

## MAJORITY AND MINORITY SECRETARY

### Interview #4

Wednesday, June 2, 2010

**RITCHIE:** The last time I saw you was at the Brookings conference on filibusters, which I enjoyed a lot.<sup>1</sup>

**PAONE:** I don't think the crowd did.

**RITCHIE:** No. It was a mixed response. It was so interesting that the first panel consisted of Senate insiders, people who had worked on Capitol Hill, who tried to explain what the filibuster was. And the second panel was political scientists who seemed offended by the notion of filibusters. It was such a startling difference between the two. And you used the expression "Stockholm Syndrome" in your remarks.

**PAONE:** Yeah, and I ended up getting slammed in some blog after that. The headline was, "So-called Senate expert admits to Stockholm syndrome." Then it quoted Dick [Baker] and it just said, "Other expert says, 'the Senate's perfect,' [laughing] but political scientists disagree with them." Well, they never worked here.

**RITCHIE:** I wondered if we could talk about that in terms of why the perception of the Senate and its rules are so different from inside and from outside the institution.

**PAONE:** Well, I think it's easy to portray it in a negative way in the sense that we're so used to the concept of majority rule in democracy and in our country, and yet the Senate's rules are not set up for a strictly majority rule. Treaties, in the Constitution, have a higher threshold, two-thirds. And then, over the years, cloture evolved. It used to be you had no way of eliminating, as you know, extended debate, until 1917 when they brought in the ability to put at least a finite cap of debate on something. But that's been misconstrued and it has been abused over the years, I'll admit. You have a lot of people making you have cloture votes that are strictly to slow down the majority so that they don't accomplish that much. In this day and age of three-day weeks, Mondays and

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<sup>1</sup>"The State of the U.S. Senate: Understanding the Filibuster and the Emergence of the 60-Vote Majority," Brookings Institution, May 17, 2010.

Fridays being light, it's easy to slow things down by insisting on a cloture vote on every, say, judge or whatever. Then you vote for the person, having invoked cloture, by a huge margin, but you've caused them to waste a couple of days by doing that. As a result, it gets portrayed in a negative sense on the outside as being "gridlock," the place not getting much done.

I had a meeting the other day with a member's chief of staff and I told him, "Let's just step back here a minute and look at this Congress. This is probably going to go down, in my opinion, as one of the more effective Congresses in a couple of generations." I mean, you passed healthcare. You just did reg. reform. I have no doubt in my mind that conference report will get enacted, which is going to be fifteen hundred pages, for good or evil, depending on where your sitting, if it's Wall Street or not or in a big bank, but it's going to be wholesale changes in how the financial system is governed. And other legislation that got passed. I don't think that they can belittle that. Plus it looks like you'll have two Supreme Court justices confirmed. So they did get a lot done despite the "gridlock." But the place, as Dick pointed out, was meant to not be efficient. It was designed to force consensus. And with a super-majority requirement, you do have to get consensus. It will be even more pronounced.

Having sixty at the beginning of this congress was more of a curse, in my opinion, for the Democrats. Because they did try [to get bipartisan support] on healthcare. They worked for months with [Michael] Enzi and [Charles] Grassley and I forget who the third one was—[Olympia] Snowe I think it was—during the summer in [Max] Baucus' negotiations with them to try to get something done in a bipartisan fashion. But it became apparent that they didn't have any interest in an overall, huge reform bill. Do it in pieces maybe, but they weren't going to compromise on a huge reform bill. So the Democrats had to go it alone. They got it done, but I think having less than sixty, that has brought a situation where you end up having to negotiate within the caucus.

I remember—I probably have said this before in one of the earlier sessions—watching Wendell Ford go around and making changes in his motor-voter registration bill. He believed in it and he wanted to get it done. We had a majority, but not sixty. And so he kept negotiating and making changes and finally got it to the point where he could get more than sixty and he got his bill done. I think that's the way this place is supposed to operate, on consensus. I think as a result, though, from the outside looking

in, it's easy to get frustrated and see that things can be held up by "one man" objecting or threatening to filibuster. Well, one man can hold something up. He can delay it. But if you've got the three days to have a cloture vote and then thirty hours after that, that one man's not going to stop you. People don't get that. They just see all these bills that the House passed and have come over here and died or are floundering. As I said that day at Brookings, that happened prior to the election. That happened when [George] Mitchell and [Tom] Foley were leaders and the House leaders were complaining about the Democratic Senate not getting their bills done. Then they were so happy after the election of '94 that we could stop the Contract With America, because they didn't think those were worthy bills. And most of them did die, if not all of them, when we were in the minority.

It's just that I think it's easy to misunderstand from the outside world. It's easy also to think of, well, everything should be majority rule. That's democracy. But we don't have majority rule. I think that's why people perceive it as a bad thing. But I think once you get involved in it, especially if you've been in the minority now and then, you see where, well, these rules do have a purpose and they do allow me some rights that my counterparts in the House don't have.

**RITCHIE:** You mentioned the fact that the Democrats had sixty votes this Congress. That's the first time in thirty years that either party has had sixty votes. In fact, I've heard it said over the years that fifty-five was a working majority in the Senate and anything less than that made it hard for the majority leader to get anything done.

**PAONE:** Right.

**RITCHIE:** So this has been an extraordinary Congress just in that respect. At the Brookings conference, you said that the same rules that could be used to build a bridge could be used to blow it up. I liked that expression and I wondered if you could elaborate a little bit on that.

**PAONE:** Well, that just came from the difference, while I was here, between being secretary for the majority and secretary for the minority. It's one thing when you're in the majority, depending on how large a majority you've got, as to how well you get to advance your agenda and get things accomplished. If your in the minority and the other

side is trying to advance things that you don't think are proper, then you use those same rules to try to slow them down. I remember once, Liz Letchworth was the Republican secretary at the time, and I think [Bob] Dole and [Tom] Daschle were leaders. We were at some sort of loggerheads and we were making them cast every vote to tear down this tree so that they could get to their final passage. They wanted us to cooperate and I just pointed out to her, I said, "You remember that bridge in River Kwai?" And I said, "My job is to blow up your bridge right now. So no, we're not going to cooperate." And she understood. She understood they were going to have to go through certain steps. But they got there. But they also cast some votes they didn't want to cast in the process, which may or may not have been used down the road.

**RITCHIE:** That seems to be a recurring argument, when a party is in the minority, its members complain that the majority is trying to stop them from offering amendments. The majority, of course, is afraid of what those amendments might be because it would make them go on record on certain controversial issues. Is that a daily recurrence in the institution?

**PAONE:** Well, unfortunately it's become more so as the years went on. When Byrd, Dole, Baker, Mitchell were leaders, they would call up bills and step back and let the managers manage the bills. You'd cast votes on whatever was offered. There was no concept of trying to deny the minority the ability to offer an amendment. What would happen is if somebody came up with an amendment that was difficult to vote on or vote against, then the majority would exercise their right and say, "Well, I'll have to second-degree it and get the vote that way." Then the minority would say, "Yeah, but I'm not going away. I'm going to re-offer it then after you've had your vote." Then we would arrange for an agreement that would give each side their vote with the majority getting the first vote on a proposition and the minority getting their vote second. And people would grumble about their substance, but at least they got a vote first—to vote for something before they had to vote against it. Over the years that has evolved so that the agreements are called "side-by sides" now, where you don't second-degree the person's amendment and if you win, wipe them out and then have to defeat him when he tries to come in with the second-degree to put it back in. Instead you end up with agreements called "side-by-sides," where you debate the two of them and the majority get's their vote first, and he or she gets their vote second,. But even if the second one wins, it doesn't wipe out the first and vice versa. So you can have a situation where it makes it even easier for people to

vote for both and say, “You all let the leadership work it out in conference with the House and we’ll see what comes back from conference.”

**RITCHIE:** So you send two contradictory amendments to the conference?

**PAONE:** Correct. And that happens often. But again, there was no concept of denying the right to offer amendments. It wasn’t until Senator Lott became leader that the concept of denying the minority even the ability to offer amendments to avoid difficult votes came into play on a grand scale, to the point where he would regularly fill the [amendment] tree, and then file cloture. We, of course, would take umbrage at not having had a chance to offer an amendment and as a result, vote against cloture. Then he would accuse us of filibustering, which would, of course, set our teeth on edge because we’d say, “We’re not filibustering. We just would like to offer some amendments. But if you’re not going to let us offer amendments, we’re not going to vote for cloture.” That worked as long as you didn’t really care to get too much done, because if you couldn’t invoke cloture, then you just moved on to the next item. But I think it was in 2000 where the Republicans—I think they might have lost five seats—and where we ended up at fifty-fifty. He made a comment privately, I think it was to Daschle or someone, “Well, I guess avoiding all those votes didn’t really matter.” And it didn’t, you know? Sooner or later you’re going to end up casting difficult votes, whether it be on an appropriations bill or something.

Unfortunately, though, that modus operandi seems to have caught on no matter who’s leader now. Because you’ve had members of your caucuses, whether Democrat or Republican, who want the leadership to, by and large if possible, protect them from difficult votes. That puts the leader, no matter who it is, in a difficult position because he wants to get things done, but in order to get things done, if he doesn’t have sixty on his side all the time, he’s going to need some members of the minority to invoke cloture. The surest way of uniting a minority is to deny them the ability to offer amendments. So it’s not fair, I think, for members of a caucus to ask either leader to protect them from votes because it just makes it all that more difficult for them to accomplish their agenda.

**RITCHIE:** Senator Lott had been in the leadership in the House before he came to the Senate.

**PAONE:** Yes, he used to comment regularly about the fact that how he wished he'd had a Rules Committee over here.

**RITCHIE:** Do you think that filling the amendment tree was, in a sense, a device to make the Senate work a little closer to the House?

**PAONE:** Oh yeah. He didn't hide his admiration for the way the House operated. He would occasionally complain about how he wished he had those levers to pull over here to make the place operate in a more orderly, majoritarian fashion.

**RITCHIE:** Senator [Harry] Reid has said that he wished he was Speaker of the House sometimes. Not to be in the House, but he wished that he had the powers in the Senate that the Speaker of the House does.

**PAONE:** Sure.

**RITCHIE:** Regardless of who the party is, that seems to be the universal feeling.

**PAONE:** Well, yeah, no matter who's leader, you always eventually come to the point where you say, yeah, it's difficult to manage. Plus you've got all your members complaining to you or asking for protection on this or that. Or they want timing protection because they want to be somewhere. The demands of the leadership on both sides are such that people who don't do the job can't understand. So anything that makes your life a little easier, you definitely appreciate.

**RITCHIE:** To go back to the notion of cloture, it does seem like it's changed over time. The statistics are at least that the leaders are filing cloture far more often than they did before. Did you watch that evolution take place?

**PAONE:** Yes, and it's more so even in the last two years since I've been gone. Because you could go back (I'm sure you all have on your website you've listed them all—I check it regularly, the numbers of clotures and all) and you could look at how many are motions to proceed. Those used to be rare. Only on really controversial items would you have to get a cloture vote on a motion to proceed. Otherwise you would get consent to at least start the bill. Now it's almost automatic. I think this last reg. reform bill that

they got consent to go to was a rarity. But again, if you make them have a cloture on a motion to proceed, then you just carved three days out of their schedule. Now you're in a situation now where you won't be in session more than four weeks at a crack unless you extend into August. And so four weeks go by very quickly, especially if in each week, you've only got three work days of solid work. If you've burned up a couple of days on a motion to proceed, you can see where it's being used just to lag.

**RITCHIE:** Is it that they're filing these cloture motions because someone is objecting to unanimous consent agreements?

**PAONE:** Yes, to just call the bill up.

**RITCHIE:** To go ahead. I was always wondering if the leader was trying to figure out whether or not there was sufficient support to get to an end.

**PAONE:** No, not on a motion to proceed. No, you'd never file cloture unless you had to, there's no reason. I've never seen an instance or known an instance where anybody ever filed cloture on a motion to proceed where they didn't have to. It's only because somebody's not giving you consent to call the bill up. The other interesting thing that's evolved over the years—and I remember the night this first happened with Phil Gramm and Carl Levin. Cloture had been invoked and you used to have a situation where you'd have your thirty hours and you'd try to dispose of whoever had a germane amendment or two that had been timely filed and properly drafted and see if we could work out some votes. Well in this instance, Levin had an amendment that was germane and timely filed and properly drafted, but Gramm wasn't about to let him have a vote on that amendment. So he objected to disposing of the pending germane amendment. There was already one pending at the time of the cloture vote. He objected to an agreement, to lay it aside or set a vote on it, this was an amendment that was going to be passed, so it wasn't something you could table to get out of the way. So he objected to any agreement on that and as a result that amendment remained pending for the thirty hours. At the end of thirty, it's not like the budget where you can offer amendments and get votes without debate. You can't offer any more amendments at that time. You only vote on what's pending. So Levin got shut out. And I thought, boy, we've truly entered into a whole new stage now.

Now that's become the basic operation of the way things operate under cloture. You want to know who's got what pending and how many, if cloture's invoked and if there are more than one and if they're germane. You have to think more than one step ahead now and file your amendments in the germane second-degree fashion, if necessary, to try to get a vote, because you may not get up on a first-degree. Since you don't have to be germane to the first-degree, just to the underlying proposition, if you do it right, you still have at least a shot, a chance. But it adds a whole other layer that we didn't have to deal with until that time.

**RITCHIE:** Looking at the statistics, we've noticed that the number of cloture motions starts to go up in the late 1980s, about the time that the Democrats came back into the majority after the '86 elections. The number of cloture motions doubles in that Congress, and the number of failed cloture motions triples. The numbers are very small by comparison to the numbers in more recent Congresses. Was there something going on in the late '80s that made the leaders begin to rethink their tactics?

**PAONE:** Well, we had been in the minority. We took the place back in '87. Senator Byrd was leader for '87 and '88 and that was probably the era—one of those reasons you had probably in one of those Congresses you had a bunch of cloture failures was he filed cloture seven times on campaign finance and lost every one of them. Then later, campaign finance in the next Congress under Mitchell, they allowed it to pass, but then when the bill came back from the House, they filibustered sending the bill the conference. We had at least two or three, is my recollection, attempts to invoke cloture on going to conference and failed. So that would account for some of those failures. I think up until that time, I don't know if we ever had seven failed attempts on one item before. That may have been a record.

**RITCHIE:** We have two lists. One's just the numbers and one actually identifies what the votes were on. So I should go back to check that to see.

**PAONE:** But probably about eleven of those in those two Congresses were campaign finance. And then there were a number of instances where Byrd and Mitchell were leaders—we were in the majority up until '88 it was Reagan and the '88 to '92 it would have been Bush I. Then it would be an interesting thing in the sense that we were trying to advance things that maybe the administration did not want and that were trying



to protect the administration from having to cast a veto. So they were successful in their attempts in stopping cloture in that respect. That's probably another reason why we had an increased number of failed cloture votes.

**RITCHIE:** Another thing about your panel the other day was that Bob Dove was on the panel. Bob had been fired as parliamentarian in 1987 and was immediately hired by Senator Dole as his personal parliamentary advisor. I always wondered if his sitting there next to Senator Dole didn't have something to do with the strategies that the Republicans employed.

**PAONE:** Oh, I'm sure, because Bob's phenomenal as far as his knowledge. To this day I use in my course—I give it to my students in my course at William and Mary on legislative procedure—May 13, 1987, is a day that I'll never forget where Senator Byrd tried to use (and this was the last time any leader tried this) but occasionally Senator Byrd would lull the minority into a relaxed mode and he would adjourn without the normal adjournment boilerplate language. That meant he could attempt a non-debatable motion to proceed to something during the morning hour the next day. Then he would pull that rabbit out of his hat the next day and faced with that, then, he would get his bill up. Well that day, the night before, obviously Bob Dove had recognized that they had adjourned without a boilerplate and Byrd had probably announced his intentions that he wanted to go to the defense authorization bill that had language in there on the MX missiles. I think it might have had a limitation on them. And it had a provision on Contra aid, I think. There were a couple of things in there that the administration did not like and so Dole was doing his best to keep it from coming up. And Senator Byrd, in order to—bearing in mind this was post-TV—May 13 of '87.

**RITCHIE:** TV in the chamber had started, yes.

**PAONE:** It was '86 when TV started. Yes, because when we did TV, he changed the ability to filibuster the approval of the journal. We went from a hundred to thirty hours and he got the Senate to agree to a non-debatable motion to approve the journal, which was the one thing that gets in your way if your trying to use the morning hour to get to a non-debatable motion. First you have to get the journal approved. So he made his motion to approve the journal. We were voting on that, and it was non-debatable. And all the sudden, I think it might have been [Dan] Quayle, who was the first one. Meanwhile

Dove is sitting right next to Dole. And all of the sudden as the vote's almost done, because they waited until the end because they wanted to use up as much time because the morning hour consists of a two-hour window after you've convened. So you have to approve the journal, close morning business and then you can make your motion before that two hours is up.

So they were burning as much time as they could and then all of the sudden, I think it might have been Quayle or one of them, said, "I refuse to vote based on the fact that I haven't read the journal." Well, the rules state that a member cannot refuse to vote unless by grant of the Senate, permission of the Senate. So you can have a vote on whether somebody should be permitted to refuse to vote, at which point Dole asked for the yeas and nays on whether he should be allowed to refuse to vote. He got the yeas and nays and we're voting. Now you're voting on a vote within a vote. And of course, Byrd was not happy. As we're voting on that vote, I think it was [John] Warner near the end of that vote stands up and says, "I refuse to vote on this vote because I don't think a man should be compelled to vote." And Dole asked for the yeas and nays and we start now a third vote within a vote. Now you can see it's like putting up two mirrors and you're looking at infinity now. And the idea of getting this done.—it ended up with points of order, parliamentary inquiries during the votes and whether you could do that or not. Even the chair was confused. Whether you could put in a quorum call during a vote, which of course you can't. But then you can appeal the ruling of the chair as to whether you could and have a vote on that. To say the least, Senator Byrd did not get to his motion to proceed. That was classic Bob. And that was the last time Byrd tried to use that motion to proceed during the morning hour. I would always dissuade any other leader if they came to me about the utility of that motion. It has been proved that there are ways around it.

**RITCHIE:** As floor secretary, would you sit down with the leader and talk about the types of strategies that they were planning to do. I mean, the parliamentary procedure at least?

**PAONE:** Oh yeah, every day. Sometimes every hour. Sometimes more often, constantly, depending on the situation we were in and wanting to make sure you knew the possibilities of what they could and could not do and what to expect.

**RITCHIE:** They had to be all different styles. You worked with four different leaders over the years.

**PAONE:** Well, with Byrd, you sat down and he told you what was going to happen and you just were to execute it. If he came out and he wanted to know what was going on, then you would update him as to the situation. It was only when you got to people who were not as experienced in the rules as Senator Byrd was—and that would include ninety-nine others, then you would sit down with Mitchell and Daschle and Reid on a regular basis to let them know what their options were, either in trying to get something done or trying to keep something from happening.

**RITCHIE:** So you sort of were semi-parliamentarian?

**PAONE:** Well, I was our Democratic parliamentarian, so to speak. As I said, it was either are we trying to build a bridge or are we trying to blow it up?

**RITCHIE:** In this Congress they've been debating the issue of secret holds. It almost got to a vote the other day and Senator DeMint raised this issue about the unanimous consent agreements and the hotline—

**PAONE:** Yeah, I think it was [Tom] Coburn who might have referred to that as the “McCarthyite hotline,” which I got a kick out of.

**RITCHIE:** What is the hotline and how does it work?

**PAONE:** The hotline is just merely an alert that rings in their forty-one offices. We have one that goes into our fifty nine offices. What happens is, the battles are fought out on the floor on ten percent of the legislation that the Senate usually does, is my guess. The other ninety percent of it is done by unanimous consent. The only way you're going to get things done by unanimous consent is by making sure everyone knows what you're doing and they've had a chance to look at it and then had a chance maybe to alter it. Sometimes, granted, it could be National Peach Week and it's nothing of great import, but there are many times where you would pass major pieces of legislation that people had worked on for years, maybe for more than one Congress, that finally got to the point where you could do it by unanimous consent. These were major pieces of legislation.

Members had worked on wilderness bills and things like that, which were important to their state that they had been trying to get worked out for years.

What the hotline is is the bill, as it works it's way through the legislative process, members—now this gets into what some call “holds.” The floor staff refer to them as “consults,” because a hold is only as good as your ability to deliver a member to the floor to debate the motion to proceed to something. A consult is what it is. You say, “I’m interested in this. Don’t do anything without consulting me.” Then I can decide whether I want to show up or whether I just want to put a statement in the *Record* when it passes.

So members would send the leadership consults on bills, sometimes before they were even reported out of committee. And you would keep track of them so that when the bill was reported out of the committee and hit the calendar, we would keep what was called a “marked calendar.” The Republicans do the same thing. And so you could open that marked calendar and you could see on that bill I’ve got maybe two or three members who want to be consulted before we try to pass that bill. Like I say, sometimes they might have an amendment. Sometimes it might be, “I completely hate this bill. It does injury to my state and I will oppose it.” Or it might be, “Just let me know so I can put a statement in the *Record* or come down in person and congratulate the committee for passing it.” And so the majority would originate a request to the minority, and usually it would come from the committee staff because they had been working with the minority staff even after they reported the bill out. They may have then come up with a manager’s amendment or another couple of amendments and they would send them over to the floor. You would give a copy to the Republicans, you would write up a script saying, we’d like to take up and pass this bill with this amendment and do you have any problems? And that’s what you would run on your hotline. And you would say, “We have a request by the leader to take up and pass this bill.”

Now before you had even done that, if you had people that had notified you with consults, you would contact them and say, “They want to do this. This is the amendment. Do you have a problem?” If they had a problem, then we’d recommend that they go to the committee. We would recommend if they had problems that they go to the committee at the outset so they could be incorporated in that original negotiation and it would smooth things out and get it done quicker. But eventually you got to the point where everybody’s okay in the known universe to the point where you run it on the hotline and

say, “We have a request to take up and pass this bill with this amendment. If your senator has any objections, please notify the cloakroom.” The Republicans do the same thing. And we would give them time for that to percolate. And sometimes people would call who were not on the committee and say, “Well, I want to check this out.” And we would snag it for them and say, “Sure, check it out.” The committee might ask who snagged it. If they wanted just overnight to look at it without being hounded, we would let them know that, “Well, whoever it is would like to just privately look at it. I don’t think there will be a problem.” If there is a problem, though, they’ll surface, because we have to tell them, “At some point, we will let the committee know that you’re the one snagging this.” Sometimes they didn’t care. They’d be like, “Go out and tell them now. I don’t care. I want to look at it.”

But that’s it. That’s what the hotline is. And eventually both sides—if then the person that snags it goes to the committee and they make another change. They send down now a new modified amendment or maybe just an additional amendment to be included in the script. Then you would give a copy of that to the Republicans and the majority staff would be working with the minority staff on the committee already, letting them know about the additional amendment, because it doesn’t do them any good to go ahead and clear it themselves and then have the minority snag it. They would be working, if it’s being done properly, with their minority counterparts on arranging to see if we can get that amendment agreed to. And then you change the script. If you changed the hotline, if you added another amendment to it, you would run it again. You would change the script. So basically, members always have a chance to snag it and to look at it and that’s how the place operates.

Now Coburn and DeMint have argued that: You’re doing this and nobody is paying attention. Well, if they’re not paying attention, then they’re the one’s who are not serving their constituents, because that’s how the place operates. You don’t have time to stand out there and verbally read out loud every single bill and amendment that you’re passing. There are too many of them. I mean, at the closing days of a session, especially at the end of a Congress, floor staff will clear for passage fifty or sixty bills a day. We will even break it up by committees because it just gets too busy. The pace and the pressure gets white hot. You don’t have time. Usually it’s like everybody is doing everything. Helping each other do it. But that doesn’t work at the end when you have to say, “Okay, if there’s anything that comes in from the HELP committee, you take it. If anything come in

from Finance, I'll take it." So rather than trying to keep track of the other person's issues, because there are too many of them. You've got too many of your own to keep track of. Meanwhile, you're also working on whatever's pending on the floor and making sure you're keeping track of that and, you know, the write-ups and the descriptions of their votes, et cetera. So at the end, you divide it up by each person gets five, six, seven committees, maybe more. And you're responsible for those in trying to see if those bills are going to clear. The committees are constantly, then, funneling requests to you because everybody's trying to get their bills done before they die at the end of a Congress. So you're constantly getting requests being sent down that you're then having to put in, if you're in the majority, do a script for, make sure there's copies of them and to give to the minority so that they can then try to clear them. That's just the way the place operates. If they don't think that this is a rational way of operating then it's because offices are being derelict in their duty in trying to keep up with the hotline. But that's just the way it is.

**RITCHIE:** The diary of Senator William Maclay in the First Congress says that in the last two days of that Congress he was just overwhelmed by bills. He complained that he didn't have enough time to read everything that was coming through.

**PAONE:** Sure.

**RITCHIE:** That was the First Congress. It seems like that's happened constantly since then. What is it about the calendar that winds up bunching everything up at the very end of a session?

**PAONE:** It's human nature. Sort of like college students cramming for exams. You let the whole semester go and then the last two weeks, you try to study as much as you can before your exam. It's rare that you come across the student that does his work every week in an orderly, week to week fashion. [Laughing] And senators are no different. You'd like to think that you get better as you age, but you don't. So those last weeks of a Congress are usually extremely hectic.

**RITCHIE:** Well, this has been a very hectic Congress. Since the last time we met, the healthcare bill has been debated and passed. You were in the Democratic secretary's office at the time when the '93-'94, when the Clinton health bill was up. I wondered from that perspective, what kind of lessons did the Democrats learn from the

'93-'94 experience and how did you see that playing out in what went on in the healthcare debate in this last Congress?

**PAONE:** Well, I think they looked and they (more of the administration)– the people that were running their effort at the administration level realized that in the first effort not enough deference was shown to the respective committees in the Congress and their responsibilities. They tried to put the entire thing together themselves, as a legislative–not a blueprint, but as a legislative bill. That was a mistake. And some unfortunate remarks were made about the chairman of the Finance Committee and we can bypass him if we want, or something like that. Or that they didn't need him as much. This time they realized that, no, you know you send up broad brush strokes of what you want and let the Congress be responsible for the details, and then step in where you had to near the end when it gets down to the final negotiated settlement. I think that's what they did and I think that it worked out as a result. [Nancy] Pelosi convinced them not to give up on the overall bill as opposed to trying to break it up, especially after the [Scott] Brown election.

Thank goodness they had the foresight to use reconciliation to put that in–I think it was in the Spring. I'm not sure when it was that they did that budget resolution, but it gave them at least the option of using it. Now at the time when they did it, some thought, well, they're going to use reconciliation for all of healthcare. Well, [Kent] Conrad, chairman of the Budget Committee, and others, realized that no, it's not of that utility. You can't use it for that. It's too fine a scalpel, a surgical tool to use for this entire bill. So it was sort of put on the back shelf. But after the Brown election when they realized the House couldn't take our bill, they had to make changes. They were in the process of negotiating those changes when the election occurred. Well, then reconciliation became the perfect vehicle for at least making those changes enough to allow the speaker to get enough votes to pass it.

**RITCHIE:** So you're suggesting that it's a good idea for the White House not to write the bill and send it up?

**PAONE:** Right.

**RITCHIE:** But aren't there a lot of occasions when, essentially, the executive branch does write the bill and send it up?

**PAONE:** Oh, they do, and they send up legislation, but they also know that I'm sending this up as a blueprint. Like, you guys take it from here. In this case, I think they realized that this was too big an effort and it was just going to cause problems. Especially when Baucus was still trying to negotiate a bipartisan bill. I think they realized it wouldn't do them much good to send something up for everybody to attack while they're still trying to negotiate a bill, whereas they did do that in the early '90s. Then when the thing had to be altered, the Republicans used that as criticism, showing these giant bills on the floor with Roman numerals on the side, saying, "This is what is now. This is what it was before. Who knows what it will be tomorrow. See, they don't know what they're doing." That sort of thing. So this avoided that pitfall.

**RITCHIE:** What was your opinion of the way they handled the health bill this time?

**PAONE:** I think it was fine. I think it worked out very well. I think they did a great job.

**RITCHIE:** If you'd been on the floor, would you have tried anything different?

**PAONE:** No. As soon as I saw the Brown election, I said immediately to my wife, "Well, they're going to have to use reconciliation now to fix this bill." I said, "That's their only choice." The idea of tearing the thing up into three smaller bills or starting over, you'd gone too far at that point. I mean coming in on Christmas Eve for your final vote and then to say, "Well no, we can't do this." That's not going to happen. They weren't going to give up.

**RITCHIE:** There's a school out there that keeps saying: The trouble with filibusters is that they don't make the minority stand up there and talk. I've been saying: Actually they did. The whole month of December was essentially an old-fashioned filibuster. They were in seven days a week. They were voting at one o'clock in the morning. How much more of a filibuster could you have gotten than that?



**PAONE:** Right. And as you know, whether before or after cloture is invoked, you can't force the person to speak. You can force them to sit out on the floor to object to a question being put by the chair, but if they just put in a quorum call, then that's their filibuster. That's good enough to keep a vote from happening. It's far more difficult—people don't understand—that's the other thing where these political scientists and other experts on the Senate, they don't understand that, unlike the House, you can't force an up or down vote on anything in the Senate. All someone has to do to deny you an up or down vote is sit out on the floor and object or put in a quorum. If they object and they put in a quorum, they don't have to speak, whether cloture is invoked or not. But you're right, that last couple of days, I think from like November 30<sup>th</sup> until December 24<sup>th</sup>, I think it was twenty-six straight days that they were in and used the clock, every bit of it to get it done through those hours.

**RITCHIE:** Scheduling votes at one o'clock in the morning so they would count as the next calendar day and things like that.

**PAONE:** Right. Exactly. So the thirty hours would get done quicker so you could get to the next stage.

**RITCHIE:** The other issue of the definition of filibuster occurred when Senator [Jim] Bunning objected to unanimous consent agreements over the minimum wage, not the minimum wage—

**PAONE:** Unemployment extension...

**RITCHIE:** Unemployment insurance.

**PAONE:** Right.

**RITCHIE:** He kept saying, "I'm not filibustering. I'm just objecting to unanimous consent agreements."

**PAONE:** Well, he didn't have to filibuster. An objection was enough.

**RITCHIE:** Right. So it's all a matter of how people view it and how they define the term filibuster.

**PAONE:** Yeah, well in his defense—limited defense—what he was saying was, “Okay, I’m not filibustering. I want a vote on my amendment.” But then he took it to the next stage. They were perfectly willing to give him a vote on his amendment on paying for it, but he was saying, “No, I want my amendment to be agreed to.” Well, wait a minute now, you can’t have your cake and eat it too. We’ll give you a vote, but—

**RITCHIE:** Right.

**PAONE:** Afterwards, when they finally got the agreement and had the vote and his amendment was defeated, he claimed that he had been misled. Come on, that doesn’t pass the laugh test. Everybody knew that all you were getting was a vote. You weren’t getting a guaranteed that that was going to be agreed to. Even [Mich] McConnell didn’t come to his defense on that.

**RITCHIE:** Yes, there have been some strange legislative tactics this year.

**PAONE:** Yeah, that made him a hero amongst the Right. Then the next time that the issue came up, they ended up recessing without doing it, just like we have now, because Bunning’s colleagues decided to join with him in not agreeing to do it unpaid for.

**RITCHIE:** It depends, I suppose, on which side can make a better case when they go home. One side can say, “They obstructed. They blocked it.” And on the other side can say, “We saved it from happening.”

**PAONE:** Yeah, “We stopped them from adding to the deficit.” Which is fine if you’re one of the ninety percent of the people that still have a job. But if you’re the ten percent that are unemployed, then you stopped my unemployment checks. It just depends on how you portray it.

**RITCHIE:** You alternated over time being the minority secretary and the majority secretary between 2001 and 2008. You started as minority secretary in 2001, then you were majority secretary. Then in 2003, you were the minority secretary and in

2007 you were back to being the majority secretary again, all in a relatively short period of time. How significantly different is the role of the minority secretary from the majority secretary?

**PAONE:** Well, it's a reactive role in the sense that, you know, the majority controls the committees and the majority leader dictates the schedule. So you work, when you're in the majority, with the majority leader and, depending on his relations, with the committee chairmen, on keeping him informed of what the chairmen's desires are that they want to get done. What is their high priority items that they want to get out? It also changes even more so when in '08, after I left, when you have the administration, because it's one thing to be doing it when you're just a majority. It's another thing to be doing it because you don't have to just factor in this is what the chairmen are interested in and this is what they want to get done. The leader is also hearing from the people down on Pennsylvania Avenue, saying, "This is what I want to get done." Now you've got another voice involved in what are the scheduling issues. We had that when Mitchell was leader and Clinton was down there, which is why you could see where it was going to also change in the closing days of the 2007 avoiding votes by Republicans on amendments, filling the tree and filing cloture.

The debate sometimes was eerily reminiscent of Lott-Daschle, with Reid and McConnell, only in the roles reversed. We didn't have the White House in '07 and '08 and the bills we were going to be advancing weren't going to be signed. So there was a strategic decision made that as a result we don't need to have to break our back to try to get these things done and as a result cast all these bad votes. But God forbid we should win the White House, because then you're not going to be able to just stop at the water's edge. You're going to have to get something down to the president's desk and in order to get it down to his desk, you're going to have to invoke cloture. You're not going to invoke cloture unless you've lanced the boil and given the minority the ability to offer amendments and cast votes that you didn't like. And so it was going to be an eye-opener for some members of the Democratic Caucus who had been protected, so to speak, for awhile, of not having to cast a bunch of bad votes to then having to belly up to the bar on a regular basis and cast a lot of crappy votes, especially if they were up. So that's what we've seen in the last two years.

**RITCHIE:** I think it was in 2007, Senator Specter, when he was still a Republican, had a motion to ban second-degree amendments, so that, in a sense, the majority leader couldn't fill the amendment tree anymore. Is there any validity to that?

**PAONE:** I don't think so. Then you take away one of the major pluses of being in the majority—the ability to react to what they're doing. Bearing in mind, they still get to offer amendments and they still get their votes, but you, with the second-degree, are guaranteed the first vote. We never argued, whether I was majority or minority secretary or Dave was the majority or minority secretary, or Elizabeth, his predecessor, regardless of who was leader, we never argued as to the ability of—that the majority was entitled to the first vote in a situation like that. Yeah, you can have the first vote because you could have second-degreed us. Granted it's a rarity, but you can get a second-degree up where the majority doesn't get it in there. But by and large, that's a rarity.

We had an instance once where we were in the minority and Dole was leader. I think he had left the floor. He had filled the tree, but he did not fill the tree completely, leaving the underlying text open. [Edward] Kennedy and [John] Kerry offered first and second-degree amendments on minimum wage, which at the time was like kryptonite to the Republicans. It was an election year and they did not want to vote on an increase in the minimum wage. They were doing everything they could to avoid that. Then we were able to file cloture on it. So we guaranteed that there would at least be a cloture vote on an increase in the minimum wage. I think, actually, that was one of the contributing factors to Senator Dole realizing that he was better off campaigning [for president] full time rather than having to spend his time trying to keep people from offering amendments and people casting votes that they didn't want to cast. It didn't do him much good.

**RITCHIE:** How did you spot the fact that Senator Dole allowed that?

**PAONE:** We were just there the whole time. They had already come over. We knew that they—because we hadn't decided to do it—I mean Kennedy or Kerry hadn't decided to do it and we were just operating under a regular—the bill is up and it's got a substitute amendment and that was the operating method, amending your substitute. Like I said, this was a different type of leadership. In those days, you didn't actively try to keep the minority from offering amendments. But in this case, he had offered first and second-degree amendments because there was a push for the minimum wage. I don't

know whether it was because we weren't used to doing it or whatever, but the left side of the amendment tree was open. Now, granted, that left side of the tree only gets you a vote. I mean, if you were to win there, you're still going to have to add it to the substitute somewhere along the line, because the substitute would wipe out whatever is on the left side of the tree. Like I said, it was just a situation where they weren't used to trying to block people from offering amendments, because to their credit, they were used to letting people offer amendments and getting votes on things. It was just a rarity that in that instance they were trying to not do it. It was obvious, and I couldn't believe when he left that open. I had Kennedy's staff, who were having kittens on the back bench and I kept trying to tell them to "calm down. You're going to make this too obvious. They're going to realize what's happening here and they're going to fill that slot." But they didn't and when they finished we offered the amendments. I was as surprised as anybody that we got them up. That was the only time that ever happened.

**RITCHIE:** I also remember when Senator Specter had his reform proposal up, he took it to the press gallery. The reporters told him there was no story because you could never explain a second-degree amendment to anybody outside the Beltway.

**PAONE:** That's interesting, and that's probably very true.

**RITCHIE:** He reported that in the *Record* at the time. So I thought it had to be true, because he was so deflated about it. But it does indicate that you really do need to know the rules of the Senate. Would you say that there are a lot of senators who don't know much about the rules of the Senate?

**PAONE:** Yes, I'd say it's true. I think it's also, as evidenced by the desire of a lot of the freshmen and sophomores now wanting to change the rules and make it easier to invoke cloture or to take away some of the minority's rights and to change the rules through a possibly majority vote, which I think is stemming from a lack of institutional memory on how the place should work, in my opinion. If you want to do it, as Doc Riddick said, and Dick Baker quoted him: "If they decide to make cloture a majority vote, then the rules will still be perfect." It's whatever they decide.

**RITCHIE:** Of course, the freshmen haven't been in the minority yet.

**PAONE:** That's correct. This works as long as you think you're going to be in the majority and you're going to control the White House forever. But I, as you pointed out, was on the other side of the fence too many times to want to offer a weapon of such huge import to the other side to use against me should they take the majority. Because if I were them, I would do things and I would just say, "Well, from now on anything that comes up on the floor legislatively or on the executive calendar, the time limits on it will be dictated by whatever parameters are assigned to it by the Rules Committee. And, oh, by the way, you can no longer filibuster the organizing resolution, either." Then I'd pack the Rules Committee with fifteen majority and five minority and that would be the end of the Senate as we know it. Each one of those members will have, as a result, lost a lot of power. We will just be a smaller version of the House at that point.

**RITCHIE:** One reason why the Senate always pulls back from the brink is that it's not just the parties, it's the individual senators who have a lot to lose.

**PAONE:** That's right. I had a meeting with a member the other day in which, having voiced my concerns and he thought about it—he was one of the proponents of this—and he thought about it and he goes, "Well, what's to keep them from doing it when they take over?" I said, "Well, the fact is they haven't, have they?" I said, "Neither side has because it's sort of like the nuclear arms race. It's mutual assured destruction. Nobody wants to be the first one to pull the trigger, because you know that thereafter it will be irrevocably changed, in my opinion." But if they do it, they do it. We just have to sit back and watch.

**RITCHIE:** There's even an aversion to using the word "nuclear." Some call it the "constitutional option." But everybody knows it would have a nuclear effect on the institution.

**PAONE:** Absolutely. As I pointed out, LBJ changed the rules and he had to do it because he was faced with a "constitutional option" at the beginning of a Congress. So he, in order to lance the boil, my recollection is he scaled cloture back from two-thirds of those sworn to two-thirds of those voting and got the proponents to back off from forcing the "constitutional option." But the folks that were opposed to changes made him put into Rule V that last two lines that says that the rules continue from congress to congress and can only be changed in accordance with these rules. So if you do the constitutional

option, then you'll be doing it in opposition of your own rules. So that's another rule you've got to change while you're at it. But so be it.

**RITCHIE:** One more question about the majority secretary. I've seen the majority secretary referred to as the "floor manager" of the Senate. Is that an accurate or a reasonable description?

**PAONE:** Floor manager for the majority leader's staff, yeah. Whatever chairman is out there is the floor manager, obviously, for the bill that's pending. But the floor manager for whoever the majority leader's floor staff is what has evolved in the last—well, since I was doing it. Because prior to that time, the Democratic secretary's roles were different and evolved into this because my job as floor staff then morphed into assistant secretary and I never wanted to leave the floor. That was one of the reasons they kept me, because I was on the floor. At one point, when I transferred from being on the "floor staff" to the assistant secretary position, Abby [Saffold] had to get Senator Mitchell to approve that. He didn't want to approve it if I was not going to be on the floor any more. He said, "Well, as long as he's not going to leave the floor." She had to convince him that, "No, he's not leaving the floor. He'll just be on a different payroll and have a different title. But he'll still be out there doing the same job." He said, "Well, if that's the case, then that's fine." Whereas prior secretaries had other responsibilities that they did.

**RITCHIE:** So in a sense, you're the eyes and the ears of the majority leader at all times on the floor? Is that it?

**PAONE:** Yes. You and the floor staff, keeping track of what's going on out there and trying to help or assist any Democratic senator that comes in with any needs, from the mundane to the complicated.

**RITCHIE:** A number of the senators have said that when they first came to the Senate, you gave them the walkthrough; that they turned to you for when they wanted to know "How do you do it?" How do you orient a freshman senator?

**PAONE:** Well, there's an official orientation that the secretary's office puts on for them that we attend, Dave and I. Then we would do it for each of our freshman

senators. We would do it more for their staff than for them, in the sense that we'd have their staff over and show them what it's like on a day out of session and walk them through the floor and show them where they would get their pass and how they get on the list with the sergeant at arms for the floor passes. Then where you'd come in, and floor conduct, and how you never sit in the chairs with arms, that sort of thing. For the members, you'd pretty much keep an eye out for them as they come in the chamber. Sometimes you'd have orientating classes for them. You always made yourself available to them, but they were so busy setting up their offices, et cetera, that they often didn't have time. I remember that one year our freshman class consisted of Obama and [Ken] Salazar, and Senator [Mark] Pryor was a sophomore, but he realized that there were a lot of things that he still didn't understand about how the place functioned. He thought it would be helpful if I came over and talked to them one morning. So I did and tried to give them a run through. But, you can only do so much in an hour.

Basically, you'd try to catch them as they came in and then you'd go up to them and they would always come in with staff and you'd ask if they wanted to speak during morning business. Are you going to offer an amendment? Have you talked to the manager yet about your amendment? Do they know you're offering an amendment, and have you given them copies? Do the Republicans know? Et cetera, et cetera. Or just down to what type of clip do you want for your microphone at your desk? There's a lefty or a righty. Or do you just want a hook that's for your pocket? The basics, until they became comfortable and they could come over and do it on their own.

**RITCHIE:** About how long does it take a new senator to get comfortable?

**PAONE:** Not long. A couple of times, and then they're fine. Then you still want to look out for them and go up and make sure that—especially if they come in and you don't expect them. Because often you know as the bill is progressing, okay, who's coming over to do what amendment next and that sort of thing because you help out the committee chairman's staff in trying to line up an orderly progression and letting people know when they should come over to offer their amendment. Or telling somebody to stick around after the next vote if they want to offer an amendment or something like that. But then if, all of the sudden, somebody comes in that you didn't expect, then you usually would try to find out from their staff, okay, do you just want to speak or what is it you'd like to do? Because usually they came to you as they walked through the chamber, as



they walked through the well, and they'd ask, "Okay, what's pending? Is there an amendment pending? Can I speak? I just want to speak in morning business." Or, "I want to try to offer an amendment. What should I do?" And then you'd explain to them if there is something pending at the moment and then ask and direct them to the chairman's desk and suggest that they talk to the chairman and their staff about sequencing their amendment.

**RITCHIE:** We noticed an interesting development during the healthcare debate—maybe because we were watching more of the debate than usual—but it seems like the two parties would divide up the hour. Each one got a half an hour. But instead of one senator speaking at a time, two or three of them would come on and they would engage in a little colloquy between themselves. There would be two or three Republicans. And then they would leave and two or three Democrats would follow. They would hold these little exchanges in which they'd say, "Oh yes, I completely agree with you. That's a great point. I'm glad you raised that." Is this something that's relatively new, or have they been doing that for awhile and we just haven't been paying attention to it?

**PAONE:** No, usually though—yeah, that was new in the sense of done in such a long-term, organized fashion. But that was just basically putting together colloquies like you do. Sometimes you do them verbally on an issue, or you would put them in the *Record*. Oftentimes you would see that by a chairman at the end of a bill, putting colloquies in the *Record* on various amendments that they'd agreed to. That was just a case of they are forcing us to use this time, so let's organize members to come over here and promote our issue. And if we all help out, then we only have to contribute ten minutes at a crack rather than thirty. And so both sides ended up using that form.

**RITCHIE:** It gives the illusion of a debate going on, but in fact for that half an hour they're all in total agreement with each other.

**PAONE:** Right. They were just thirty minute colloquy segments divided up per side.

**RITCHIE:** I think a lot more people paid attention to the healthcare bill than have paid attention to any bill that's come through Congress in a long time. You learn a lot by watching, but in other ways, people have been just totally appalled by what they

saw, because they didn't understand all of the processes that were going on. The word you hear is "arcane." People don't know the history or the logic behind a lot of it.

**PAONE:** Right, and the so-called deal-making. I would be at home watching this criticism and just laugh and say, "Well, it's called how laws are made.: This isn't anything new. It's a negotiated process and you may have to make changes in order to get your bill done. As a bill progresses, people realize that there's something that impacts their state in a negative way and they need that corrected. There's nothing wrong with that. It's what they're there for.

**RITCHIE:** At one point after Senator [Ben] Nelson made the Nebraska deal, a reporter call up breathlessly and wanted to know if there had ever been legislation that was "state-specific." I emailed the parliamentarian, and Alan Frumin wrote back that he was "shocked, shocked" to think that any legislation would be state-specific. Then he listed like Louisiana and Hurricane Katrina, New York and 9/11, where funds were oriented towards a particular state.

**PAONE:** San Francisco's earthquake. Mount. St. Helens. I think after Mount St. Helens, the Treasury just basically shifted into Washington state. [laughing]

**RITCHIE:** It is funny that people will look at a particular moment and think of it as an isolated instance without ever seeing how often things like this are done.

**PAONE:** Sure, or pieces of farm bills that get down to being crop specific, so you end up having your Great Plains states versus those who might grow sugar or sugar beets or something. One needs a lot more land and the other doesn't. You get down to area specifics. That's just the legislative process. Versus, as [Joseph] Biden used to say when he'd come and voting on the farm bill, "Remember this, guys, when I have my farm bill and we're doing the Amtrak bill." Because, where the farm bill was of interest to the farmers, he wanted to make sure that they knew that his interest was just as much tied up in the Amtrak legislation, and he expected their support when that ended up coming up. That was his farm bill, as he used to call it.

**RITCHIE:** The farm bill in 2006 was also fascinating to watch. The House passed a bill that was about a hundred and twenty pages long, and the Senate took

another year and they passed a bill that was about fifteen hundred pages long. They were based on two different years worth of statistics, so the numbers didn't match. They had to go to conference and produce a bill, which the President [George W. Bush] vetoed. They turned around and got two-thirds of both houses to overturn the veto. By that time, everybody had a thumb print in that bill somewhere.

**PAONE:** Yeah, farm bills are notorious for being—they're not partisan. It comes down to who's got what crop and what's growing in their state, whether it's sugar or wheat or cotton or rice. Then you could throw in dairy. It's amazing. It's why we used to say, thank God we only do them once every five years.

**RITCHIE:** I guess, after the veto, it's really impossible to take the bill apart.

**PAONE:** Well, you have to start all over.

**RITCHIE:** It's got to be passed as a whole.

**PAONE:** It's either do this or we do another one with his changes. And they weren't about to do that.

**RITCHIE:** That was another one of those classic cases that you can learn a lot about the process by watching a particular bill work its way through all of this convoluted system. But when it finally does pass both houses, there's some consensus behind it, usually.

**PAONE:** Oh, yeah. I remember one year working with somebody out there on the floor. I think Dole was leader and we were there every night until 11:30 p.m. We'd be back in at nine o'clock the next morning, for weeks on end. It was the farm bill. I remember this one guy I was working with looking at me and saying: "If I'm still here when we do the next farm bill, I want you to take a gun and shoot me." [laughing] Because they were just amazing bills.

**RITCHIE:** I was curious, because you worked for awhile with Senator Reid when he was the whip and then majority leader. You've had a chance to watch him operate. What's your assessment of Harry Reid as a majority leader?

**PAONE:** Oh, he's outstanding. He's got a huge well of patience. All the folks that were in and out of his office—I wasn't there then, but I've heard stories about all the people that were in and out of his door and all the twists and changes that he had to go through in getting that healthcare bill done. He doesn't lose sight of the big picture. His tactical ability is phenomenal in looking at the big picture and then in dealing with the microcosm of dealing with individuals necessary to try to get the whole thing done. He's a master at both and weaving the two together and he's done a phenomenal job.

**RITCHIE:** Since Howard Baker's election, there's been this talk about how parties elect majority leaders because they're the public face of the party. In some cases, if they're the minority leader, then there no president, they become a major figure, they're in front of the TV cameras all the time. They elected Baker, at that time, because he projected himself well. That's not been one of Senator Reid's great strengths; standing in front of the TV cameras and projecting.

**PAONE:** o, I know. But actually on the Democratic side, we've had a history of just the opposite. In the sense of Byrd. Mitchell was a newcomer. You know, Daschle was a newcomer. These weren't people that were known for being out there. And Reid. And so it's almost like they gravitate towards somebody that they're not going to be competing with to be on the Sunday morning talk shows. Somebody that will let the chairmen and the other members who are issue-specific experts come to the floor. He, the leader, will just be a Mansfield-like type leader in managing everybody else and keeping the train running. I think that's where Reid has excelled. He excelled when he was whip. That's why it was a seamless transition to step into the leadership post after Senator Daschle was defeated.

**RITCHIE:** I was going to ask you if that, essentially, is the best route. Essentially somebody who really knows the floor and has worked the floor.

**PAONE:** Well, it certainly helps. But Mitchell didn't and he was an outstanding leader. He just took a different path. At that time, you had an unusual situation of a leader stepping down and the whip was not running. You had three untried members running, with Johnston, Inouye and Mitchell. Mitchell ended up getting it on the second ballot and filling that void quite well. Daschle also. Daschle came from the Policy Committee and hadn't been whip. I think Reid's analogy was more of a Byrd-Mansfield.

Reid was to Daschle what Byrd was to Mansfield. Reid allowed Daschle to focus on the big picture and the overall structure of leadership and what to get, because we needed that, especially when we were in the minority. To try to focus on how to advance our agenda while we were in the minority, which is what makes the Senate unique, because it's the only part of the government where the minority has the ability to even get a vote on something that it cares about. You can't in the House and you can't in the executive and you don't in the judiciary. So the Senate is the only place where the minority has that ability. Senator Daschle did a great job at structuring the loyal opposition and keeping the caucus together and unified as much as possible. Reid's focus on the floor and his love of the floor made that job a little easier for him. Just as Byrd loved the floor while Mansfield was leader, making his job easier.

**RITCHIE:** Each leader brings a little something different, given their personalities and backgrounds. I was listening to an interview with Senator Baker on C-SPAN, and he said, "Well, they told me, when I became leader, that the chief power I was going to have was the power of persuasion." He said, "But you know, the power to call bills off the calendar, that's pretty powerful, too." The majority leader really does have that as the ultimate decision. Nothing comes up without his approval.

**PAONE:** Right. He sets the schedule. That's where the difference is. You're question earlier was, "What's the difference between majority secretary and minority secretary?" As the majority secretary, you work with them on trying to set that schedule. And with the chairmen, what bill do you want to call up next? The minority secretary is: okay, you're finding out what bill is coming up next. You then discuss with the minority leader, these are the bills, this is the next item, how do we want to react to it? Do we have things we want to do to it? Is there something current that has somebody chomping at the bit to offer as an amendment? That's where the beauty of the Senate comes into play, amendments can have nothing to do with the bill. In the old days, that used to be something where you didn't even think about it twice. Now it's a little bit more difficult.

**RITCHIE:** The Democrats came back into the majority in 2007 and you retired in 2008. Why did you decide to leave at that point?

**PAONE:** It was pretty much happenstance. We were doing the farm bill. It was another seventeen hour day. By that time I had had about thirty-two years up here.

Twenty-nine of them on the floor, almost. My wife and I used to joke—not joke, we would talk about—do you want to leave? You’ve got your years in. Do you want to try something different that has not as stressful hours? We would talk about it and didn’t really have any game plan. Then one day I read a story about somebody that used to work for Senator Dodd, who was down at a lobbying shop, one of the more reputable ones in town, Timmons and Company. He was going off on his own. It was a bipartisan shop, and he was a Democrat. He was the lead Democrat in the shop and he was going off on his own. And we joked amongst ourselves, well maybe they’ll offer you that job. We laughed about it and I go to work the next day and I’m in the cloakroom and I get a phone call from her saying Larry, the lead Republican at the shop—“Larry’s out here and wants to talk to you about that job.” I said, “You are kidding me, right?” She said, “No, do you want to come out and talk to him?” I was like, well, I’ve got nothing to lose by talking to him. I talked to him and one thing led to another and my wife and I talked. They made me an offer and I tried to convince them that I didn’t know anybody downtown, as far as I’m never the one that got anybody an appointment with the senator. So as a result, I didn’t have contacts with corporations and I never helped raise money. I didn’t know anybody that was well-heeled or anything like that in businesses. I put that out to them. I said, “I don’t have a Rolodex where I can call on all these corporations to get you clients. I just don’t have that. This has been my life. Are you sure you want to talk to me?” They said, “Oh, yes, definitely. We still want to talk to you.”

So that was it. We just continued to talk and the year finished out. We got the farm bill done, and then we went out. That was the year we also passed the ethics bill, which is why Senator Lott left early. Because that had a two-year bar, once it was enacted, on members. But if you left, it was only a one-year bar. So he left before that became enacted. But the two years didn’t apply to staff, so I knew it didn’t matter. I was already under a one-year bar from everybody by the fact that I was an officer of the Senate. So that didn’t change my situation. We decided, well, let’s give it a shot, and that was it. It wasn’t like I went out and actively put out my resume. In the back of my mind, I think I had looked in terms of, okay, we’ve got the majority back. It’s ‘07. We’ve got this Congress going. Let’s finish up this Congress and I’ll help with committee assignments for the next Congress, which is what I did. It’s part of the job. Then after I get the next Congress organized and the committees assigned, helping with that, then maybe I’ll look around. Also by then, there would have been a new presidential election. I didn’t know who was going to be in the White House. Then maybe I’ll look around and

see what's out there. If there's some other role that I might want to try. But then this thing came up and it just seemed like, well, how often do you get an opportunity like this?

**RITCHIE:** What types of things have you been doing for Timmons?

**PAONE:** I, basically, advise folks, their clients. It's sort of like the Senate in the sense of whoever's got an interest that's working it's way through the Senate that they're concerned about. How is it going to happen? What's the danger? Is there a way that this can be stopped or is there a way that we can try to change this? Or can we improve this? How does this process even work? It's amazing the lack of knowledge once you get outside of these buildings, not even outside the Beltway, as to how this place works.

Just to give you an example, reg. reform that was just done. I can't tell you how many meetings I was in, because obviously it affected a lot of people, going from listening to folks, plead their case or point out what they thought were deficiencies in this or that. Afterwards, they would be talking about, "Well, but then they're going to put this in the manager's amendment," and I kept trying to tell them, "The managers don't have the ability to wave a magic wand and say, 'poof! There will be a manager's amendment.'" I said, "that is going to take consent." I said, "And in the atmosphere you're in right now, the way this bill is going, I can easily see consent not being granted, A. And B, if you're into cloture, it won't be germane by dint of the fact that it will be something that was created well past the time amendments were filed. So you're going to need consent, pure and simple, to get the thing done. And it's only going to take one to say no. And it could be.—and my understanding of the last time they tried, they had, like, forty-nine different individual amendments they were trying to get cleared for the manager's amendment." And sure enough, it didn't get done. I told them, "Well, you're just going to have to hope that everything that they talked about doing in the manager's amendment, if they truly agreed to do them, that they will then take them to conference and try to resolve the issue in conference." I said, "But this isn't something that they have, by being managers, they've got a divine right to say, 'yes, there will be a manager's amendment'" I said, "That's not how the place works." And that was news to some people, which to me was second nature. So I just try to help them out with whatever's going on.

**RITCHIE:** Do you wind up going around and talking to the senators or the staff?

**PAONE:** Not that much. I go around with clients who bring people in who want to talk with the staffs, occasionally with the senator, about their concerns. I, myself, would just accompany them. Mostly that's about it. If I bump into somebody in the hallway and I know there's something that they're working on, I might mention it to them. But usually it's just bringing folks around to meet with folks.

**RITCHIE:** Have you gotten involved at all in the campaign financing side of it all? The fund-raising?

**PAONE:** Well, yes, in the sense that now that you're downtown, you immediately get requests to attend fund-raisers. That's just part and parcel of the job. So I've seen a lot of members, more now than I had when I was up here, by going to their breakfasts and dinners and receptions, by attending their fund-raisers.

**RITCHIE:** I interviewed Senator George Smathers, and he had become a lobbyist. He said that being a former senator the door was always open to him, but the hand was always out to him as well.

**PAONE:** Well, it's unfortunate in the sense that they need so much money. It's gotten into such a huge escalation of demand for money, even in small states, like say, Delaware, for instance. There will be a huge amount of money, probably, expended by both sides, because they'll use the Philadelphia media or whatever, and then that will be very costly in such a small state. No matter who you are, if you're running, you need to raise a lot of money.

**RITCHIE:** One other thing we haven't talked about about you're connection to the Senate is that you married into the Senate staff back in 1983.

**PAONE:** Yes.

**RITCHIE:** Was it an advantage to be married to another staffer, given the hours that you were keeping at the time?

**PAONE:** Well, I had the advantage of having a spouse that understood the hours, since she also worked off the floor and her hours were dictated by the floor also. So she,



of all people, knew what I was going through. If I wasn't home with the children, she understood and she was able, over the years, to work it out so that she would get a more flexible schedule than mine. That was one advantage.

**RITCHIE:** I read one account that the Senate schedule almost upset your wedding.

**PAONE:** It did. They were in session. We sat down when we got engaged and looked at the schedule and figured, okay, we picked Veteran's Day weekend, because we know that they're always out for Veteran's Day. We picked that weekend and unfortunately it was one of those years where you had a CR [continuing resolution], the appropriations process had not been done. The CR was expiring and a new CR had to be done. So you had a rare Saturday session and it was the day of my wedding. They were in session on that day, but fortunately they were out by noon, and the wedding was at 3 o'clock. Everybody that had worked up here and was invited was still able to come to the wedding. The next day, Sunday, I moved out of my apartment and moved my stuff. Then Monday, we were both back at work because the Senate was still in session. It was the final days, it was a sine die. Well, it was '83, so it wasn't the end of a Congress, but it was the end of a session, and it was the last week of the session. So we both came back to work. Howard Baker mentioned something on the floor—he apologized for being in session on our wedding day. Because I had mentioned something to him weeks before that, like, "You can't be in that day." He confessed that he had not remembered when he scheduled the Senate session that day, but that he understood that it all turned out okay. So that was fun.

**RITCHIE:** Well you've had over thirty years of...

**PAONE:** And she's still here.

**RITCHIE:** Yes, in the Reception Room.

**PAONE:** Yeah, for thirty-five years.

**RITCHIE:** She actually came before you came to the Senate.

**PAONE:** Right. She started in March of '75. I was known in the building as Ruby's husband. [laughing] Still am.

**RITCHIE:** Well, she also knew what was going on around here. That was probably a good source of information to have somebody who was coming and going through the Reception Room. I remember the Senate Reception Room before they lifted the smoking ban. That was where the lobbyists used to wait before there was TV in the chamber. These big guys with cigars would be walking around. I used to compare it to the father's waiting room in a maternity hospital. What a cloud of smoke would be in that room.

**PAONE:** Oh, it was horrible. Everybody smoking in there. You couldn't see across the room on a busy day. It was so nice when they ended smoking.

**RITCHIE:** You've been here over thirty years, connected with the Senate. Looking at the institution over that whole period, what changed the most about it as an institution, or about even the environment of the institution, in addition to not smoking in the Reception Room?

**PAONE:** The partisanship in the sense of the lack of cross-party relationships that you used to have in the old days, where you would hear stories about [Ted] Stevens riding in a car pool with [Edmund] Muskie. Senators would come and live, they'd bring their families here and they'd get advice from their colleagues as to what neighborhoods to live in and where to send their kids to schools here. They'd be members of the same PTA and have cookouts on the weekends and get to know each other, as a result, outside of this place. Now its so many members run to get elected and describe—you'd think the place was Sodom and Gomorrah—and that you don't want to bring your family here. Yet nobody accused Gerald Ford of not representing his state when he lived here all those years and raised his family here. If you recall, his funeral went through Alexandria on the way to Arlington Cemetery, where he lived and raised his family. Nobody accused him of being any less a great member representing his state just because he raised his family here. Yet now it's almost unheard of. Unless you have really small children, some do bring them with them. But so many people, especially House members, that they leave their families at home and don't live here. As a result, you don't have as much of a ability to know each other across the aisle as a person as opposed to your political

opponent. And so I think that's unfortunate and hopefully it will come back. That's not something that has to stay that way. Kennedy was very good at that, at cultivating relationships with members on the other side over the years. But that's about it. Other than that, other than maybe a few more cloture votes, the place hasn't changed all that much. People think that they're reinventing the wheel every two years and they're not.

**RITCHIE:** How about television? That came about sort of midway through your years up here.

**PAONE:** Yes.

**RITCHIE:** Was it significantly different before or after?

**PAONE:** Just in the use of charts. As a result, you end up with a whole subculture, then, of charts and easels and people using things to demonstrate their points, which can and cannot be effective, you know, depending on the type of chart you have and how well you use it. Senator Conrad's an expert at showing very good illustrations of budget situations and charts and tables. Specter once—I think it was Specter—somebody once had one during the Clinton healthcare debate that purported to show the bureaucratic eventual arrangements and it looked like the circuit board off a computer. It looked pretty effective.

**RITCHIE:** So you can use them to highlight a point or simplify something, but you can also use it to really mock something.

**PAONE:** Right.

**RITCHIE:** There's a rule against putting editorial cartoons in the *Congressional Record*, but I always wonder if someday someone's going to cross the line with one of those graphics in the Senate chamber.

**PAONE:** Right.

**RITCHIE:** And they'll ban those as well. Sometimes they can get some funny stuff up there. I remember Senator D'Amato had a pig to illustrate a pork barrel discussion. Well, I understand you've been teaching, at William and Mary.

**PAONE:** Yeah. And I'm afraid I'm going to have to get going, though.

**RITCHIE:** Okay. I was just going to ask you, what are you teaching?

**PAONE:** Legislative procedure.

**RITCHIE:** And you've got a class coming up?

**PAONE:** Yes. It's hardcore, because you've got to be hardcore to want to take my class, because it's Friday's in July at 4 o'clock in the afternoon, four Fridays in July and one Friday in August.

**RITCHIE:** Well, they're lucky to get you.

**PAONE:** This is my second year. I did it last year for the first time.

**RITCHIE:** Lee Rawls has been here. I've done an oral history with him. And he does a course there as well.

**PAONE:** Yes. He does one also. They have a place up on Mass. Ave.

**RITCHIE:** Well that's terrific. And this has been fascinating.

**PAONE:** I hope so. I hope it's been helpful.

**End of the Fourth Interview**