There is a very important part about how this Senate has functioned—that function that goes all the way back to the constitutional design, goes back to the Constitutional Convention, goes back to those founders—that has to do with this body not only slowing legislation down, we talked about that, but also being a body that would move towards consensus. That would take a more moderate, because it isn't always the middle, but a more cold eyed, sober approach to making these long term decisions.

As you know better than me, if you go back and read some of the founders, they thought the Senate would be that way because they would be older, they would be property owners, and all of these things. Those notions would seem very foreign to us today. The Senate is going to be wiser just because they are going to be graybeards. I would argue one of those mechanisms that evolved to stay true to that vision was these notions of unlimited debate and unfettered amendment. It wasn't an accident. Those academics will say over and over again, this happened by accident. If you go back and study and do away with all the myths, this was an accident. I really don't believe that. I don't believe there is anything accidental about it at all. If it's an accident, it keeps happening accidentally over and over and over again for 200 years. If you read the debates, as I know you've read many more of them than I have, I shouldn't be so bold as to lecture the Senate historian on the history of the Senate, but if you go back and read those debates from 1917 and before, you find that in that sense there is nothing new under the sun. All of these arguments, is the Senate a continuing body? What's the role of

extended debate? Non germane amendments—should we be doing this? All those debates are there, both sides of them.

RITCHIE: It's quite wonderful when you read a century-old *Congressional Record* and then you go into the Senate Chamber and you hear people saying pretty much the same things in almost the same formal language that they did back then.

ARENBERG: Senator Levin's speech on the nuclear option—I was the initial drafter of that and he, of course, as Senator Levin would do, rewrote most of it. But one of the things that I suggested to him were these marvelous passages from Senator Vandenberg from I think it would have been 1948-1949. He was the one that made the ruling. At that time the motion to proceed was not subject to cloture because the way Rule XXII read, there are now several words, motion, matter. It's been rewritten so that it now clearly includes the motion to proceed. Of course, one of the reforms suggested is that now they move another step and make the motion to proceed not only subject to cloture but non debatable with a proscribed limit on debate. Senator Vandenberg, who at that point was president pro tem of the Senate, was presiding over the Senate and had to make a ruling on that. Although it went contrary to the underlying substance of what he wanted to happen, he recognized and didn't think it was a good thing that it would totally undermine the cloture rule. If you could now filibuster the motion to proceed endlessly it would undermine cloture. He didn't particularly want to do that. Nonetheless, he felt obligated under the Senate rules to do what the rules required. He makes a marvelous speech about that. There are long quotes from that in Senator Levin's statement on the nuclear option.

The point to that was that the nuclear option only works if the vice president or whoever the presiding officer was sweeps aside all of the precedents and the explicit rules of the Senate and says ok, this point of order will stand. Then it can be objected to and all of that can be dealt with by the majority with a simple majority vote and you created a precedent that stands. Of course, that was the argument for the nuclear option. A form of that is the argument for what can be done at the beginning of a new Congress—the so-called “constitutional option.” What then gets added to it is that at the beginning of a Congress is that argument that, under the constitutional provision that allows the Senate to write its own rules, that it's a new Senate when the Congress comes in and so it can follow *Robert's Rules of Order*. The rules can be changed by majority vote. Of course for 200 years it's been the position of the Senate that the Senate is a continuous body. Its rules can be changed at the beginning of the new Congress but only pursuant to the Senate rules.

That includes the part of Rule XXII that says to end debate you need a two-thirds vote. In fact, in 1959 they wrote that explicitly into the Senate rules. Rule V says that the rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided by the Senate rules themselves. That would seem self-evident, but the Senate in 1959 wanted to underline that it viewed itself as a continuing body. As we've talked about, there is a sense in which you can do in the Senate what you have the power to do, if you are willing to ignore precedent in the rules themselves. Presumably a nuclear option-like technique could be used, in spite of the fact that the Senate is a continuing body, by a vice president but he will have to ignore not only that interpretation but the explicit rule of the Senate itself in order to make that rule. I know there is debate about that now for next January. I'm sorry I keep going back to that but it's very much on my mind.

RITCHIE: Then they have to consider what the long term consequences of anything.

ARENBERG: Absolutely. In your questions you've talked about the recent history of the Senate and how often it's gone back and forth from the control of one party to the other. Senators who have been around here for a while don't need to be reminded. By the time they get to be a committee chairman most of them remember it very well. In their treatment of the ranking minority member on their committee they know that the gavel could be shifting and they could be switching positions in a future Congress and maybe one very soon. They keep that in mind and you often see that reflected even in the more polarized Senate of recent years in the way that committees conduct themselves. Particularly for newer members who haven't experienced that change one or two times, it appears to escape their memory or their consciousness. They don't see the implication that if you change the rules using that kind of procedure at the beginning of the next Congress, what about when the other party has the majority in some future Congress and maybe they are less restrained in their use of it. Maybe they want to go all the way to majority rule if that isn't what's already happened in the first instance. Maybe they want to set up more control for the Rules Committee. Once you go down that road, then you rewrite the rules every two years the way the House does. The fabric of the Senate that I believe is there, that I described too many times to you, I apologize for the repetition, is torn apart. You can never get it back.

RITCHIE: Sounds like you are going to have a fascinating book. As soon as it comes out I'm going to get a copy of it.

ARENBERG: We don't quite have a publisher yet. I don't even worry about that because to me the act of writing this book is so much fun and so important that even if I have to xerox it myself and hand it off to members of the Senate, I'll do that.

RITCHIE: I don't think you'll have to worry about that. I think you'll have a lot of publishers interested. It's a fascinating subject and it needs a long view. Too many people have, at the moment, a quick-fix approach to things without any kind of historical context.

ARENBERG: I'm glad I have you saying that on the record. We'll put it on the book jacket. [Laughs]

RITCHIE: Is there something else that we should have talked about that we have not? I've had you here for a marathon. I really appreciate the amount of time that you've spent doing this.

ARENBERG: You're a wonderful interviewer and you've done a tremendous job of covering the waterfront and drawing out of me a lot of tributaries that I've forgotten were in there. I apologize for the flood that you've created. The one thing I would make a quick mention of is the Terri Schiavo story in the Senate. I've made some notes so we'll get the dates right. It was in March of 2005. You'll remember that there was an issue—the state courts had ruled that the feeding tube for Terri Schiavo could be removed. Republicans wanted that issue to come before the federal courts. In the first writing of it they wanted to pass legislation that would instruct the federal court to not only take the case but to issue a stay. Senator Levin was extremely concerned about that latter part of it. He probably didn't think that Congress should be legislating in the middle of this circumstance in any event, but nonetheless it was pretty clear that Congress was going to do something. He certainly didn't believe that it was appropriate or constitutional for the Congress to attempt to tell the court what it should do. Taking jurisdiction is one thing, but instructing it to issue a stay is quite another. The House passed it overwhelmingly. It came over to the Senate. The Senate by that point had adjourned for recess and they were out of town except for the leadership. It came over and Senator Frist, who was then the majority leader, made a big speech on the floor. He's a doctor, he even made a prognosis from the Senate floor. It required unanimous consent to pass it.

Senator Levin was very concerned about this. Although he was in Michigan, he asked that we convey to the leadership that he wanted to put a hold on this in the Senate

because he was concerned about this issue—the language explicitly telling the court to issue a stay had been taken out. But as someone who has been around for a long time and is a very good lawyer, he very much clearly understands the impact of congressional intent. He was very concerned about that. He wanted to make sure that this was clear. He put a hold on it and demanded a colloquy with the majority leader which we negotiated out. There was a colloquy between the majority leader and Senator Levin which was promulgated, and then at the end of it Senator Levin says that with that understanding he's now satisfied to allow this bill to go through by unanimous consent. It did.

My suspicion is, and I don't say this disrespectfully, but what I conclude, that his willingness to push for the nuclear option made me feel that Frist wasn't a great Senate institutionalist. I think he would probably accept that characterization of himself. I think that he saw this as a senior Democratic Senator just obstructing something that they needed to get done. Time was of the essence. You'll recall that when it did pass, President Bush flew back from Texas overnight on Air Force One to sign it into law at one o'clock or two o'clock in the morning because the issue of the removal of the feeding tube obviously created a natural time clock. He wanted to get this Levin obstruction out of the way. When the language of legislation is not perfectly clear, courts will sometimes go to issues of congressional intent to make a determination of what it was Congress was trying to do in this somewhat opaque law that it passed. Senator Levin was very conscious of that. If you read the colloquy you can see that. It went from his mouth to the ears of a federal judge. It was included. It went into the law. The federal court denied a stay ultimately and it went to the court of appeals. I'm very proud, and I'm pretty sure Senator Levin is also very pleased and proud, of their decision. Let me read one paragraph from the 11th federal circuit court decision: "There is no provision in public law 1093 addressing whether or under what conditions the District Court should grant temporary or preliminary relief in this case. Not only that but Congress considered and specifically rejected provisions that would have mandated or permitted with favorable implications the grant of pretrial stay. There is this 'enlightening exchange' in the legislative history concerning the Senate bill that was enacted." And then the decision of the federal court takes the extraordinary step of quoting verbatim the entire colloquy from start to finish and then repeats the words "enlightening exchange" again, a second time, afterwards.

I often use this case study with some of my classes to make two points. One is when I'm talking about the balance of powers, and tensions between the Congress and the president are very obvious. But the ones between the legislative branch and the judicial branch do occur and I use this case study to talk about that. But also to talk about this role

of congressional intent and how important it can be. Sometimes it gets obscured in the process of making a sausage in the congressional sausage factory. We don't think about that factor but it's something that Senator Levin does think about. He often has that in mind.

RITCHIE: He was trained as a lawyer and Senator Frist was trained as a doctor. Perhaps that has a lot to do with their different approaches.

ARENBERG: I think it has a lot to do with it. In this particular case I think he came to it from a medical perspective and Levin came to this circumstance from a legal perspective.

RITCHIE: It also suggests that in a collegial body an individual can make a difference.

ARENBERG: That's right. Without the filibuster this wouldn't have been possible. That would have gone through like a hot knife through butter.

RITCHIE: I was going to suggest that if you think of anything else we can keep this open for a while. It's going to take us a while to transcribe. We can also continue to add material. I know you are going to be coming back to Washington so we'll keep the door open.

ARENBERG: I appreciate that, thank you. One image that pops into my head is my very first day on Capitol Hill. Paul Tsongas had just been elected to the House as a member of the 1974 "Watergate babies" class as they called them. He called us (Dennis Kanin who I've mentioned several times was there) into his new office and asked us to close the door. First he noted that this was the first time he had seen either of us--after a long Congressional election campaign--in suits. Then he looked us in the eye, broke into a huge grin, shrugging his shoulders, he asked, "Isn't this fun?" I thought of that day frequently as I served on the Hill over the years. I could always hear his words, "Isn't this fun?" Going back over all this history with you brings it back again. Yes, no matter how hard, how frustrating, how disappointing, how stressful it became at times, in the way Paul Tsongas meant, it was always fun.

RITCHIE: We'll also make copies of all the transcripts for you. You'll have the chance to go through and do any editing that you think is necessary. We'll have a release

form and there will be an introduction. And you have the right of first use of this material. You're writing a book, there is probably some interesting ways of expressing things that you certainly should feel free to make use of.

ARENBERG: You can feel certain that I'll make all of my students read it, if nothing else. [Laughs] I want to convey the same offer to you in terms of the notion of leaving it open. If you wake up in the middle of the night and think, "Oh geez, I should have asked him 'x,'" give me a call or send me an email. I'm happy to entertain. It's been a great pleasure for me too.

RITCHIE: This has been a real pleasure. It's a terrific dialog and I learned a lot from this. As I say, I'll be the first one in line to buy the book.

ARENBERG: Well, thank you. You might even get a free copy.

RITCHIE: Speaking of books to show you, I have the first and only copy that exists right now of a book that's coming out next month. [*The U.S. Congress: A Very Short Introduction*] It's a part of Oxford's very short introduction series, and all of 35,000 words. It really is just an introduction.

ARENBERG: I believe it may have even been at your suggestion, but Bob talked to one of the editors at Oxford and they took a look at a couple of our first draft chapters. They didn't jump at it, but one of the first things they said to us when they looked at the design that we had planned was, write a shorter book! [Laughs] It's still an open question.

RITCHIE: This is about as short as you can get and still be a book.

ARENBERG: I look forward to reading that. When will it be out?

RITCHIE: July 6.

ARENBERG: I'll definitely look for it. If you haven't read it, go out and get an old copy of *Men of Zeal*.

RITCHIE: We have it on the shelf here.

ARENBERG: You don't have to read the book, just read the footnotes! [Laughs]

RITCHIE: In this little book there aren't any footnotes, they wouldn't let me put them in. But I know that people are going to say "Where did you get that quote that's on page 70?" So I have the footnotes ready to go. I can email them to you.

ARENBERG: That's true. Well, if you go back and look at *Men of Zeal* you'll see that the footnotes alone would fill a book about that size.

RITCHIE: Great seeing you, good luck with everything.

ARENBERG: Bye.

[End of the Fifth Interview]