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Interview #3: Paul Douglas and Civil Rights

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Interviewed by Donald A. Ritchie

Ritchie: I'd like to spend today talking about the 1950s, particularly the Civil Rights legislation. You came to the Senate in 1955, and Senator [Douglas](#) by then had been involved with Civil Rights and filibuster rules changes. When you got there, and Civil Rights legislation came up, did he ever sit down and tell you what his goals were, and what his objectives were in terms of Civil Rights legislation?

Shuman: Well, we never sat down in that sense, when he said, "Howard, I want to tell you what I'm trying to do." But because I was with him so much of the time I certainly got a very good idea of what he was up to. It was done by osmosis.

First of all, his views on Civil Rights had a historical basis. He knew the Constitution, which of course allowed slavery to continue, and which counted blacks as three-fifths of a person, although they couldn't vote, and the politics before the Civil War. He used to talk a lot about the ineptness of the presidencies before the Civil War and their relations to Civil Rights. Specifically he mentioned [Franklin Pierce](#), who was a graduate of Bowdoin College from which both Mr. Douglas and my elder daughter graduated, and [James Buchanan](#). He referred to them

page 134

as dough faces, defined as northern men with southern principles. He said, rightly, that they nearly brought the country to ruin. He often spoke of the Dred Scott decision of the Supreme Court which ruled that a former slave even in a free state was not a person but property. He talked a lot about the Thirteenth, Fourteenth, and Fifteenth amendments, passed right after the Civil War. And then he often centered on the Hayes-Tilden presidential election, where Tilden the Democrat was denied the presidency by -- well, it was a steal. There was an absolutely abominable deal made in which the electoral votes of several states, I think four of them, were challenged, particularly Florida, Louisiana, South Carolina, and Oregon and in the end all of the 19 challenged votes went to Hayes, most of which should have gone to Tilden. Hayes won by one electoral vote. But the deal was that the occupation of the South would end, that the Civil Rights acts and the Fourteenth and Fifteenth Amendments would not be enforced, and segregation would continue. William S. White, who wrote *The Citadel*, a book about the Senate, made the point that the Senate is the South's revenge for Gettysburg, but that revenge really began after the election of 1876, with this

deal. Originally I think there were seven Democrats and seven Republicans on the commission to decide the disputed votes, plus a neutral Justice of the Supreme Court, David Davis of Illinois. Davis resigned and was sent to the Senate and a Justice who was a Republican, was appointed. So the votes were eight to seven for Hayes. But the

page 135

deal was that in return for no enforcement of the Civil Rights bills and the 14th and 15th amendments, an end to the occupation, the return of the South to Congress, and to essentially do in the blacks, the Republicans were given the Presidency. In addition the senator talked a great deal about the history of the [filibuster](#) rule.

Mr. Douglas' purpose in all of this was to do two things: one was to enforce the Fifteenth Amendment, the Voting Rights amendment; and the second purpose was to enforce the Fourteenth Amendment, which was really in some ways more critical as it applied to more rights, such as desegregating hotels, motels, public parks, buses, trains, etc., than voting rights. It reads that no state may discriminate on the basis of race, creed or color because it is not allowed to deny to any person "the equal protection of the laws." That, of course, brings in any business or group or agency who are accredited by the state, or who are certified by the state, including the schools.

The enforcement of these rights, denied since 1876, was clearly his aim. I think his sense of the history of what had happened to blacks was a very, very important background or motivation or stimulus to what he was trying to do. So, yes, we talked about it a lot. And in those early days I met and worked with people like Clarence Mitchell, who was the lobbyist for the N.A.A.C.P., and Roy Wilkins, the president. I can't

page 136

remember whether I told you about the dinner with Roy Wilkins on Pennsylvania Avenue. One night in '56, when we were trying to get the Civil Rights bill passed, a small group of us had a room in the bowels of the Senate wing of the Capitol, a small room, because there was a lot of action going on on the floor, and we met there and went back and forth to the floor and to the gallery. The Senate adjourned one evening at a reasonable time, at six-thirty or seven o'clock, and we decided to go down Pennsylvania Avenue to have dinner. Roy Wilkins was with us, and I think Joe Rauh was with us, and Frank McCulloch, and myself. We walked four or five blocks. There were then restaurants across from the Archives. We finally found a restaurant, but the only reason Roy Wilkins was able to go to that restaurant was because he was with three whites. That was Washington. My students now don't realize the degree to which segregation was still invoked in

the fifties and the sixties. In that period Roy Wilkins risked his life when he flew into a segregated airport in Mississippi. It was incredible to me that in the 1970s some young blacks called him an "Uncle Tom" because he believed that under the law, legally and constitutionally, blacks could achieve their rights. Some of them had no sense of history and knew nothing of the courage he showed. I once told him that he made it possible for the younger generation to be irresponsible.

page 137

Ritchie: Coming from the Midwest, what was it like to move into a segregated city? Did you feel it when you got to Washington in the 1950s?

Shuman: Yes. The junior high school that my children went to was the first school in Virginia to be desegregated, a momentous event, and I never will forget the morning when that happened. The police were ringing the entire small junior high school. Even in Virginia they then enforced the Constitution. So, yes, it was apparent, but as I mentioned earlier I had been involved in Civil Rights issues, particularly at the university, and when I was in the Navy the group of men I had were all black. So it wasn't something entirely new to me.

Ritchie: But it certainly must have brought home how big the issue, that it was right here in the capital.

Shuman: Yes, it certainly was an issue in the capital of the United States. Washington was then a very lazy Southern town. History might very well have been different if the capital had stayed in New York or Philadelphia.

Ritchie: In 1956, Eisenhower in his state of the union message proposed a Civil Rights bill -- his first Civil Rights proposal. What was your role, and Senator Douglas' role in that '56 bill.

page 138

Shuman: Well, I was his legislative man. Frank McCulloch was his administrative assistant, and Frank McCulloch worked with the organizations, and I did the floor work. Particularly my job, rising out of the incidents in '56, was to detail the parliamentary procedures for the senator and for the bipartisan Civil Rights group of senators both in 1956 and 1957. I watched the floor, I wrote a lot of speeches, but basically I was the person to find out from the parliamentarian what we could do, and to learn the rules of the Senate backwards and forwards.

We had a very difficult experience in 1956. The House passed a Civil Rights bill which was very similar to the '57 bill as it started out, and which had in it key provisions which ended up finally in the 1964 bill, especially what was called Part

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3, which enforced the Fourteenth Amendment. That bill came over from the House, and it was a pretty good bill. The later voting rights bills were much better because in those early days the bills treated voting rights on an individual basis, so that if an individual was not allowed to vote, he could go to court. He could get an injunction from the court, which told the polling official to let him vote. It had two weaknesses. What could have happened, and did happen under that provision, which ultimately passed in '57, was that by the time an injunction was issued and the court procedures occurred, the election was over. So there was very little justice. Second, it put the burden on individual

page 139

blacks in the South, who were poor and penniless, to take these legal steps at each incident. That was a very, very poor answer to the almost complete lack of voting rights in the South. The voting rights provisions in that bill provided very little justice. The bill did include the Civil Rights Commission, and it did include Part 3, but Part 3 was deleted in the Senate in 1957.

In any case, that bill passed the House in 1956. Senator Douglas went over to the House floor to accompany it to the Senate, so that it wouldn't be sent to the Judiciary Committee. He got there just after the bill passed the House, and then he came back to the Senate. When he got back to the Senate, the bill had arrived almost as fast as the speed of light and had been referred, after a first and second reading, by unanimous consent, to the Judiciary Committee, which was the graveyard for Civil Rights. [Jim Eastland](#)'s committee got the bill. It was the committee which had bottled up a Civil Rights bill there for almost two years, which didn't meet often, where there was a filibuster in committee when it did meet, where members didn't appear for a quorum, and where the committee adjourned at twelve noon when the Senate came in. Nothing happened! Mr. Douglas was tricked in this instance. [Lister Hill](#), his good friend from Alabama, was in the chair, and told him afterwards, smiling like a Cheshire cat, that he'd just followed the rules of the Senate.

page 140

Then Mr. Douglas attempted to discharge the committee of the bill. Well, to discharge the committee, there were a series of steps. A petition for discharge had to be filed in the Senate at the morning hour. It had to lay over a day. Then it could be motioned up. A filibuster could apply to the motion to proceed to its consideration. Then if it was motioned up, another filibuster could apply to voting on whether to discharge the committee. If that was successful all that happened was that the bill went to the calendar. Then the bill had to be motioned up, a filibuster had to be broken and the Senate had to break another filibuster before there could be a vote on the bill. It was an impossible situation. But to do any one of these steps it had to be done on a new legislative day, and a new

legislative day came only after an adjournment. If the Senate recessed, there was no morning hour, no new legislative day, and none of these steps could take place. So what Johnson did was to recess the Senate, day after day, so that the 26th of July was the legislative day of the 13th of July.

Finally, out of desperation, Mr. Douglas moved to adjourn the Senate, instead of to recess it. [Johnson](#) made a great to-do about this, on the grounds that this was a prerogative of the leader, and it generally was. Johnson, after recessing for two weeks, denounced Mr. Douglas for trying to take over the leadership. It was the stock argument of blaming the other guy for your own

page 141

faults. And a vote came. The vote was, I think, seventy-six to six against the senator. He was crushed. The six votes came from a curious bunch of people: [\[George\] Bender](#) of Ohio, the Republican who was of questionable reputation; [Bill Langer](#) of North Dakota, who had I think been indicted by his political enemies but never sent to jail after he was governor, who was a Robin Hood, who took from the rich and gave to the poor, he didn't make any money himself; there was [Herbert Lehman](#), who was a saintly fellow; there was [Hennings](#), a Democratic senator who was an alcoholic, and who should have been leading the fight but who never came to the floor at the crucial moments; [Irving Ives](#) of New York; and Mr. Douglas. Those six. The only six votes. [Hubert Humphrey](#) did not vote with us. Hubert was in Lyndon's pocket, on that vote.

Mr. Douglas went out to the bank of elevators, which then were operated by patronage students from Georgetown. Senators punched the button three times in order to call the operator and to tell the operator that a senator rather than the general public was present. Mr. Douglas said to me, after this crushing defeat, "Punch that button three times. Let's pretend I'm a senator." There was a lot of pathos in it. He went back to his office, and in his memoirs he said -- I can't quote this precisely -- but he said that he cried for the first time in many years over his feeling of inadequacy for not being capable of pulling it off. Well, then he

page 142

and others decided that after the '56 election they would make another try at changing the filibuster rule in '57. They did. The United Auto Workers were very important to us in this. [Clinton Anderson](#) of New Mexico was picked to move the motion, on the grounds that the Constitution allows the Senate and the House to determine its own rules, that the rules didn't automatically carry over from session to session. One third of the Senate was newly elected.

Johnson opposed us at every step. He had opposed the attempt in '53, and he opposed it in '57. He made critical motions to table, and so forth. He absolutely

denied us every real opportunity to win. The appointment of new senators to committees was put off until after the vote, and when new senators came to see Johnson and Bobby Baker about what committee positions they would have, they were told to please go down the hall to see [Dick Russell](#), who was the power in the Senate. And Dick Russell would ask them what their position was on the filibuster rule, and make very pointed questions about that. The Steering Committee did not decide committee assignments until after the filibuster fight was over, and the people who voted with the Southerners got the gravy and the good positions: the people who voted with us got the District of Columbia Committee and the Rules Committee.

Ritchie: What do you think was Johnson's motivation at this stage?

page 143

Shuman: It was very simple: Johnson was tied, lock, stock, and barrel, to the Southerners, and the Southerners controlled the Senate. They elected him [Leader](#) and they were his source of power. They had ten of the sixteen chairmen of the standing committees. They packed the Steering Committee, I think nine of twelve on the Steering Committee were theirs, and the other two or three were sycophants from the fiefdoms, the very small etates like Rhode Island and Delaware and Nevada, so they had almost complete control of the machinery. One cannot now (1987) check the official record and find out who were the members of the Democratic Steering Committee, the Committee on Committees, thirty years ago. It was a behind the scenes, semi-formal group, controlled by Dick Russell and the Dixiecrats, with Johnson as its chief executive officer (CEO) and Bobby Baker as the key operator.

They controlled the Senate by the coalition among the Southerners and the Democrats in the Mountain States, and the trans-Mississippi Republicans -- North and South Dakota, Kansas, Nebraska and so on. The deal was very simple, as I detailed earlier.

But the key was that the Mountain State senators voted with the South on the procedural motions having to do with Civil Rights. If a Civil Rights bill got to final passage, the westerners were free to vote for it, but they stuck with the South on the filibuster, and they stuck with the South on knocking out Part

page 144

3 of the Civil Rights bill, Fourteenth Amendment provisions, and on putting a Jury trial amendment on the voting rights provisions, which nullified them, because at that time the Southern juries were all white. There was no way some white registrar who was held in contempt of court could go to jail. If the judge said I'm not going to take away this contempt until you register this black man,

he could have a jury trial with an all white jury. It was absolutely rigged. Those were the issues on which the Westerners -- most of them, not all of them -- voted with the South. The quid pro quo was as I've pointed out. And the Republicans from the trans-Mississippi middle west, right-wing Republicans from agricultural states with very few blacks, voted with them. The coalition had fifty-five votes for almost anything.

Ritchie: I was wondering also about its relation to national politics. The Democratic party had such a heavy base in the South which it presumably didn't want to write off.

Shuman: Yes, and one of the reasons that Johnson didn't want to bring up the Civil Rights bill in '56 was that the convention was coming along. People didn't want to break up the party and lose the South at that time. So there were great pressures then. But when Eisenhower sent up a bill in '57, really the same bill, and the Republicans pushed it, then the Democrats felt they had to go for it as well. So we got back a certain amount of support.

page 145

But Johnson was with the South because his basis of power was Dick Russell, who controlled the Senate. Johnson wasn't in control of the Senate, Russell was. Johnson essentially could not do anything that Dick Russell and his group fundamentally disagreed with. He was incapable of doing that. He never did it. He could give us a small token housing bill, because [John Sparkman](#) from Alabama was in charge of housing, a few things like that, but he couldn't pass a good Civil Rights bill or change the filibuster rule. Not only couldn't he do it, but he went all out against us, against the Civil Rights group.

Ritchie: In 1956, when the Southern Democrats signed a declaration of protest against *Brown v. Board of Education*, all the Southern senators signed it. Fulbright signed it. But Johnson didn't sign.

Shuman: No, Johnson didn't sign it. He got out of signing it on the grounds he was the Leader and a Westerner. Johnson was not personally a segregationist. Dick Russell was. Dick Russell believed in it viscerally. Some of the other senators [Thurmond](#), [Holland](#), [McClellan](#) -- believed in it as well. One senator, whose name is [Russell Long](#), advised Mr. Douglas -- I don't know whether he did it just because he was talkative, or whether he did it because he believed in it -- but he advised Mr. Douglas that the critically important thing on voting rights was to send registrars into the South. He told him that was the way it had to be done. Long

page 146

said he would deny it if Douglas ever said he told him that. Mr. Douglas has got it in his memoirs, but he doesn't give Russell Long's name. But I don't see any reason now not to say who it was. It was Russell Long, who came from the populist tradition of his father, [Huey Long](#).

Ritchie: Do you think there were other Southern senators who felt locked into it because of the politics of their states?

Shuman: Yes, definitely. I think of Lister Hill and John Sparkman, among others. There were a few. [Strom] Thurmond was unbending. Spessard Holland from Florida was a real racist. Curiously enough, I never felt Eastland really cared very much about it. This was just the politics of his state. That was the way he approached it. He was a cynic. I don't think he was too offended when Civil Rights laws were passed. He started working for black votes, so did Thurmond. When Senator Douglas, with Herbert Lehman, voted against Eastland for chairman of the Judiciary Committee, Eastland in a pleasant and jovial mood came over to Mr. Douglas' desk to thank him on grounds it would help Eastland politically in Mississippi. I think he would have given Douglas three judges to get him to vote "no". Of course he didn't.

One thing I wanted to make a point about: [Nixon](#) in 1957 ruled in our favor on changing the rules, but he left it up to

page 147

the Senate to decide. Now, it was very important as to what subsequent vote there was on that ruling. If we could get a vote on the ruling itself, then half the Democrats would vote to uphold Nixon, and most of the Republicans, because they would be voting to uphold their Republican vice president. If the issue came on some other issue, such as tabling, and the Republicans didn't have to vote on the substance of what the vice president had done, then we were going to lose a lot of the Republicans. In '57, when Anderson made his motion and got a ruling, before we could move to vote on it, Johnson stepped in and used the unwritten rule that the chair recognized the majority or minority leader over any other senator, even if he wasn't the first to be on his feet to ask for recognition. Nixon told us ahead of time that if Johnson wanted recognition he'd have to give it to him. And Johnson did, and he moved to table the ruling rather than to vote on its substance up or down. This let a lot of the Republicans off the hook, and many voted with Johnson to table our motion.

But we got thirty-eight votes for it. And it had been predicted that we'd get only eighteen or twenty. The fact that the thirty-eight who voted with us represented about sixty-five percent of the population of the country, scared the South and Russell. It so frightened them that they didn't really dare filibuster the 1957 bill. Their choice then was not whether they were going to filibuster the bill, but what the content of the

bill would be. They essentially won that fight, by knocking out Part 3, the Fourteenth Amendment enforcement provision, and by putting the jury trial amendment on the voting rights provisions. Then we got into a parliamentary quandary and a no-win situation where when Part 3 was up we couldn't modify it. We couldn't weaken or modify it, in order to save it because if a senator voted for an amendment which weakened it he was voting for something less than what was in the bill, and the Civil Rights senators were unable or unwilling to do that. But we figured that after Part 3 was knocked out we could come back with a modified provision and then people would be free to vote for it because they would be voting for something far better than nothing.

Just before that was proposed near the end of the time the bill was being debated while there was huge commotion on the floor and while nobody was listening, Johnson moved a third reading of the bill. A third reading of the bill cuts off all further amendments. He did that in a -- I want to use the word -- "sneaky" way; certainly there was no notice of it. He did it without people being warned. He did it surreptitiously, and he cut off any further ability to propose even a watered-down version of Part 3. Dick Russell then at the end of the debate said the watered down bill was one of the great victories of his life, as he had virtually killed the substance of the bill. Mr. Douglas said, using the old [Lincoln](#) phrase, that that '57 bill as it passed the

Senate was like soup made from the shadow of a crow which had starved to death. That is essentially correct, except the House did come back and strengthened the provisions to some small degree, and the Civil Rights Commission did survive. Johnson then took credit, after having opposed us, vehemently, at every step of the way, for the first Civil Rights bill in some eighty-five years to have passed the Senate. But he was essentially against us. He was unbelievable!

Ritchie: Technically the bill really didn't give you much of what you had looked for.

Shuman: No, it did not. It gave a little, but not much.

Ritchie: It had major weaknesses, and legally Russell could claim it as a victory. But symbolically a Civil Rights bill was passed. Don't you think that passing even just a weak bill was an important step in the chain?

Shuman: Well, that issue came up on what to do on final passage. [Wayne Morse](#) got up and denounced all the liberals who voted for the bill on final passage, on

the grounds that they were voting for nothing, and that he was the only true Civil Righter. Well, actually he sold out on us for Hells Canyon, in the middle of the fight. There was a question of using [rule 14](#) to put the House passed Civil Rights bill on the calendar. We learned from the '56 experience to watch for that bill coming over from the

page 150

House, and there was a rule little known that a House-passed bill could by the motion of one senator go to the calendar and not to a committee. In researching it I found out that it had been done dozens of times. It was supposed to be done on a bill where the Senate had a companion bill on the calendar or about ready to come out of a committee and to go on the calendar of bills. But in fact, that rule had been used at the end of the sessions time and time and time again when there was no Senate bill at all, so that a House-passed bill at the last minute that everybody wanted to pass could go to the Senate calendar and not to a committee, by the objection of one senator. This discovery was, in retrospect, the major personal contribution I made to the Civil Rights fight.

We devised a strategem to do that on the bill, rather than to send it to Eastland's committee again, because the Judiciary Committee had killed its predecessors by filibuster in committee. The Civil Rights group agreed to the strategy, and there were sixteen Democrats who signed a petition saying they would go for it in combination with the Republicans, jointly. The group was called the "[Douglas-Knowland](#) Axis." Knowland, who never got any credit for the Civil Rights bills, was the key person, and was extraordinarily loyal. I give him great credit because his word was very, very good. He was a very conservative fellow but a very upright, honest fellow. He deserves credit that he's never received. Johnson, who tried to kill it, got undeserved credit

page 151

for the 1957 Civil Rights bill and Knowland, who supported it faithfully, got no credit at all. He may get his reward in heaven, but that's the only place he'll get it. I used to think well of him, at times when he was against Eisenhower on a particular issue he would leave his seat at the front desk, the minority leader's seat, and move to the back of the room on issues where he differed with the administration, to speak from that podium instead of representing the administration. I had a lot of grudging admiration for Knowland, even though I didn't agree with him on almost anything. He would be a good companion in a foxhole.

But in any case, Morse was one of the signers of that petition. The next day, when the issue was on the floor and a vote was imminent, he got up, without telling anyone ahead of time, and denounced our group for trying to put it on the

calendar. He said it was wrong, that good procedure was as important as good substance. As the rules allowed it and as the Southerners had done it many times, we were not about to disarm ourselves unilaterally. I think he would have been forgiven if he had come to the group and said "I honestly think I've made a mistake to support this and would like to get out." But he didn't, he went to the floor and denounced his allies. But the *quid pro quo* was that the Southerners allowed the Hells Canyon bill to come out. In the midst of the Civil Rights debate, the

page 152

Hells Canyon dam was brought up in the Senate and passed and with the votes of Southerners who had opposed it before. But Morse forgot to do one thing. The deal didn't include passage by the House, and the bill died in the House, so he didn't get his bill. Meanwhile he denounced everybody else.

Furthermore, the Civil Rights groups that year could not hold any meeting, because Morse had to be invited. Then he would leak to Drew Pearson what had gone on, and if any senator so much as suggested that he was willing to modify, to back-down, to take three-quarters of a loaf, he would see his name in Drew Pearson's column the next day charging this man had sold out, but that Morse had stood there furiously behind the scenes standing up for Civil Rights. So the senators had to decide whether they were going to vote for the bill or not, and Morse voted against it and denounced everybody else. But the others voted for it, just on the grounds you mentioned, that even though it was puny, it was symbolic and should be voted for. When the House improved it there was no lingering doubt as to what to do.

Ritchie: How do you explain a person like Wayne Morse?

Shuman: Wayne Morse was incapable of working with anyone. He was never happier than when he was the independent party of one. When he was a Republican, he couldn't get along with the Republicans. When he was Democrat, he couldn't get along with the

page 153

Democrats. But as an independent party of one, he was happy. And of course he denounced his Oregon colleague [Dick Neuberger](#) on extraordinarily spurious grounds.

I want to make another point about Civil Rights: in 1960, as a result of that Russell Long conversation, Mr. Douglas and [Jacob Javits](#) put forward the voting rights bill of 1960, which would have sent registrars into the South to register blacks in those states where I think fifty percent of them otherwise eligible were

not allowed to vote. When that bill was brought up in the Senate, Johnson as majority leader, and Dirksen as minority leader, moved to table it, jointly. And they killed it, dead. Five years later, and I think it was five years to the day, Johnson as president sent that bill to the Senate, and Dirksen sponsored it! They slapped themselves on the back and beat their breasts about what great Civil Righters they were. Well, I think Johnson had had a change of heart. As I said earlier, I don't think he ever was a segregationist as such. But he used the statement, when the '64 bill passed, about his black maid, who when she drove to Texas didn't have any place to sleep or eat. But she was his black maid in '57, and in '57 given the politics of the Senate he didn't worry about his black maid driving back to Texas not being able to sleep in Holiday Inn motels or to eat in segregated white restaurants.

page 154

It was very hard for me to forgive him for his opposition in 1956 and 1957. The thing that's most difficult to forgive him about was that he was so two-faced about it. He never admitted that he had worked so hard to beat us. He not only worked hard to beat us in terms of the votes, but he was very nasty personally about it.

Ritchie: In what ways?

Shuman: Well, [Dick Bolling](#) told us about this. He was [Rayburn](#)'s right-hand man in the House and later became chairman of the Rules Committee, and might have been Speaker if he'd been less offensive personally to some people. He was intelligent and didn't suffer fools easily. But Dick Bolling used to have drinks with Rayburn and Johnson at 5:30, or 6 o'clock at night at the famous Board of Education, and he reported back to us the terrible denunciations that Johnson was making about Mr. Douglas and others.

Ritchie: How were Douglas and Johnson face to face? How did Johnson treat him?

Shuman: They were civil to each other. But Johnson was scornful, and he would get people to call him "the professor" and poke fun at him, and especially to generate articles by William S. White, who commanded the front page of the *New York Times*, and others, to charge that Douglas was "ineffective." Johnson's

page 155

efforts reminded me of the old *Chicago Tribune* cartoons which portrayed the fellow with the dunce cap standing in the corner. Johnson was also very difficult in terms of what committees Mr. Douglas got, kept him off the Finance Committee for seven years. The Senator got little of the minor goodies other

people got. Of course, Mr. Douglas didn't want them. Johnson never could understand what Douglas wanted. Johnson had everybody's number -- women, wine, rooms, bills, patronage, whatever -- he never understood Mr. Douglas because the only thing Mr. Douglas wanted Johnson to do was to carry out the party's program. Johnson could not understand why somebody would stand for principle. The same thing happened later with Johnson's relations with Ho Chi Minh. Harry McPherson, who is a classy fellow and a Johnson Senate floor man and a presidential speech writer, told me what Johnson wanted in Viet Nam was a "deal." Johnson never understood why Ho wouldn't deal. Douglas and Ho were at absolutely opposite ends of the communist/anti-communist spectrum. But Johnson really never understood people who stood for principle and wouldn't "deal."

Ritchie: What about Hubert Humphrey in this period? Did he play the mediator role with Johnson?

Shuman: Hubert Humphrey was the go-between between the Civil Rights senators and Johnson. You could see him trying to establish a role as mediator when he didn't vote with us when we

page 156

got six votes in '56; when he urged in '55 not to put forward a filibuster rule, to see if Johnson could work it out. In '57 we kept sending him back to meet with Johnson on Part 3 and issues like the jury trial amendment. All I can tell you is that every time Hubert came back he had lost. Johnson seemed to have his number. Hubert would be all geared up to go and make the arguments and would be very optimistic about what he would get, and every time he came back with his trousers off, figuratively. And you can see how Hubert moved up in the hierarchy. Hubert would move closer to the middle and closer to the front. He ended up being almost captured by the establishment, and I use the word "almost."

Ritchie: How would you evaluate the two strategies: in a sense Mr. Douglas was taking the establishment on head-first, fighting them and not giving an inch; Humphrey was being more conciliatory, trying to be on the inside, still favored Civil Rights but was trying to play along and go along. In the long run do you think that either one was more successful than the other? Or did they both lose by taking the stance that they did?

Shuman: Well, I don't think either of them lost, although I think Mr. Douglas' ultimate electoral defeat was in part due to his strong stand on Civil Rights and his introduction of the Open Housing Bill in '66. That helped defeat him, because of the riots in Chicago, and because [\[Charles\] Percy](#) switched. Percy at the

page 157

time Mr. Douglas introduced that bill in the spring of '66 said that he was all for it. By the time the election came around, he backed off. There were marches by the Bevel group into the white suburbs of Cook County. Percy then said he was still for open housing but only in apartments and buildings where there were more than six units or the equivalent. That would have meant no desegregated housing in most of the suburbs, which were largely Republican, so Percy shifted on the issue and it cost Mr. Douglas the election. When Percy did this Mr. Douglas said he wouldn't call Percy a racist, but that he was blowing kisses to the racists.

Then there was also an interesting thing -- we never really understood it -- but Martin Luther King's lieutenant in Chicago, the Reverend Mr. James Bevel, said in that election, when Mr. Douglas was standing up for open housing, that "We are going to march until every white man in the suburbs votes Republican." He really helped to defeat Mr. Douglas in a very determined way, which we never really understood because no senator had supported the Civil Rights movement with the intensity of Mr. Douglas. There was a suspicion that Rockefeller money had come into the state in a fairly major way because of Percy's connection with Rockefeller, but that remained unproven. I'm not certain about it, but it was said. Percy had two sets of literature, one for the white suburbs and another for the black wards. In order to woo the black vote

page 158

Percy made major cash contributions to black churches in East St. Louis during the campaign.

But I want to go back, I don't think Hubert got anything for our group from Johnson. We used to have a saying about Johnson: we gave him an orchard and he gave us an apple. That is precisely what Hubert got from him in the Senate on this issue. He may have gotten some personal things out of it, and perhaps what he did was the reason he was ultimately selected as vice president. But there were no goodies or compromises that came our way as a result of Hubert's willingness to compromise. On the other hand, I don't think Civil Rights laws would have passed when they did if Mr. Douglas hadn't made the kind of fights he made. In fact, I will go so far as to say -- because I thought it then and I still think it now -- that the riots which started in '65 in Watts, '66 in Chicago, '67, and '68, and all over the country when King died -- that if the Civil Rights acts had been passed in '57, with the full Part 3, that the country would have avoided the kinds of rioting that went on later. I think it would have been avoided because the blacks in '57 were still passive. One could hardly comprehend why they hadn't revolted long ago, but they hadn't. But by the time '67 came around, and justice had been postponed even longer than it should have been, I think that that situation changed. So I think the country suffered from that, and I think it tells us a lot about the kinds of problems we've had in urban

areas -- crime, rioting, on and on -- that have happened. That's my view, but I think it's true.

And also, the people who bring about change never get the credit. You see that all the time in the Senate. The person who is out there battling to begin with never gets credit. The person who gets the credit is the fifty-first person who decides to come aboard, the marginal vote that shifts at the last moment. They take everybody else for granted. But I think Mr. Douglas felt that his leadership of the Civil Rights fight was the greatest thing that he did in the Senate. And it brought a profound change in the nature of the country -- for the better -- even with some of the things that have happened since. So while he may have been defeated for reelection in 1966, his determined efforts forced the Senate and the country to face up to the moral issue. He may have lost in the short run, but he had a profound effect on the course of history. I consider it the greatest public moment of my life to have been -- as he called me -- his strong right arm in this prolonged battle for fundamental justice. Johnson and others fought him because he forced them to face up to an issue they wanted to sweep under the rug. Certainly for Mr. Douglas, and in a lesser sense for me as his lieutenant, in retrospect this fight gave a sense of purpose to our lives in a way no other events or issues have superseded.

Ritchie: What was [John Kennedy](#)'s role as a senator in this? Was he someone you could count on?

Shuman: Well, John Kennedy had a very minor role in the Senate. He was virtually unknown in the country. When I first came to the Senate in '55 he was ill and wasn't there. The word was that he was dying, that he wouldn't recover from the operation he'd had on his back, during which time he wrote *Profiles in Courage*. So he was an extraordinarily minor figure. I remember only two or three things he did that stand out. One was his speech on North Africa -- Algeria, I think -- which was extraordinarily good. I listened to that speech because I was on the floor, and I thought, "My God, this is really great stuff." It was super. He managed the [Landrum-Griffin](#) bill in 1960, just before he went to campaign. Archie Cox was his staff man. He handled in an extraordinarily able way some of the most difficult and technical issues on labor law that one could possibly imagine, and he got great kudos in the Senate for that.



Following debate on the Landrum-Griffin Labor Act, c. 1959
Left to Right: Senator Barry Goldwater (R-AZ), Congressman Phillip Landrum (D-GA),
Congressman Robert Griffin (R-MI), Congressman Graham Barden (D-NC), Senator John F.
Kennedy (D-MA), and, seated, Senator Pat McNamara (D-MI).
UPI Photo

The third thing that I remember was when he and Mr. Douglas led the fight to stop a Constitutional Amendment to change the electoral college. There were provisions proposed which were ridiculous. The resolution proposed an electoral college which would vote by proportional representation, which would have given the one-party states the great benefit, rather than the two-party states. It would have given the small states the benefit.

page 161

There was attached to it a provision -- these were constitutional amendments -- which also would have given electoral votes by congressional districts, the [Mundt-Coudert](#) amendment. We beat the amendment by showing that the combination of proportional electors and the Mundt-Coudert provisions would have thrown almost every presidential election in modern history into the House of Representatives. Karl Mundt, for whom it was named, was one of the two senators from South Dakota. He had the district in South Dakota which represented the rural minority part of the state in terms of people, and the other district represented the overwhelming majority of the state; his district would have had one electoral vote, the same as the other. So that was a ridiculous thing. Kennedy worked very closely with us on that.

When Mr. Douglas chaired the Railroad Retirement Subcommittee of the Labor Committee he hired Ted Sorenson. That was the Junior subcommittee. Douglas went on to become chairman of the Labor Subcommittee of the Labor Committee, and Kennedy inherited the Railroad Retirement Subcommittee, and

Mr. Douglas recommended Ted Sorenson to him as his staff, and then Kennedy took him into his personal office. So during that electoral fight, Ted Sorenson and I were the staff people who did the staff work for Kennedy and Douglas. It was a great fight; and we won it, overwhelmingly, and stopped them. So there were those three things I remember where

page 162

Kennedy was a force in the Senate. He was not part of the establishment, which in my view was in his favor.

He voted for Part 3, as I remember, but I think he voted for the jury trial amendment. I know Mr. Douglas was very disappointed in his vote in '57, and when Kennedy asked Mr. Douglas to come to Massachusetts in '58 to help him in his reelection because Kennedy was very anxious to win big in '58 so that he could run for the presidency, Mr. Douglas pondered what to do. Mr. Douglas went up and spoke for him, but he had qualms about it because of Kennedy's lack of vigor, I would say, during the Civil Rights fight of '57. Of course, when he was president he waited but finally he did put in a bill which Johnson got passed, in part because of Kennedy's death. But I think that that bill would have passed in any case. The tax bill and the Civil Rights bill were almost ready to be passed when Kennedy was murdered, and I think they would have been passed in '64.

But he wasn't a big figure in the Senate. Of course he was very junior. One of the things Mr. Douglas used to say after Kennedy was president, and he came across as a sparkling, able, marvelous fellow who lifted up the country, he said: "I wonder how many other geniuses there are in the Senate that we don't know about?"

page 163

Ritchie: Is there something about the Senate that creates that kind of personality?

Shuman: Yes, for the junior senators. That was still a time when junior senators were seen and not heard very much. Kennedy sat on the very back row. Mr. Douglas sat in the next row in front of him. I got to know Kennedy in a small way. I didn't know him intimately, but there were those times we worked together and later he or his staff called on me for help.

Ritchie: I also wanted to ask you about outside support for Civil Rights. You mentioned when Roy Wilkins of the NAACP came in. What was the lobbying effort, and to whom did you go to for support?

Shuman: In '56 and '57 there was a relatively small group of senators. It was the Coalition on Civil Rights, which was really funded by the Auto Workers, and which included in it the NAACP. King's organization was involved but he was always out in the country more than lobbying. I don't think I ever saw him come to lobby in the Senate. He was out organizing people elsewhere. The Jewish groups were involved in it. The Protestant and Catholic churches were involved in it. But in '56 and '57 their power was token. Take the churches and synagogues for example. Yes their leadership would come in and say that the moral thing to do was to pass the Civil Rights bill, but they had no push behind

page 164

their view. When '63 and '64 came, the churches and synagogues were organized. Their rank and file supported Civil Rights, and that made the difference. So the Coalition on Civil Rights was the group, and the key figures in lobbying Congress were Joe Rauh and Clarence Mitchell. They were extraordinarily able fellows. They were the pioneers.

Ritchie: In trying to round up votes?

Shuman: Yes, and in writing the briefs.

Ritchie: Outside of the Northeastern liberals, where did you have your support? Who were the senators you were trying to get into this coalition?

Shuman: There were all kinds of people outside the Northeast, some surprising. I've talked about the Southern, Western, trans-Mississippi Republican Coalition, but some people left the coalition to support Civil Rights. There was a marvelous senator from Colorado who was almost always with us, a one-term Democratic senator.

Ritchie: [John Carroll](#)?

Shuman: Yes, John Carroll, exactly. And there were people like Wild [Bill Langer](#), who was a populist from North Dakota. Everybody said no one could predict what he would do, but actually one could predict precisely what he would do. He would be for

page 165

almost any domestic social issue, and against any foreign policy issue that was internationalist in nature. The Western seaboard state senators from Washington, Oregon and California supported Civil Rights because they came from liberal, progressive, states. The mountain states, as I have said, had almost no blacks, so the senators there could quite easily support Civil Rights without

offending their constituents to any great degree and break with the coalition without endangering their reelection. And then there were any number of other people. Some of the key Republicans were for Civil Rights, who weren't necessarily representing the interests one way or the other of their states, but just out of conscience. So yes, there were all kinds of good, strong people from a variety of places who supported Civil Rights.

Ritchie: How would you evaluate the role of the Eisenhower administration in Civil Rights?

Shuman: Tepid. What was said at the time? The bland leading the bland. Two things happened: the Administration sent up the Civil Rights bill in '57, and then Russell jumped on it because he found that the Part 3 provisions were written in such a way that nobody knew the full implications. Part 3, to enforce the Fourteenth Amendment, by indirection referred back to a group of Civil Rights bills in 1873 which had never been enforced. When Russell found this out, and came to the Senate, and exposed it, it was a great victory for him, because the Justice Department so

page 166

shrouded what that bill was intended to do in general language that nobody knew what was in it. In fact, Mr. Douglas was surprised. He had read that provision and didn't quite understand why it was there. He determined after finding out why it was there to back it, because it was right, but even he who had sponsored the bill didn't know why it was in the bill. This was done by the lawyers at the Justice Department, I Judge, to slip something over and not to make the bill too contentious. Then Eisenhower held a press conference and said even he didn't know what was in the bill, and he backed off. That essentially killed us. The Justice Department lawyers should have come at it directly. They out smarted themselves.

On the Civil Rights issue I wouldn't have wanted to be in a foxhole with Eisenhower. On some other issues, yes, but not on that issue. He didn't really believe in it very strongly. It was a political thing with the White House. They felt they couldn't continue to lose all the Negro votes, and they had Republican senators like Javits and [\[Clifford\] Case](#) who were strong supporters. [\[Thomas\] Kuchel](#) of California was one of our strongest supporters. He was a great fellow to be in battle with, as was Knowland, when he decided to be with us. [Dirksen](#) from Illinois never was for Civil Rights when the going was tough.

Ritchie: What about Eisenhower's Justice Department? Did they lobby for the bill?

page 167

Shuman: We didn't see them. They worked through the Republican senators. People like Clifford Case would talk to [Herbert] Browned, who was then Attorney General, or [William] Rogers, who held the post later. But we didn't work directly with them.

Ritchie: One other question I have is with parliamentary procedures. You were going into a real thicket of parliamentary battle. How helpful was the Senate parliamentarian and the staff of the Senate?

Shuman: The Senate parliamentarian then was Charlie Watkins. Charlie Watkins I think came from Arkansas, and Charlie Watkins was like almost all the employees of the Senate itself, an agent of the Southern group. I mean, he bristled when you asked about something. But Doc Riddick was his assistant, and Doc was even handed. If you would ask him the right question he'd give you the answer. On the whole I talked with Doc Riddick. I know him still and I like him very much, but I never felt that he was out there championing our cause or anything like that. But he was very even-handed in the way he treated us. I spent hours with Doc Riddick.

Ritchie: That's interesting. I asked him how he could deal with both sides on an issue, and he said he only answered the questions they asked him.

page 168

Shuman: Well, that's essentially correct. But he would answer them, and he would answer them correctly. Then also, Nixon was in the chair as vice president, so through Nixon's office Civil Rights senators got a lot of information from the parliamentarians, because they were darn well not going to turn down the inquiries of the presiding officer of the Senate on some procedural issue. That was done through Clifford Case's staff, but I did most of the work overall, as on rule 14, and on all of the procedures on discharging a committee. I did that so that Mr. Douglas could present clearly to the Civil Rights senators the options they had. It was quite clear that discharging the committee was an option that was going to murder them.

Ritchie: How would you evaluate Nixon's role in all of this? Was he playing it square?

Shuman: Pretty square on Civil Rights. He kept his cards very close to the chest. But he was getting ready to be a candidate for president. So he was more interested in national politics than Senate politics. As the vice president he was aloof to a considerable degree from the Senate. But his ruling on rule 22 was pretty good except he didn't go far enough. He had the choice of making the ruling and applying it, but he deliberately left the ultimate decision to the Senate itself, which Johnson tabled. So he was just one step short of really going all the way with our group. But it was better than nothing. Because of his

outrageous campaigns against Jerry Voorhees and [Helen Douglas](#), there was no one I detested more at the time than Nixon. For whatever motives he had, I reluctantly give him credit on this issue at that time.

Ritchie: It seems that everyone was moving so cautiously. It was an inch by inch process, and other than your small group no one really wanted to be dramatically out in front on the issue.

Shuman: Well, you see, that was one of the problems we faced. The support for our side was wide but thin. It lacked intensity. And the Southerners intensity, with less than twenty strong supporters, was so great that they could defeat the eighty in the Senate who might more or less be for it. That was a big, big problem. And it was important to the Southerners politically. It didn't make a fundamental difference for most other senators except on a personal basis. The South conquered the Senate on this issue the way Cortez conquered Mexico. A small band of armed and determined people over came the diffused power of those many times more numerous.

Ritchie: The 1960 Civil Rights bill wasn't as significant, although in some respects I suspect people remember that one more just because it got so much publicity.

Shuman: You mean '64?

Ritchie: No, I mean the 1960 bill when Johnson did the round-the-clock sessions to break the filibuster, and they had people sleeping on cots. It got a lot of publicity.

Shuman: The voting rights bill was the bill I remember from 1960.

Ritchie: Well, maybe I'm giving it the generic title of Civil Rights bill. But that was a different tactic. That was when Johnson took more of a confrontational tactic.

Shuman: Well, the big confrontation that I remember was '56 and '57; Sixty as I remember it was over pretty fast, but that's a question of fact which we can look up. That was twenty-seven years ago!

Ritchie: I was just thinking that in '57 as you mentioned, the South was nervous about their position and didn't hold a prolonged filibuster.

Shuman: No, they did not filibuster, although the threat of a filibuster helped get the bill watered down.

Ritchie: But they did in 1960, and that was when the Senate stayed in session around the clock.

page 171

Shuman: We also stayed round the clock in previous times, too. I slept on a cot in the Senate Office Building many times. I read the book *Kon Tiki* during one of those periods!

Ritchie: The real question I was getting at was how effective is that tactic, of trying to stop a filibuster by keeping the Senate in consistently. Right now, Senator [Byrd](#) doesn't like to do that, but some people think it's necessary to break a filibuster.

Shuman: That plays into the hands of the filibusterers. It is not a good way to break a filibuster, and the reason is very simple. Twenty senators who are willing to filibuster, determined to stop a bill by a filibuster, can defeat the rest. Even as few as twelve can do it, but let's say twenty, which is about what the Southerners had. One man goes to the floor, the ten committee staffs they chaired write the speeches. In the period I was involved the Southerners finally made germane speeches. They read long Civil Rights cases, so they were germane. But the staff would write four to six hour speeches for each of them. One senator would go to the floor and give a speech, and he would have with him another senator, a team of two. The other senator would spell him, by asking long questions from time to time, and also guard the floor, to make certain that nobody else got the floor, and to give the speaker a chance to go out and go to the men's room while the second senator was asking a long, involved

page 172

question. I've seen it happen. The senator would come back from the men's room and say, "I'm glad you asked that question." The two would go on for whatever time it took to finish the speech, and if the other side wasn't guarding the floor, they would stop and pause for four or five minutes at a time.

Then, at the end of the speech, there would be a call for a quorum. Generally speaking, a quorum doesn't show up immediately, so after fifteen minutes there was no quorum, which meant that they could delay even longer. Then to delay further they would ask for a live quorum. Then before anything could happen, fifty-one senators had to show up. Well, except for the two Southerners on the floor, their eighteen allies did not show up to help make a quorum, as did a few of their secret allies. They hid out. The people who were determined on Civil Rights

would come and answer their name, and the middle group, well, maybe they'd come and maybe they wouldn't. It was extraordinarily difficult to get fifty-one senators to answer a live quorum call. So two senators could combine a six-hour speech, and at least an hour, maybe two hours, getting a quorum. They could use up eight hours that way; to carry that out they needed only six senators a day to speak.

So a senator who was filibustering didn't have to show up except every third day and didn't have to speak except every sixth day. The people who were trying to break the filibuster had to be around, fifty-one of them, at all times, to answer the quorum

page 173

calls. They slept there, and had to get up and answer their names at four o'clock in the morning, or at six o'clock in the morning, after being up all night. The effect of it was to wear out the people who were trying to break the filibuster, rather than to wear out the people who were filibustering. Very simple. I mean, that was a device to help the Southerners, generally speaking. And that happened in part because of their intensity of purpose, and because of the rules of the Senate.

Ritchie: And that was Johnson's tactic in 1960.

Shuman: Well, whenever they used it, or perhaps more important, when they threatened to use it, as in '56, and '57, and '60. I will have to look up the specific dates on the filibusters, but Johnson certainly backed those who used it or threatened it, and that did not help us. It helped the other side.

Ritchie: What's your opinion in general about the filibuster rule, and the fact that senators can filibuster? Removed from Civil Rights, do you think that it's a legitimate and useful tool, or do you think that it's been a detriment to the Senate?

Shuman: I think in the Senate or in any parliamentary body there should be debate, long enough to essentially do two things: to examine major questions thoroughly so as to arouse public opinion and public attention. Then after that has been done, the

page 174

Senate or the body should have the right to vote, and a majority -- perhaps a Constitutional majority, fifty-one -- should have the right to prevail. Now, in the time I'm speaking of, in the fifties, what happened in the Senate was that there was lots of debate, long and prolonged talk, whose purpose was designed to

prevent a vote. That was the purpose of the filibuster. It wasn't to educate the public, it was to prevent a vote on Civil Rights. I define filibuster not as long talk, but talk designed to prevent a vote.

After the Civil Rights bills were passed, the Senate went to the other extreme under Byrd. I think that's wrong. Under Byrd, there's no debate and lots of votes. So what happens now is that a cloture petition is laid down the minute anybody starts to debate a contentious issue. Once the cloture petition is laid down and the vote on it isn't going to come for forty-eight hours, everybody leaves. Nobody listens to the debate. Then forty-eight hours later, without having had any kind of debate, the Senate votes. The Senate votes and votes and votes. Now the situation is no debate and lots of votes, which is the opposite of the old days. What I think should happen is that there should be a system to provide for both. We used to say in the fifties that perhaps three weeks of debate would be sufficient. We proposed a two-step solution. Until the debate had gone on for two or three weeks it should take sixty-seven, or at least sixty votes to break a

page 175

filibuster. But after the third week, a Constitutional majority of fifty-one ought to be able to shut off debate, because by then there had been sufficient debate that the majority should prevail.

That's what I believe in. I would not want to see a cloture rule in the Senate that could be invoked immediately, whereby fifty-one senators could stop debate. The Senate does have such a rule in the tabling motion. There is a negative form of majority cloture. A majority can kill a bill without debate, but cannot pass a bill after prolonged debate. It used to really get me when the Southerners would get up and move to table, as on our petition to change the rules, and do so in the name of unlimited debate, freedom of the filibuster, and all the rest, and they would then cut off debate without a moment's debate by the negative cloture of tabling, which is a non-debatable motion. So I believe in both full and free debate, and in the right of the majority ultimately to act.

That was the condition in the Senate in its early days. The idea that one hears, everytime the filibuster rule comes up, that the founding fathers were for the filibuster, is historically inaccurate. That is hogwash. I don't know whether you're familiar with that fact or not. In the early Senate, *Jefferson's Manual* was the rules of the Senate. *Jefferson's Manual*, which I have here, provided for a couple of things. First of all, the ruling of the chair was without appeal. It was final. This was

page 176

true when Jefferson was in the chair as vice president. So there was no appeal from the decision of the chair. Secondly, and I think I will now read from my volume in order to be precise, under *Jefferson's Manual* there was a rule 17, which provides that in the Senate of the United States the president's decision is without appeal.

But it also provides the following: "No one is to speak impertinently, or beside the question, superfluously, or tediously." Now imagine what would happen to the Senate today if senators could not speak tediously or superfluously. I mean, the Senate would come to a screeching halt.

But the combination of a tedious speech being out of order, or a superfluous speech being out of order, or speaking beside the question out of order, with the right of the vice president to rule it out of order with no appeal, meant that there couldn't be a filibuster. No way! And there was no filibuster.

Then in addition to that, there was a rule 34, which provided for the previous question motion, which is what we now have in *Robert's Rules of Order*, which goes back to the British parliament, which is a means by which a simple majority could cut off debate. That was used four times in the early Senate. Twice it ended debate by majority vote. Irving Brant, who was a very famous historian and [Madison](#) biographer, an extraordinarily able

page 177

fellow, worked with us on this. He and I worked together on this bit of history. I wrote a speech for the senator to publicize those four cases. The speech detailed the cases, the four times the previous question motion had been used, and twice by majority vote the Senate cut off a filibuster, cut off debate, in the early Senate, before 1806. Brant did the work on these factual issues. This was unknown until then. Dick Russell got up and said, "Well, that's the rule from the House of Commons. That rule is not a rule to stop debate, but merely to postpone it."

Well, what we did was to provide a complete induction, citing every example before drawing a conclusion. I think it was something that had never been done before, except in Lincoln's Cooper Union speech in New York, where he debated the issue whether the founding fathers were for or against slavery. He examined the views of the founding fathers, one by one and proved that every one of them had been against slavery, either from their speeches or by what they did. That was an example of complete induction as Lincoln took every possible example and showed logically that the founding fathers were personally opposed to slavery.

We did the same thing on this question. The previous question rule came in in the House of Commons in 1604, so Brant went to the predecessor of *Hansard* and we collected every time the previous question motion had been moved in the House of Commons from 1604 to 1789, the period before the Senate started, and the

period before *Jefferson's Manual*, from which Jefferson got the motion. We found that depending upon how the question was put affected the outcome. If it were put in the negative, "I move that the question be not now put," then what happened on the vote, whether it passed in the the negative or the affirmative, affected what it did. Or if it was put in the affirmative, and the yeas prevailed as against the nays, different things could happen, either postponement or the end of the debate.

The effect was that in some cases it was postponed, but in other cases it cut off debate. We found that in about two-thirds of almost a thousand cases in the British parliament from 1604 to 1789 the motion had the effect to cut off debate. Its overwhelming effect had been to cut off debate. My memory is that we found that the closer to 1789, the more often the motion was used to cut off debate. So we went back with that information and disproved Dick Russell, although he never acknowledged that. And I am showing you here a *Senate Manual* where *Jefferson's Manual* appears. In those days, *Jefferson's Manual* was a part of the Senate's rules. It was said to be a part of the Senate rules, and after that debate took place, *Jefferson's Manual* was stricken, without anybody's knowledge or motion that I'm aware of, from the *Rules and Manual of the United States Senate*. So shortly after we made this point, *Jefferson's Manual* was no longer a part of the rules. And if one looks at the later copies of the Rules of the

Senate in the *Senate Manual*, which I have here, they do not include *Jefferson's Manual*. It was no longer part of the rules.

Ritchie: It's in the *House Rules Manual* now, but not in the *Senate Manual*. So they dropped that out without any . . .

Shuman: With no by-your-leave. It was mysterious. I noticed it when I got the new manual and wondered how it had happened. But I'm making a basic point: the filibuster was the child of segregation. It was first used just before the Civil War, when there was the Westward movement. New states were coming in. This broke up the roughly equal political power of the North and the South as the country moved Westward and new states were admitted. *Jefferson's Manual* I think went out in about 1816, it was no longer the rules of the Senate. The Senate wrote new rules, and no mention was made of [cloture](#). But the early rules provided that debate could be limited by a majority, and it happened on two of the four occasions it was tried. The filibuster started much later.

Ritchie: Tell me, having spent a lot of time studying the rules, and having watched someone like Richard Russell, who really knew them. What about the

rest of the senators, how well did they really know the rules, and how well were they able to think on their feet?

page 180

Shuman: Well, of course, generally a senator doesn't have to know the rules, because the parliamentarian is there to tell the senator the rules, and the Senate essentially functions by unanimous consent. If the rules are invoked, the Senate cannot function, basically. The Senate can only function by unanimous consent. Everyone has to more or less agree. One of the devices used to teach senators the rules was to put them in the chair when they were freshmen senators. And until recently, all freshmen senators were put in the chair. Now it's a party position. That came about, I think, in the early days of Bob Byrd, when one of the Republicans recognized his party people as opposed to the Democrats when he was in the chair although he represented the minority. Historically the chair went back and forth and recognized one Democrat and one Republican. And then somebody didn't do it.

Ritchie: It was [Jesse Helms](#).

Shuman: Was it? And Byrd got angry, and put only Democrats in the chair, because the majority party has the right to run the show. Then when the Republicans came in they did the same thing. I don't know what prevails today.

Ritchie: Just the majority party presides.

Shuman: But in those days, that was the way in which the freshmen senators of both parties learned the rules. The most

page 181

Junior senators presided over the Senate, and on the whole they still do. So yes, a lot of them learned the rules pretty quickly. But seldom does a senator get into a situation where he or she has to know the rules in great detail. It's only when the leadership or some individual senator is enforcing them.

Ritchie: But you don't think it's a detriment for senators not to learn the rules that well?

Shuman: Yes, I think it's a detriment. I think senators should know the rules. There are only forty rules. Of course, there are all kinds of things that are tacked on. I think the ethics requirements are now either a part of or an addenda to the rules.

Ritchie: The Southern senators, or at least many of the senior ones, had reputations of being masters of the rules. I suppose part of that was from seniority.

Shuman: Well, the Southerners wrote the rules to provide for the filibuster and to keep a Civil Rights bill from getting through. And they also had a way around their own restrictions through the rule of germaneness. Are you aware of the germaneness rule? The Southerners wanted to make certain that no Civil Rights bill could be passed, and that it could be filibustered. So there was and is no rule of germaneness on a legislative bill. But they also wanted to make certain that some must" bills, which had to

page 182

go through, like the appropriation bills, could not be used to tack on a Civil Rights bill. So they said that no amendment to an Appropriations bill could be allowed unless it was germane. Now that isn't really true. If the House puts a legislative amendment on an appropriations bill, it is both an appropriations bill and a legislative bill. Other amendments can be added.

But the Southerners provided another feature, namely that a committee could vote to add a non-germane and unauthorized amendment to an appropriation bill, so that in the last parts of the year, if they needed to get their dams through, or their new air base, or whatever, the authorization could be added to the appropriation bill by a vote of the committee. Thirteen members, a majority of the Appropriations Committee could add any amendment they wanted to, germane or not germane. Then, in addition to that, if a senator were to put a non-germane amendment on the bill, such as Jesse Helms does on abortion to an HEW appropriations bill, ordinarily he needs to suspend the rules and get a two-thirds vote. But if such an amendment is put up and a senator asks the chair to rule on its germaneness, before it is ruled out of order, then the senator can get a vote on germaneness, and if fifty-one members vote that it is germane, even though it is not germane, it is germane and it can be voted on.

So Jesse Helms has put non-germane abortion amendments on the HEW appropriation bills, asked for a germaneness ruling,

page 183

gotten a vote on it, while saying to everyone of his colleagues: "Look, this is the abortion vote of the year. There are people up there in the gallery watching you to see how you vote on this procedural motion, whether it's germane or not." So everybody votes, or not everybody, a majority votes that it is germane, even though it clearly is not germane. And then [\[Lowell\] Weicker](#) and a few others decide "Well, this bill can't go through." So they filibuster the HEW bill and there

is then no HEW bill. That's one of the things that has happened in recent times. That goes back to the Southern writing of the rules so that they could get their pork through and at the same time protect themselves against a Civil Rights bill. It took me a long time to figure it out. I was around the Senate for eight or ten years before I understood what in the hell they were doing on the germaneness issue. It really wasn't until I worked for [Proxmire](#), and he was on the Appropriations Committee, that I learned the inner secrets of the germaneness provisions.

Ritchie: The Appropriations Committee is the committee that everyone aspires to, but I suspect that most citizens don't recognize its significance and its power.

Shuman: It used to be the most powerful committee in the Senate. I now think that because the Budget Committee has usurped power from the Appropriations Committee, probably the Finance Committee is the most powerful committee and that Appropriations

page 184

has taken a back seat. That shift of power happened at the time of the Budget Act of '74, when the Finance Committee fought the Budget Act, decided they weren't going to give up their powers. Since then they've often thumbed their nose at the Budget committees when they've been instructed to raise taxes. The Appropriations Committee under [John] McClellan did not take on the Budget Committee partly because McClellan was just about ready to die and he didn't have the energy. So the Appropriations Committee acquiesced in the Budget Act, while the Finance Committee did not. And if there is anything that history teaches, as one looks back over the committee system from the beginning is that power shifts back and forth among committees. In the beginning there were no standing committees. The Senate had *ad hoc* committees appointed to draft bills after the House or Senate had determined the basic substance. They were really drafting or style committees. They would listen to the debate and go draft the bill, and then bring it back. That still happens in the House of Commons in the British Parliament. That's exactly how the House of Commons functions from time to time.

The powers of individual committees have ebbed and waned. For much of the history of the Senate, the authorizing committees also appropriated the money. A lot of people advocate that now, but I'm against it. I think there would be no limit on spending if the Armed Services Committee or the Labor Committee, or Health

page 185

Committee, could appropriate what they authorize, because they always authorize much more than will be appropriated. The committees are loaded with

the advocates of the programs they vote on. So that's a silly proposal which is made by a lot of intelligent people. Further, until the Budget and Accounting Act of 1921, the authorizing and appropriations committees were often the same, as I have said. Soon the jealousy of the Appropriations Committee for the Budget Committee will lead to a loss of power of the latter. The alarm of the Armed Services Committee that the Budget Committee is reaching into their bailiwick, even though the Budget Committee pretends not to tell them what weapons systems to fund, in effect they do. This poaching by the Budget Committee will also result in the Budget committee getting its wings clipped in the relatively near future. So the power will shift back and forth again. As a historian you must be very pleased that I'm talking about the the role of history in the Senate.

Ritchie: The cycles of history. One other question I wanted to ask about Senator Douglas and the filibuster issue: having fought so consistently to reduce the powers of the filibuster, did he feel constrained against filibustering himself?

Shuman: No, he did not, and he had a very good rule about it, because we saved the "one man one vote" decision of the Supreme Court from Dirksen overturning it, by filibustering it. His position was that he was not for unilateral disarmament,

page 186

either with the Russians or in the Senate. And it was a form of warfare in the Senate. Although Mr. Douglas was wounded twice in he Pacific, he used to say that civic courage was often a higher order than battlefield courage. "In the Pacific," he would say, "the Japanese were after my body. Here in the Senate people are after my soul." He believed that as long as the filibuster was the rule of the Senate, he had every right to use it, as did every other senator. When his proposal for three weeks of debate, after which a majority vote could end debate was adopted, then he would abide by the rule. But he was not going to have one set of rules for his side and another set for the other side, essentially out of self restraint. And I think that's fundamentally correct. He didn't filibuster a lot, but he was involved in some, yes. And I helped him.

Ritchie: It has been interesting that filibusters more recently have been by liberal senators, I suppose because there have been conservative majorities.

Shuman: Yes. This is true because this has been a very conservative administration trying to push through very conservative legislation. But I still think full and free debate followed by passage by a majority, is the answer.

Ritchie: It's certainly what distinguishes the Senate from the House, with the House having such tight rules on debate.

page 187

Shuman: Yes, but as we've talked about earlier, I think debate in the Senate is nothing like it ought to be. The quality is nothing like it should be or could be, unfortunately.

Ritchie: Someone said recently they're not sure if there's anyone left in the Senate who could give a speech for six to eight hours.

Shuman: You asked me about Wayne Morse being too talkative. But I did want to say in his defense that Wayne Morse, and Jack Javits as well, could get up, without a note and give a sequential speech of forty minutes or an hour, or two hours, and it would sound like a legal brief. They had ordered minds and could give a long sequential speech. They were extraordinarily good, even though people might say they were a bit long-winded. But their speeches were very substantive, and they did flow precisely. It was an amazing ability. Mr. Douglas could do that. He could give an hour-long sequential and ordered speech, I've heard him do it many times, without a note. And he complained to me in his older age that he now had to have notes when he spoke, and it bothered him. God, I couldn't make a formal speech, not an important one, without notes in any case!

End Interview #3