INTERVIEW WITH JAMES A. BAKER, III

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Houston, Texas

Interviewers

University of Virginia
Russell Riley, chair

Rhodes College
Michael Nelson

Also Present

John Williams

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Russell Riley: I wonder if we could get started by asking you to talk just a little bit about your relationship with the man who became President, George W. Bush, and how you got to know him over your years.

James Baker: I got to know him of course because of my close relationship with his family. We are a generation apart. I think he was born when I was 18 years old. If I’m not mistaken, he was born in 1946. I remember him as a young boy growing up here in Houston. I have four sons. George [H. W. Bush] and Barbara [Bush] have four sons. I lived on a street called Greentree Road here, which was a dead end down south of the bayou in the Memorial area of Houston. Every year at Thanksgiving we’d have something we called the Turkey Bowl, which was a touch football game. It would be the Bakers against the Bushes. I remember George W. being a particularly aggressive player, a sort of in-your-face kind of guy. I’ve said all this before, he knows.

I remember that he gave his parents a lot of problems. He loved to party. When I went to D.C. to be Under Secretary of Commerce for [Gerald] Jerry Ford, I lived for a period of time in George and Barbara’s house in D.C. Northwest. I believe that was before—Well, George and Laura [Bush] might have been married by then.

I also remember running for attorney general of Texas in 1978 when George was running for Congress in Lubbock. We attended some events together and both lost. He lost to a good guy named Kent Hance, who was an establishment Democrat, and I lost to an establishment Democrat named Mark White, who beat the guy I filed to run against. In those days, a Republican had no chance in Texas unless he was running against a real liberal Democrat. I filed to run for attorney general against Price Daniel Jr., who was the speaker of the Texas House and was quite liberal. Of course I was the first Republican candidate in Texas who had the ability to raise money as a consequence of having been Ford’s national campaign chairman against [Jimmy] Carter. Daniel was decidedly concerned about me. He didn’t run a lot of TV [television] in the primary, and he got upset by a guy named Mark White.

I don’t know what Mark had done before that. Maybe he had just been a lawyer here in Houston. I don’t believe he’d been secretary of state of Texas. Anyway, he got upset. And George got beat by Kent Hance, who was a very conservative Democrat. The dividing line in Texas politics in those days was between liberal Democrats and conservative Democrats. Republicans didn’t even run candidates on most ballot races.

I remember doing some events alongside W. He was running for Congress and I was running for
Attorney General. Then I don’t remember having a lot of contact with him.

**Riley:** Were you surprised that he got into politics?

**Baker:** No, I really wasn’t. I really was not surprised at that. But I was sort of surprised that after that loss, and the Rangers, he decided to do it again. I shouldn’t have been surprised, because there is a long tradition in that family of public service. W.’s grandfather, Prescott Bush, as 41 used to say, “inculcated in me a strong desire for public service.” I used to say, “George, don’t say inculcated. People don’t understand what that means.” No, I wasn’t too surprised that he ran for Congress but I was surprised when he later decided to run for Governor. Frankly, I, along with most other people, thought he was a long shot against Ann Richards. But Texas was changing and he ran a good campaign.

**Michael Nelson:** I want to ask you this: When you saw him in ’78, what did you think of his political skills?

**Baker:** By then I’m sure he’d quit drinking and I thought he was a good candidate. He was young. He seemed to handle himself reasonably well, to my way of thinking. Again, I was 18 years older than he and I’d run a national Presidential campaign. I remember being reasonably impressed with his ability on the stump. I did a couple of events for him, one big one here in Houston when he was running for Governor.

Of course it’s part of the narrative that we all thought that maybe [John Ellis Bush] Jebby would be the nominee. I remember when I was Treasury Secretary and Jeb was in Florida—He had become secretary of commerce in Florida. He invited me to come over there and do something and I did something; I can’t remember what it was. Everybody thought that Jeb would be the successor to his father.

Jeb ran against Lawton Chiles in a very divisive and semidirty race. I had become a good friend of Lawton because I was Treasury Secretary and he was Chairman of the Senate Budget Committee. We did a lot of work together. He was an adversarial Democrat and I was an adversarial Republican, but we both liked to turkey hunt. He would invite me to Florida to hunt turkeys and I would invite him to Texas to hunt turkeys. I would call the turkeys for him and he would shoot them, and he would call them for me and I would shoot them.

One thing that really paid dividends with respect to the Florida recount—I know I’m jumping ahead of you here—Before I’d gotten over there, but it was reinforced after I’d gotten over there, I remembered the types of people that Lawton had appointed to the Florida Supreme Court. I’d probably met some of them. There was a guy named Dexter Douglass—You may remember who that was.

**Riley:** He shows up in your book.

**Baker:** In my book, yes. He was an advisor to Lawton. He was the guy who told Lawton whom to put on the Florida Supreme Court. He gave him advice about which lawyers to put on. They were all liberal trial lawyers. So when I got to Florida I was of the view, pretty much right off the bat, that if we weren’t able to get this into federal court we had a really tough row to hoe. As it turned out, that was very true. The Florida Supreme Court pulled us out twice, once in the face of
a direct order from the United States Supreme Court to review their opinion—They reversed an earlier opinion. So that relationship I had with Lawton Chiles really paid dividends when it was time to go to do the recount.

I was not very active in W.’s campaign for President because in my view he quite properly had to separate himself from his father. His father had lost. He could not be seen to be a clone of his father. He had to be his own man. That meant he had to have his own team. So he didn’t really have any of his father’s political advisors. He had Dick Cheney, whom he first recruited to help him pick a Vice President. Dick served up some that W. didn’t like so he ended up being the candidate himself.

People don’t realize this—I may have said this in some earlier oral history—but Dick Cheney was as much responsible for my being in national politics as anybody, including George H. W. Bush. The reason for that is when I was in the Ford administration as the Deputy Secretary of Commerce, Dick was a 32-year-old White House Chief of Staff. Dick is the guy who recommended to President Ford that he ask me to leave the Commerce Department and come over to the campaign and be the delegate hunter against Ronald Reagan in the ’76 convention when Ford’s delegate hunter had been killed in an automobile accident.

Now, Rogers Morton was also very instrumental because he was the Secretary of Commerce who recruited me to come up there and he gave me the job, primarily at George H. W.’s recommendation, in my view. After we won the nomination it was Cheney and Bob Teeter and maybe Stu Spencer who recommended to Ford that they make me chairman of the overall campaign, because Rog had by that time become ill with prostate cancer. That’s how that unfolded for me. I don’t know where or how I got on that subject.

Riley: You introduced Cheney into the discussion.

Baker: Right.

Riley: You hadn’t been asked to be the Vice President—

Baker: No. That would be totally illogical. You can’t have a President and a Vice President from the same state.

Riley: Not to be Vice President but to do the selection.

Baker: Speed the selection? No, W. asked me to serve in the administration on a couple of occasions. We can get to that later if you want.

I did some fund-raisers for the Presidential effort, a couple of them, not too many. He quite properly wanted some separation and I was so close to 41 that I was almost synonymous, so it was understandable to me.

Nelson: Let me ask you about the eventual choice of Cheney for the nomination. Some people look at that and say that Cheney sort of created a process in which he would emerge—

Baker: I don’t believe that. No, I don’t believe that. With Cheney, what you see is what you get.
I’ve had disagreements with him on a lot of policy issues. We’re still good friends. But Dick is straight. He offered to resign. I offered to resign to Reagan. I think that’s what you ought to do when you become the subject of a negative news story.

We had something early in the first Reagan term, called Debate-gate, where I was accused of improperly dealing with Jimmy Carter’s debate briefing book. It became a big scandal in D.C., by D.C. standards, because I said one thing and Bill Casey said something different. The opponents of the administration loved that. They had the CIA [Central Intelligence Agency] director and the White House Chief of Staff telling different stories. They kept agitating to strap themselves to a lie detector test. I was petrified because I knew I was telling the truth but I also knew that Bill Casey had been in the OSS [Office of Strategic Services] and had been CIA Director for three years by that time. I knew that he would know how to game the polygraph, and I wouldn’t. I was petrified. It was one of the worst times in my life.

Nelson: Let me ask you about an alternative theory, which is that Bush created a process that essentially put Cheney in a position of coming up with someone more qualified than himself, knowing he couldn’t do it.

Baker: Coming up with someone more qualified?

Nelson: In other words, Bush says to Cheney, “Find the right person.” Cheney can’t come up with anybody who is more qualified than Cheney and therefore Cheney has to agree to do it.

Baker: I’m not sure I agree with that because I know he recommended a couple of candidates that W. interviewed. I know he recommended [John] Jack Danforth. I know he recommended Dan Coats—I think Danforth; Dan Coats for sure. There may have been a couple of others.

Maybe the Governor/candidate—I referred to him shorthand as W. but I don’t mean any disrespect. Rather than say candidate or Governor all the time, I’m going to say H. W. and W., or 41 and 43. He wasn’t 43 at this time when he was looking for a Vice President. I don’t think that was a fix. I don’t believe that. I would know because I was talking to him at the time.

Nelson: Talking to whom?

Baker: Talking to both of them, some at the time but a lot after the time. In particular, I had a lot of conversations with—Well, I was talking to 41, too, and 41 was closely involved, but through conversations with 43. Forty-three didn’t always follow 41’s advice. He didn’t follow it on Iraq for sure.

Riley: On the Vice Presidency?

Baker: I think 41 would have been very positively inclined toward Cheney. We went to Cheney when John Tower couldn’t get confirmed. Dick Cheney was recommended to 41 by Brent Scowcroft and me. We both worked with him in the Ford administration and we both thought he would be terrific as Secretary of Defense and we recommended him.

Riley: I was wondering if you were surprised when he selected Cheney.
Baker: No, and I was with Dick the day before it was announced. We were on the EDS [Electronic Data Systems] board together. I had recommended him for that board and we were together. He said, “I think he wants me to do it. It looks like I’m going to do it.” So I wasn’t surprised when it was made public. Now, I may have been surprised about that.

Nelson: As you watched that 2000 campaign, having been involved in some other campaigns, were there things that you thought he did exceptionally well, or not as well?

Baker: I’m not sure that I was focused every day but in retrospect they made a serious mistake by not spending the last week and three days in Florida instead of going to California. But they did that because George W. had given his word to people in California. It was not unlike what I ran into in 1980 when H. W. had given his word to people in Ohio and New Jersey who had done a great job of cobbling together a campaign. He really didn’t want to get out, even though the math was such that he was—It was obvious that we’d lost.

If you read the book and other things, you’ll see that we had a tough time convincing him and the family that he ought to fold it up if he was going to have any chance at all of being picked for Vice President. His answer to that was, “I’m not running for Vice President. I don’t want to be Vice President.” You also have the story in there that I tell about—He used to say, “The one thing I like about Jim Baker is that he’ll tell me what he believes, even if he knows I don’t want to hear it.” I could. He and I were peers, tennis doubles partners, close friends for 40 years. He was my daughter’s godfather and all of that.

Any time we’d have a serious discussion, whether it was in campaign mode or in governance mode, whether I was Secretary of State or his campaign manager or whatever, after he’d had enough he’d say, “Let me tell you something, Baker. If you’re so smart, why am I Vice President and you’re not?” Or “Why am I President and you’re not?” That’s when I knew that the discussion was over.

I was never as close to W. There was no way I could have been.

Riley: Did W.—I’ll use that as shorthand too.

Baker: Yes, that’s just shorthand. Make sure the record reflects that I’m doing that because it is easy.

Riley: Did he have a Jim Baker? Was there somebody that—?

Baker: I think Karl Rove was as much his Jim Baker as anybody, probably.

Nelson: Do you think he regarded Rove as a peer in the same way?

Baker: No, absolutely not. That’s why he called him “Turd Blossom.” He didn’t like that comment. You know, W. consulted me a lot on appointments. This was going into the second term. I’m trying to remember the context. Oh, when he was going to run for reelection, I recommended that he make Rove the campaign chairman and at the same time White House Chief of Staff, the way I had done with his father. There were ethics in government laws at the time that kept anybody who was in a high-level position from consulting with anybody else who
had been in a high-level position in government after they left.

**Riley:** Right.

**Baker:** That’s why when I took over in ’92, I had to go to be White House Chief of Staff. I couldn’t go to the campaign the way I’d done in ’88. I recommended to him that he make Rove not only the campaign chairman but the White House Chief of Staff. He said, “Oh my, I would never do that.” He didn’t see him that way. He saw him as his political—That’s my opinion.

**Nelson:** He would never do that because—

**Baker:** Because he is just a political advisor. He didn’t make him—He didn’t promote him—He’d been Deputy Chief of Staff. He not only didn’t promote him, but I think he took his policy portfolio away from him.

**Nelson:** So in that sense, 43 didn’t have a Jim Baker.

**Baker:** In that sense, you’re right. I don’t think so. Now, Don Evans was close to him, but when I was called to talk to him about appointments—He talked to me about Treasury—I said, “I think Don Evans might be a great Treasury—” I heard, “Oh no, he’s not—” That didn’t come direct from W. That came from his personnel guy, Clay Johnson.

**Riley:** Johnson, yes.

**Baker:** He said the President would never do that. Clay had called me on that occasion and said, “Who do you like?” But the President-elect called me a lot. I talked to him at length after the campaign, after the recount, and during the interregnum, on appointments. He consulted me about a lot of the people, including Rummy [Donald H. Rumsfeld]. I remember that.

I’m wandering away from—

**Riley:** No, we’re right on schedule to get you to Florida.

**Baker:** You want to go to Florida?

**Riley:** Yes. You’re sick at the—

**Baker:** I’m up at the election in Austin with the Cheneys. I’m really sick, I have a terrible cold. We get the word that [Albert, Jr.] Gore had conceded and we all ought to go over to the auditorium where the President-elect is going to make a statement. We go down to the porte-cochère of the hotel, where the buses were going to take us over. I’m feeling awful and it’s raining like hell and it is going to be outdoors and I said, “Look, I can’t do it. I’m going up.” So I went back up to the hotel, and my wife went on to the—I think. She may have come back with me. I can’t remember. I listened to it all on television and went to bed. There had been no decision. Gore retracted. You’re familiar with whatever went on.

The next morning, Susan [Baker] and I got up at eight o’clock and flew back to Houston. I was on my way in to this office here in a car on the Gulf Freeway when I got a call from Don Evans
saying there are a lot of people up here talking about—Oh, by that time Gore had announced that he was going to have a recount in four counties.

**Nelson:** In four counties.

**Baker:** Had he announced it by that time?

**Nelson:** I think so.

**Baker:** And that he had appointed former Secretary of State Warren Christopher to be his representative to take it out of the dirty, nitty-gritty crass politics and elevate it to something. I think that’s the reason why the Bush people decided, well, hell, we have our own former Secretary of State, and I got a call from Evans, who said, “We’re talking about the possibility of you representing us in Florida. If the Governor asked you to do it, would you be inclined to do it?” I said I’d be glad to do it.

**Nelson:** That’s an interesting response to give so quickly. You didn’t say, “Let me think about it,” or wonder *What is this going to do to my standing?*

**Baker:** No. Bob Strauss, who is my good friend and a Democrat, said, “You ought not to do it. Don’t take it.” But there was never any doubt in my mind. I’m close to the family and I really had a semiburn on for Al Gore, which I talk about in the book. The guy accused me and 41 of criminality, in the campaign in ’92, of something called Iraq-gate, of which there was never anything—it was a made-up scandal. But he went all around the country—I would welcome the opportunity, if I could, to help deny him a win in that race. Anyway, I was totally committed to the Bushes of course.

**Nelson:** Would you have done it if they hadn’t already come up with Christopher?

**Baker:** I don’t think they would have asked me. If they had, I probably would have. But they wouldn’t have asked because they had their own campaign organization. There is an interesting history there too about how we related to that campaign organization in Austin after I went down there, that we’ll get into. I wrote a little bit about it. But I don’t think they would have asked. That’s just the way—You’ll be doing a lot more of these. Go ask Evans. Is W. going to do—

**Riley:** We’ve been told yes but we’re still—

**Baker:** Well, then you can ask him. There was never any real hesitancy on my part in resigning as Treasury Secretary to run the ’88 campaign, or resigning as Secretary of State in ’92. I have a strong commitment to the family. There is nobody on this planet that I’m any closer to than George and Barbara Bush.

**Nelson:** This is about the Civil War, that both sides thought it was going to be a short war. Did you think this was going to be a five-week—

**Baker:** No. I thought that it would probably be a week or so at the most. I don’t think any of us had any idea about the peaks and valleys that it was going to produce, where you’d win a lawsuit one day and lose it the next. You have my article that I wrote for the *Stanford Law Review*. It is
in the briefing book.

John Williams: No, that’s something I’ve got and I’ll make a copy of it.

Riley: All right, OK.

Baker: It is pretty definitive and pretty detailed and footnoted and all of that.

Riley: I’m embarrassed that our research staff missed that one.

Baker: Fire ’em.

Riley: That will put the fear of God in them when I tell them what the recommendation was, going back to the Miller Center.

Baker: “Why in the hell didn’t you guys find this?” I’ve never known a President of the United States who liked to fire anybody, I want to tell you that, and I’ve worked for four of them. Nobody likes to do that. Ford finally fired [James, Jr.] Schlesinger. Forty-one finally fired a guy named Fred—

Nelson: John Frohnmayer, the NEA guy? [National Endowment for the Arts]

Baker: No.

Riley: Fred Malek?

Baker: No, it was a guy who was in his White House on the Vice President’s staff, a big leaker. Reagan wouldn’t fire anybody. I don’t know anybody that W. fired. Yes, I do. He fired Rummy and he wanted to do it earlier than he did it. He came to me and asked me if I would take that job.

Riley: We’ll want to get into that.

Baker: I’ll be glad to.

Riley: So you’re going to Florida. The reports are that the Democrats already have an army of people on an airplane heading down there.

Baker: Not heading down there. They’d done some great homework and they had researched the law of Florida and they had some very capable lawyers already in Florida. When I arrived there I walked into the headquarters of the state Republican chairman, [Alberto R.] Al Cardenas, and there were five Florida lawyers there. That was it for us. One of them was a very good one who did a lot of work for us who happened to be a Democrat but he was a good Jeb ally. I can’t remember his name.

Riley: You can put it in later.

Baker: He is the guy who handled a lot of our cases. He was a guy from Greenberg Traurig law firm. But that was all. We didn’t have any real serious legal talent there. I’ve often said that for
37 days I ran the biggest law firm in the world. We went out and we recruited some damn fine lawyers.

**Nelson:** In Florida?

**Baker:** No, from around the nation. A bunch of them were from right here. A lot of our cases were handed by [G. Irvin] Irv Terrell and Daryl Bristow, two of my partners here, and Kirk Van Tine. There were others: Fred Bartlit from Oklahoma, and other big-name litigators who joined us. One of the unique things that happened was one day about a week or ten days into the effort, I go out into the reception room and there is John Hill, who had been attorney general of Texas, a Democrat who ran for Governor against Bill Clements, sitting there with Jimmy Carter’s Attorney General.

**Riley:** Griffin Bell.

**Baker:** The two of them are there and I greet them and I say, “What in the world are you Democrats doing here?” They said, “We want to volunteer to help you.” They did. I can’t remember what job we gave them, but there they were.

**Nelson:** Why did they want to volunteer?

**Baker:** I guess they liked W.’s positions better than Gore’s, which is understandable because they were very moderate to conservative Democrats. We didn’t call them; they just showed up.

**Riley:** You say in the book that you didn’t do a lot of the legal work, that you were throwing that to the lawyers but that you were mostly concerned with strategy. I’m wondering if you could—

**Baker:** And refereeing debates among our very prominent—some very big egos on our legal staff.

**Riley:** Tell us about that.

**Baker:** I did some of the legal. What I did was the 100,000-foot stuff—the idea that by golly, we have to get into federal court. There was a lot of criticism of me from Republican sources for taking this out of a state’s rights arena and putting it into the national arena. As a matter of fact—I’m jumping around here but while I think about it, one of the guys that I first tried to recruit to be our constitutional lawyer authority was Jack Danforth. I called him and said, “Jack, here’s what’s happening.” I know him very well; we’re close. I said, “How about coming on board here?” He’d been attorney general of Missouri. He was a very well-regarded Senator, had a great record and was a good lawyer. Charles Allen Wright had passed away. He had been the Republicans’ constitutional lawyer.

I said, “How about joining us?” He said, “What? You mean you’re going to file a lawsuit to sue? That will ruin any future career for George W. Bush. He’s got a bright future. He can run again. You don’t want to be the party that puts this into the courts; that would just be awful.”

So I called the Governor. I’d already recommended him and they had said yes, go ahead and see if you can recruit him. I called him and I said, “I’m not sure this is the guy we want.” They said,
“Absolutely he’s not the guy we want.” That’s when I went to [Theodore] Ted Olson. He turned out to be terrific.

Riley: How did you know Ted?

Baker: I’d known him in the Reagan administration. I think he was still Solicitor General in the Reagan administration and very knowledgeable. Anyway we went to him and he and his wife both came down and worked full time in the headquarters. She was killed on the plane that crashed into the Pentagon.

Nelson: I saw that coming across something else in your book. This was after the Florida Supreme Court made that decision to extend the recounts and you describe your meeting with [Benjamin] Ginsberg, Olson, [Robert] Zoellick, [George J., III] Terwilliger, [Michael] Carvin and others to decide what to do next. You say some of them were not optimistic that the Supreme Court would take an appeal.

Baker: A majority was not optimistic. But my view was if they don’t take it, so what? If we stay in the Florida Supreme Court, we’re finished. And we would have been.

Nelson: Were others slow to get it that this was an incredibly liberal-Democratic stacked court? I mean, you knew that going in.

Baker: Yes, I think they got it, but I think they thought maybe it was a long shot to get the Supreme Court to say on an election dispute in a state that it was something that—I remember we talked long and hard about whether we could make the Equal Protection Clause work here. They really picked up on that, but they didn’t pick up on it until the Florida Supreme Court had given this, you know what I mean? Had stuffed them.

Nelson: Let the record show that a middle finger has been raised.

Baker: That’s right. That’s what the Florida Supreme Court did to the United States Supreme Court. And boy, don’t think that didn’t piss them off. You saw it in their next opinion.

Let me see if I got this right: There was a per curiam opinion, the Supreme Court sends it back, and the Florida Supreme Court said tell us how you can square this with Article I, Section 2 of the U.S. Constitution, which says that the legislatures of the various states will determine how Presidential electors are selected. Here you are passing laws saying you’re changing the dates and the time and everything that the legislature had come up with.

Instead of coming back to them and explaining the rationale, the Florida Supreme Court just ignored the U.S. Supreme Court opinion in their second opinion; this one was 4-3.

Nelson: The Florida Supreme Court was 4-3.

Baker: This one was a 4-3 decision by the Florida Supreme Court. But I remember so well that Judge [Charles] Wells, the Chief Justice of the Florida Supreme Court, was with us. He said, “No, the United States Supreme Court is right on this.” We had people like Barbara Pariente and all these left-wing nuts controlling the court. That’s when they sealed their doom, in my view,
when they didn’t respond. That is a direct challenge to the authority of the United States Supreme Court. That’s why they were so quick to grant—They had to grant *certiorari* again, didn’t they, after the *per curiam*?

**Baker:** That’s why they were so quick to grant *certiorari* and then to rule, not 5-4, thank you, Linda Greenhouse of the *New York Times*, but 7-2 on constitutional grounds that this violated equal protection law of the Constitution. It was a 7-2 vote with [Stephen] Breyer the Democrat voting with the Republicans, and [William] Suter the Republican voting with [Ruth Bader] Ginsburg. It was 7-2 on constitutional grounds. The 5-4 decision was on the question of a remedy and whether or not time had in effect run out, because here we were on December 12 and Gore’s own lawyers had said December 12 is the date by which the thing has to be decided because that’s the date under the Constitution that the states have to notify who their electors are. The Electoral College.

**Baker:** They have to notify who their Presidential electors are, yes. So that’s what I remember about all that.

**Riley:** There was a nuclear option that you address here about possibly having the legislature—

**Baker:** Yes, we had that as a fallback.

**Riley:** Can you tell us about how that developed and what happened with it?

**Baker:** We didn’t need to use it.

**Riley:** Right.

**Baker:** I remember that we considered it. It would have been in my view quite legal for the legislature to do it, but that would have made it very difficult to govern, because that would have been a purely political decision by the Republican-dominated legislature of one state and would not have had the imprimatur of a United States Supreme Court decision.

One reason that the nation didn’t—you know, there were a lot of disaffected Democrats who will tell you we stole the election. Well, we didn’t file the complaint to begin with; we were preserving an election. Every recount had us ahead. The *Miami Herald* and the *New York Times* went in and did their own recounts of the disputed ballots and said Bush would have won under any scenario.

**Williams:** Except statewide.

**Baker:** I’m not sure.

**Williams:** The *New York Times* said a statewide recount.
Baker: Did they say that?

Williams: Yes.

Baker: That’s where the Gore—They made a bunch of mistakes.

Riley: Tell us about them.

Baker: The big mistake was asking for a recount in the four Democratic counties. That gave us the high ground. We said, “Wait a minute, you’re going to have a recount just in four counties?” That was a bonehead thing to do and I don’t understand why they did it except that they had something—they put so much focus on this Palm Beach ballot, but the Palm Beach ballot was created by a Democratic election judge or clerk.

Riley: Other mistakes that they made? You mentioned one in the book, which was bringing in David Boies rather than—

Baker: We were talking legal mistakes. The political mistakes were that they were not organized and they were not coordinated. They didn’t speak with one voice. I don’t think they recognized and I don’t think that my good friend Warren Christopher—he served this nation with great distinction—understood that this was not just a legal dispute; it was a political dispute as well. I don’t think they understood that the message needed to be coordinated and needed to be uniform. It needed to be regimented. That is one of the discussions I had with the Governor.

He had this campaign organization in Austin and they wanted to continue to put out the line of the day and react to the decisions as they came in. He said to the press, “If you want to know something in detail about what is going on in Florida, go down there and talk to Jim Baker.” He said that on several occasions. We had a uniform message. We didn’t put out anything. Nobody talked to the press except me and I did it in formal press conferences. That was the one message.

But the Democrats, any time a TV reporter would stick a microphone in one of the lawyer’s faces the lawyer would have to pontificate. That was a mistake.

Nelson: What did you learn about Bush through this process? You were talking with him on the phone.

Baker: I talked to him every day.

Nelson: Which you’d never done before in your life.

Baker: That’s true.

Nelson: What are you learning about him as a potential President by the way he conducts himself?

Baker: I learned that he seeks advice. He is willing to take advice. He believes in empowering people, giving someone responsibility and expecting him to fulfill it. That is what you need in a leader, right? That’s the way Reagan was. That’s the way his father was. That was pretty obvious
in those 37 days.

Nelson: What could have gone wrong? What could have led to the election of Gore in that 37 days?

Baker: We could have lost the case. The Supreme Court of the United States might never have taken jurisdiction and we’d have been left with the final decision in the Florida Supreme Court.

Nelson: You wouldn’t have then gone to the legislature and said go ahead?

Baker: I write in the book that I don’t believe that he would have wanted to win it that way. We talked about it. He didn’t say, “No, don’t do it.” But my sense is he would have had reservations. It would have been proper to have those reservations. That would have been a purely political decision by one state’s legislature deciding, in effect, the Presidential election.

Now the liberals will tell you, the Democrats will tell you, that the Supreme Court decided the election. Well, ultimately yes, in the sense that they said what the Florida Supreme Court is trying to do is unconstitutional. But that, to my way of thinking, is the rule of law working. That’s the way our system was designed to work. Don’t get me started on Linda Greenhouse again. She is still out there writing that this was a 5-4 political decision of the Supreme Court. I guess if I were a Democrat I’d be doing the same thing.

Riley: That’s sort of where I was heading. You’re a card player, aren’t you?

Baker: No. Well, I play gin rummy and I play poker a little bit.

Riley: Poker a little bit. If you had been dealt the hand that the Democrats were dealt in this case, what would you have done?

Baker: If I thought that there were a lot of miscast votes on the Palm Beach ballot or whatever else it was, I might have said OK, the law permits me to protest, and then ask for a recount, but I sure as hell wouldn’t have asked for it just in my counties. That was a huge mistake. And having done that, I also would have had an orderly process for getting our message out. I would have recognized—and the Democrats should have—that this was not just a legal dispute; it was a political dispute too.

Nelson: It seems to me, just on the numbers, that had it not been for the overseas ballots and the margin that you all pulled out of the overseas ballots, 537 wouldn’t have been enough.

Baker: No, 537 wouldn’t have been enough, under any number. I’ve done a lot of elections. I’ve never been in one where you couldn’t go back and say, well, if we’d done this differently it would have been different. You can always second-guess elections.

Nelson: I’m not second-guessing. I’m saying how much was that part of the strategy, to see to it that the overseas ballots, especially the ones from service members abroad, were counted in a particular way? Was that something that you all—?

Baker: You’re damn right we did. I write in the book, as a matter of fact, that the overseas
ballots were very important to us. We even got Joe Lieberman, the Vice Presidential candidate, to admit that it was not fair to our servicemen to hold them to this postmark. That was political. It was legal too. Yes, the overseas ballots were very important.

I called Colin Powell. I said, “Colin, we need you come on down here. We want to do a press conference on what the Democrats are trying to do to stiff us on the military ballots.” “Oh, I can’t come down there,” he said. “You know what I’m being considered for. I don’t think I can get in that messy political stuff.” He didn’t come down.

Nelson: He said that to a former Secretary of State. You were the former Secretary of State and he’s telling you, “I can’t do that.”

Baker: Because it’s political, that’s correct. He’d been chairman of the Joint Chiefs. He was a military man.

Riley: You suggest that that would have helped his standing with the President if he had gone down there.

Baker: He didn’t need that to help his standing. The President made him Secretary of State. The fact of the matter is if Gore had won I think he would have made him Secretary of State. So maybe Colin was in a difficult position.

Riley: Mike, do you have anything else on Florida you want to do? What are we missing? Any piece of this we’re missing? There is a speech at one point that has been written for the President that is deemed too tough?

Baker: And I gave it.

Riley: You gave that speech.

Baker: You said something about the impact of Bush versus Gore on subsequent elections. Well, you know we’ve had two bipartisan election commissions since then, Ford-Carter and Carter-Baker. We came up with some really good recommendations in Carter-Baker and one of them was voter IDs [identification], which the Democrats supported. Jimmy Carter is smart enough to understand that if a minority has a government-issued ID card, issued by the state or the Feds, then no voting registrar is going to deny them access to the polls, particularly if you couple it with an obligation on the chief election officer of the state to go out and get people registered, which is what we did.

Now look how they’re perverting this voter ID stuff. Our conclusion was that it can advance minority participation, not foreclose it or diminish it.

Nelson: In Georgia, minority participation went up in ’12 over ’08, after they had the voter ID.

Baker: Yes, that’s true.

Nelson: There is one thing in your book I wanted to ask you about. It’s just a matter of fleshing out something. You said that you would often seek Jeb’s counsel during this process. What did
you seek his counsel on?

**Baker:** He had a lot of players on the ground. We concluded that it would be a mistake to have him as a visible part of our team but we talked to him a lot. He was particularly helpful in how to deal with Katherine Harris. She was a difficult person to deal with. He had an operative who had worked for him who had a good connection with her. There were times when we had to work her to keep her from certifying too quickly or doing something. I can’t remember what all the details were, those kinds of things. We were talking to him about who were good operatives who could help us around the state.

**Nelson:** Did you see the movie *Recount*?

**Baker:** Yes.

**Nelson:** Does it pass muster?

**Baker:** Well, Ron Klain was invented. He was not that big a player at all in this deal. He was Hollywood. He is a good guy. I know him. He was Gore’s chief of staff at one time. He had nowhere near the role that the movie portrayed but I thought the movie was a credible portrayal. They took some of the stuff I gave them and used it for Tom Wilkinson’s final speech about the meaning of this. The meaning is the system worked. Some of the stuff we’ve talked about. I thought the movie was a fair portrayal of what happened. It was a roller coaster though.

We never knew. We didn’t know what the Supreme Court of the United States would ultimately do. When we first tried to get into federal court, if you remember, we were thrown out. The Ninth Circuit threw us out, saying this is a state matter.

**Nelson:** Eleventh Circuit—the one in Atlanta.

**Baker:** You’re right. The Ninth is that crazy one.

**Nelson:** I know you want to blame them for a lot of things. They didn’t have a chance here.

**Baker:** No, they didn’t have a chance on this one. That’s right. I remember at the inaugural parade I was sitting there in the President’s box. He motioned to me to come up and stand there at the front with him. He said, “Come on up here. You know I wouldn’t be here except for what you did in Florida.” It was a very nice compliment to me. Then we had our pictures taken, he and I and 41.

**Nelson:** One last thing on this: I know I’ve said this before, but the lawyers who were arguing against taking this to the Supreme Court—What was their path to victory? How did they think you would win if you didn’t do that?

**Baker:** Let me see if I can remember that. I think they thought we’d win it ultimately in the Florida court system. They must have thought that. I think they were so negative about the chances that the federal courts would entertain it. Frankly, we worried a lot about that. The precedent was that they would leave this matter to the state. But this was so critical and of such great importance. And there is a constitutional provision, or maybe it is a statute, that outlines the
jurisdiction of the Supreme Court, and says “matter of extreme and national importance” or something. I think we probably cited that in our briefs to the court. That was the key.

I go back a lot to those turkey hunts with Lawton Chiles, the guy who beat Jeb, and who beat him in a pretty tough campaign, pulling out Social Security stuff.

**Nelson:** There was a lot of talk, after the court made its ruling, that Bush and Cheney ought to, in acknowledgment of how close it was and how bitter it was, govern in a bipartisan way. When you were being consulted by Governor Bush about appointments, were you thinking about it in those terms? About mixing it up, finding some Democrats, et cetera?

**Baker:** No. He was asking me for suggestions. He didn’t ask me so much for suggestions as he said, “What do you think about X or Y?” Dick did too. Dick called me a lot. Remember, when it was all over I went down to Texas for about a week and he was on the phone a lot.

**Riley:** He’s in Washington by this time.

**Baker:** Yes, they’re up in D.C. by then. You ask in one of these questions if he ever asked me to come into the administration. The answer is no, at that time. After all I was 70 years old. A year and a half to two years later, Dick Cheney called me and said, “The President wants to know if you’d be willing to come up here and replace George Tenet as the CIA Director.” I said no. I didn’t think I could do that.

Then at Thanksgiving of 2005 the President called me and asked me if I would replace Rumsfeld. By then I was 75 years old and I’d been up there for 14 years or so and I said, “No, I don’t think I can do that at my age.” You know, going into government now is so tough because you have to get rid of everything. I’d been out in business. I would have had to divest so much stuff. But that wasn’t the main reason; it was just not a time for me to do it.

**Nelson:** Why do you think that he was looking to replace Rumsfeld in ’05 but didn’t actually pull the trigger?

**Baker:** He couldn’t find anybody. He asked me. He asked Fred Smith of FedEx. He may have asked somebody else; I don’t know. That’s why he didn’t pull the trigger. He wanted somebody who would be seen to be clearly acceptable.

**Riley:** You mentioned the Tenet replacement. I’m trying to place it in the timeline.

**Baker:** I said Tenet, but maybe it wasn’t Tenet. I can’t remember. I think George Tenet was stepping down.

**Riley:** So he would have approached you at the time that Tenet was stepping down?

**Baker:** My recollection is that it was in the first two to three years of the first term. I can’t remember exactly.

**Nelson:** That would have meant pushing Tenet aside.
Baker: Would it?

Riley: I think so. That’s why I was following up the question, because their relationship is an interesting one that we’re still trying to sort out.

Baker: You ought to go talk—Is Cheney going to talk to you?

Riley: Yes, we’ve spent a good deal of time with him already.

Baker: Why don’t you ask him that question? Just ask him, “Do you remember calling Jim Baker and asking him if he’d come in to be CIA Director?” Call and ask him. Seriously.

Riley: We’ll do so.

Baker: Tell him Baker said so. It’s all right with me.

Riley: Let’s go back to the outset then. You are talking with both of them as the administration is getting in place. Were you? Were there specific personnel decisions that you did weigh in on?

Baker: There were several things I was really interested in and I told them so. They accommodated those. I wanted to make sure my people were taken care of: Bob Zoellick, Margaret Tutwiler, John Bolton, people who had given up stuff to go to Florida. There were others. Then he bounced ideas off me about Defense and I think he’d made his mind up on Powell. Treasury—That’s when I said, “What about Evans?” and that’s when they said no.

Riley: Was [Paul] O’Neill your idea?

Baker: No, that was Cheney’s idea. But I would have supported the idea because I worked with him in the Ford administration. He turned out not to be very much of a team player.

Riley: Rumsfeld?

Baker: Rumsfeld—I just told him, “Well, you know what he tried to do to your daddy.” That’s all I told him. I wasn’t enthusiastic about that.

Nelson: You mean screw him out of the Vice Presidency in ’76?

Baker: Yes.

Riley: So you were surprised at that appointment?

Baker: No, I really wasn’t, because I know how close he and Dick are. They’re like brothers. So I wasn’t at all surprised at it. But he did go to Coats first.

Riley: That didn’t work out.

Baker: He went to Coats for VP [Vice President] and then I’m pretty sure he went back to Coats for Defense.
Riley: We’ve heard that about Defense. Evidently there was an interview that didn’t go very well.

Baker: That’s correct. Yes, that’s what he told me when I mentioned Coats. He said that.

Riley: So during the first term, you’re here in Texas just kind of keeping an eye on things?

Baker: No, I’m out of politics. I’m the former Secretary of State, writing op-eds and pontificating about foreign policy, that’s what I’m doing. Talking about my relationship with W., we’ve had a really close relationship over the last four or five years because of Ray Hunt, who was the guy who raised the money for W.’s library, and is a big buddy of his. He has a wonderful ranch in Utah where I’ve been going for maybe 10 or 12 years with Ray. He finally convinced W. that he ought to come up there, so he has come for three years. We room together in a little cabin up at 10,000 feet. He didn’t come this last year and he’s not coming this year either, but we’ve had a good time up there together.

Riley: The other pieces that we were particularly interested in occur later in the administration. I don’t know whether you want to say anything about your perceptions on the close periphery about the post-9/11 period and the emergence of the War on Terror, if you were consulted about these things or had observations.

Baker: No, I wasn’t and I don’t have any particular observations. I think they handled all that very well. I was not enthusiastic about going into Iraq. I wrote an op-ed. Cheney went out and said some things. “We don’t need the UN [United Nations].” This was, I think, August 9th of 2002. I wrote an op-ed in the New York Times, saying, “Don’t think this is going to be like Desert Storm. You’re going to be fighting on Iraq’s own territory. You’d better prepare the ground pretty carefully. You’d better get as much of the rest of the world with you as you can.” W. took that advice over Cheney’s advice to the contrary. He went to the UN and he got a 15-to-nothing vote. People forget this. But then they made the mistake because of Tony Blair of going back to the UN because Tony Blair needed it for domestic political purposes. They went back to the UN. That’s when [Jacques] Chirac bailed out and the thing got all wrapped around the axle. They went anyway. The argument against going—This is the argument Margaret Thatcher used against us and Dick Cheney used against me in 41’s administration. We don’t want to go to the UN. We’ll get it all wrapped around the axle and then we will have a no vote and it will be harder to do what we need to do.

My argument in ’90 was: We need to go for domestic political purposes. We don’t have the Congress, and they’re beating us up on this asking how the hell can we do this in the face of all the social needs the country has, and how are we going to pay for it? I said if we can get the Security Council to authorize it and it is such an egregious case of a big country invading a small one, we have a shot at it, and we ought to do it. I said we’ll do it in a way that if we don’t think we have the votes, we won’t call for the vote.

We waited until I was in the chair, the United States was in the chair, and that’s when we called the vote. We won it 12 to 2 to 1, with one abstention, China. They did the same thing in the first resolution but then they went for the second one in order to accommodate Blair. That was really a mistake to do that, but the intelligence was bad. I don’t blame that on them at all; it was bad
intelligence. We received—Maybe that’s when the Tenet—

**Riley:** That’s sort of what I was wondering—if it might have been—

**Nelson:** It might have been in ’03.

**Baker:** I have a note somewhere in a drawer at the Baker Institute where those letters are—I may have already sent it up to Princeton—of that conversation with Cheney.

**Riley:** Historically, it would be important to know when this came about.

**Baker:** I’ll ask him. He’ll have a better recollection. Why don’t you put Connor on that? If it is at the Baker Institute, it is in the right-hand desk drawer of my desk in my office.

**Williams:** I’ll do that.

**Baker:** The best thing to do I think would be for someone to call Françoise [Djerejian]. She’ll remember whether she has sent those letters to Princeton.

**Williams:** If they’re up there, they’d be available to you too.

**Riley:** Terrific. When you wrote the piece for the *New York Times* did you let the President know in advance that this was going to come out?

**Baker:** No.

**Riley:** Did you talk to 41 about it?

**Baker:** No, everybody thought that 41 and Brent and I were all—

**Riley:** That’s what I’m asking.

**Baker:** No, I’ll tell you, 41 and I had a lot of conversations that were just between the two of us. All I want to say about those is that he was very nervous about it. He was not overly enthusiastic about doing it. That’s the best way for me to put it.

**Nelson:** What was he nervous about?

**Baker:** About just what happened. Go read *The Politics of Diplomacy*. People used to say to me for three or four years after we got out, why didn’t you guys take care of Saddam [Hussein] when you had the chance? Well, give them the pages in the book. We’re seeing right now why we didn’t do it. That’s what I said in ’95 in the book. We didn’t do it because we were concerned about the urban and ethnic warfare that would result. We’ve opened a big space for Iran there. Unintentional.

I have a view on all this about—Stability shouldn’t be a dirty word in foreign policy. I remember when Condi [Condoleezza Rice] went out and said, “For years we’ve been focused on stability in the Middle East and we haven’t gotten either stability or democracy. So now we’re going to get democracy.” Libya, Egypt, Iraq. OK? We took down strong men. But don’t do it until you know...
what is coming afterward.

We did not do a good job of conducting the war in 2002. If you want a textbook example of the way to run a war, go look at the Gulf War. What did we do? We told the world what we were going to do. We got them to join with us in doing it. We went and we did it the way we said we were going to do it and then, guess what? We got everybody else to pay for it. That’s the way to fight a war.

Riley: That definitely didn’t happen this time.

Baker: No, it didn’t happen this time. We go in there and we disband the Iraqi Army. That was a Defense Department decision. We outlaw the Ba'ath Party. We don’t seem to give a lot of consideration to what is going to replace the Saddam regime. It was good to get rid of him, terrific, but what replaced him? A pro-Iranian Shiite government that we had very little, if any, influence on. There’s plenty of fault to go around here, given the way the [Barack] Obama administration has mishandled it.

Nelson: How much of this were you thinking at the time? I’m thinking that we’re getting close to the point where you become cochair of the Iraq Study Commission.

Baker: What I was thinking at the time was what I wrote in the New York Times editorial, that this is risky stuff. By the time the Iraq Study Group was convened, I was probably of the view that disbanding the Iraqi Army wasn’t a good idea, and that outlawing the Ba'ath Party—All the technocrats were outlawed—wasn’t a good idea. I remember meeting with [Nouri al-] Maliki. Were you in that meeting?

Williams: Yes.

Baker: What a thug. Meeting with all those Iranian sympathizer clerics in Iraq. Ben Rhodes, who is now in the NSC [National Security Council] for Obama, was on the Iraq Study Group. He said, “I don’t think you ought to ever trust anybody who wears a black turban and white socks.”

If we had been able to create a democracy in the heart of the Middle East it would have been terrific; it would have been wonderful. You look at it today and it just seems hard to think that that is what the ultimate result might be. It’s tough.

Nelson: So the opportunity to co-chair the Commission—

Baker: I get a call from Condi and she wants to know if I’ll do this. I said, “Are you sure the President wants me to do it?” She said, “I’m sure.” I said, “Well, I’d like to talk to him.” So I go up there and we’re in the Oval, and I said, “You know, Mr. President, before I do this I want to make sure this is what you want me to do, because whatever we find we’re going to let the pieces fall where they may. Also, this is going to be a bipartisan commission and I’m not going to be dictating what we come up with.” He said, “I want you to do it.”

Just like when he asked me to do the Federal Election Reform Commission, his view was that we were going to get some Republican to do that Federal Election Reform Commission with Jimmy Carter, and he’d rather have it be me. I think that was his same view about the Iraq Study Group.
I don’t think that they welcomed the Iraq Study Group, but the situation was rather dire by that time. This was after he approached me about being Secretary of Defense. This was very early in 2006. It was after I said I couldn’t do the Secretary of Defense. He said, “I want you to do it.”

They asked me to do the Iraq debt thing too and they wanted me to report to the Treasury Secretary. I said, “Are you kidding? I’m not going to report to the Treasury Secretary. If the President wants me to do this, it’s a Presidential decision and it ought to be a Presidential Envoy.” She said, “We already have an office for you over in the Treasury Department.” I said, “It seems to me there’s a lot of space in the Old EOB [Executive Office Building] right across West Executive Avenue. Make that my office.” Anyway I didn’t want to take that job without reporting to the President. Since I was Under Secretary of Commerce, I had never reported to anybody other than the President.

That was a very successful undertaking. We got everybody except Kuwait and maybe Saudi Arabia, who were frankly concerned about what was happening with Iraq, seeing a Shiite majority being in effect in power. So they never really came up. I had a very contentious meeting with [Vladimir] Putin about it. I met with the Chinese leadership. I told the President, “Mr. President, I’m going to do this but I have to be a Presidential Envoy because I have to have the imprimatur.” He called a lot of the leaders personally with me in the Oval Office and said, “I’m doing this and I want you to support it.” So that’s the way that worked.

Riley: Can you tell us more about the Iraq debt? You traveled. Do you have any stories?

Baker: I had a wonderful young man named Gary Edson who was an NSC guy who worked for me. He had been an NSC guy on international economics. And I had great help from the Treasury Department and the White House, once we got it structured the way I thought it ought to be structured. That was the way to structure it. You had to be the President’s Envoy. So it was really quite successful. We ended up getting 80 percent, on average, reduction of Iraq sovereign debt. The Saudis and Kuwaitis, some of the Gulf States, didn’t want to do it because we were in effect writing off debt by a regime that was going to be close to Iran, which is what we were working on.

Riley: You said you had a contentious meeting with Putin?

Baker: Oh yes. That was when it was obvious to me that he was changing from the way he was when he first came in. When he first came in he wanted to cooperate with the West and he wanted to play the game. Then he turned and became very confrontational, as he is today. I’ll never forget—I’d known him. He had come to the Baker Institute at my invitation right after he became President. He gave a great speech here. He talked about my relationship with him and how we met when he was an aide to Anatoly Sobchak, the mayor of St. Petersburg, and I was a big muckety-muck, he said. He said, “It’s always nice to be here at the Baker Institute.” He gave a really good speech about cooperation between Russia and the West.

His demeanor had totally changed when I went in there. I don’t remember the date, the year, of the Iraq debt mission.

Riley: It was ’04 maybe. Let me look. You keep talking and I’ll find it.
Nelson: His demeanor was very different?

Baker: Yes, very different. I remember him saying to me, “You know we wanted debt relief and nobody ever came. No country gave us debt relief.” I said I didn’t know when he was talking about.

Nelson: Russell, are we ready to move on?

Riley: I was going to ask one or two more questions about the first term.

Baker: Sure.

Riley: A lot of stuff has been written about the Presidential relationship with the Vice President.

Baker: It was very strong in the first term and not so strong in the second.

Nelson: Why do you think that went south?

Baker: There were a number of reasons. One I think was perhaps the way Iraq was turning out, but maybe more importantly the [I. Lewis] Scooter Libby incident. It was a big problem between them. Dick was adamant—Dick doesn’t ever feel anything halfway. That’s why I say he’ll tell you—With him, what you see is what you get. But it was a different relationship, no doubt about it. Particularly on foreign policy matters, Condi had more stroke in the second administration.

Nelson: Because she was Secretary of State, or for some other reason?

Baker: I think because she had been National Security Advisor, he had confidence in her. She was a stronger player in the second term in terms of influence on the President.

Nelson: He must have had more confidence in himself in foreign policy matters.

Baker: He did. Of course when he first started, Dick had been there. Dick really knew government. He knew how it should work and everything, and 43 needed that help. It was as simple as that. Dick helped him a lot. Dick helped tremendously in that first term.

Nelson: Did President Bush ever call you about the possibility of replacing Cheney on the ticket?

Baker: No. You don’t mean with me?

Nelson: No.

Baker: No, he didn’t talk to me about that and I don’t think he ever entertained that. Cheney offered to get off.

Riley: You’ve had a lot of experience across administrations in foreign policy-making processes. Did you have observations about how well the process worked?

Baker: I really wasn’t in the process; I was extra. I was not even in government. I was outside
the government. I don’t really know the nuances.

**Riley:** The date of the debt forgiveness looks like December ’03 and January ’04. So that puts that in perspective. Anything you want to say about the election reform situation? You said the President asked you.

**Baker:** Yes, I think they thought they were going to get a Republican to do it. I don’t think they were enthusiastic about it. Mitch McConnell was not the least bit enthusiastic about it when I talked to him about it. After we got the Democrats to agree to voter ID, he changed his tune. But it was a good effort and we came up with 86 recommendations and they were all good ones. It’s sitting on a shelf somewhere. It needs to be implemented.

The War Powers Commission that Jerry [Gerald Baliles] organized with me and Christopher has some great recommendations in that. I don’t know whether you’ve read that. It is terrific. It is really good, about how a President should work with the Congress on issues involving war.

**Nelson:** You’ve co-chaired several bipartisan commissions and they’ve all culminated in unanimous reports. Is that right?

**Baker:** For the Federal Election Reform Commission we got 18 out of 21 Democrats. There were three Democrats who wouldn’t sign.

**Williams:** They signed it but they had some reservations.

**Baker:** They had reservations about voter ID.

**Nelson:** Even 18 out of 21, if that’s the worst you’ve done, that’s pretty good.

**Baker:** Was it 18 out of 21 Democrats?

**Riley:** Of the total.

**Nelson:** How are you so good at this? What is it that enables you to get people to—

**Baker:** It’s not just me. The toughest one was the Iraq Study Group, wouldn’t you say, John? I don’t know the answer.

**Williams:** Not because there was fighting between the two sides, but it was a tough question to answer and they had to really struggle to find the answer. It’s not that Democrats were on this side and Republicans on the other.

**Baker:** It was a tough question to answer and it was conducted in the midst of an election. That made it really difficult. We got clobbered in the midterm and boy you saw it in the attitudes of the Democrats on the Iraq Study Group.

**Riley:** I think we’re there now. Mike asked the question. You said the President signed off on it. Walk us through it.

**Baker:** I wanted to look him in the eye and say, “Are you sure you want me to do that?” I
worked pretty closely with him on that, quite closely. I went over to see him a lot and talked to him about it.

I’m trying to think about some of the discrete issues I’ve talked to him about. The Iraq Study Group—You had some questions in here. I’ll try to anticipate some of them and then maybe you’ll have some more.

He was not in a position politically to accept our report, to embrace the report. He couldn’t do that. It would be seen to be a failure of his leadership if he did that, to take a report. But, guess what? A lot of the stuff in that report is exactly what they did, but they couldn’t say they were going to do it, politically, in my view.

There was even a surge recommendation in that report. It was mild compared to the original surge recommendation that we debated, which was 100,000 troops. That is the main thing that changed after the midterm election. We only had one Democrat for the surge, Chuck Robb. Bill Perry, former Defense Secretary, was for a surge initially and then after the midterms he sort of wafted away a little. But I maintain to this day that a lot of what we recommended, including the diplomatic parts of it, the administration made an effort to try to implement.

Nelson: The surge did not end up in the executive summary.

Baker: No, that was part of it. But the surge, when we first started, was going to be 100,000 and it was a big piece, a major recommendation. Here it was an afterthought. But it is there and I pointed it out to the President. He said, publicly, “Jim Baker has pointed this out to me. Here it is and so we’re doing it.” Anyway we did it. [Reading] “We could support a short-term redeployment or surge of American combat forces to stabilize Baghdad or speed up the training and equipping mission.” The main recommendation that they followed was our training and equipping recommendations. [Reading] “We reject the immediate withdrawal of our troops because we believe that so much is at stake.”

Riley: Can you tell us how the commission actually went about its work? How were people identified? Were you in a role of helping to populate the commission?

Baker: Absolutely. We had some people leave. I recommended [Robert] Gates to the President for the Defense job. He appointed him. When Bob left we had to fill his slot and we filled it with Larry Eagleburger. That was sort of a noncontentious vacancy filling. When the National War Powers Commission lost Gates, I put him on that, didn’t I?

Williams: No. What you’re going to get to is [Edwin] Ed Meese replaced Rudy Giuliani because Rudy didn’t have some pushback—

Baker: I recommended Meese, and there was some pushback on that. I said, “Look, this guy can be fair. He’s good, and you ought to give him a shot.” After he got on there he was very knowledgeable about war powers and stuff, and they said this is really a good appointment. The Democrats said it.

Now where were we? We were back on the Iraq Study Group.
Riley: Back on the Iraq Study Group and you find out that the President wants you to do this. I’m wondering if you can just talk us through how you got organized.

Baker: The first thing I did was talk to Lee Hamilton. I said, “I’m going to come up with some Republicans, you come up with the Democrats, and we each should have a veto.” I didn’t veto any of his and he didn’t veto any of mine. That’s the way it worked.

Riley: Did you have a predisposition as you were going in about how you were going to approach the main topics or division of topics?

Baker: No, we met at length with the administration. The President was very cooperative in telling his people, “I want you to fully cooperate with them.” He even told me that it was all right to go talk to the Iranian Ambassador to the UN, which I did. Hamilton didn’t go with me. I went with Ed Djerejian, my director here at the Institute.

I talked to [Stephen J.] Steve Hadley a lot. Hadley was very cooperative. I don’t think there was anything we asked for that we didn’t get. They flew us to Baghdad with full security, the whole schmear. We had appointments with everybody we wanted to meet with, from Maliki on down.

Riley: Can you tell us about those meetings?

Baker: My recollection is that Maliki didn’t have much to say. He was against something we wanted to do. Do you remember what it was?

Williams: No.

Baker: We didn’t need his permission to do it, but I can’t remember what it was.

Nelson: You have a diverse group here, probably coming in with a wide range of opinions. How did you, over the course of the year—What was it that brought more consensus? Was it going to Baghdad?

Baker: No, we’d sit down and we would thrash it out. I don’t think there was any debate about—What were the red lines between us and the Democrats?

Williams: One of the big red lines was the Democrats wanted to have a time frame. If the Iraqis did not meet certain levels of conciliation, we would be out at a certain time. That was a big red line.

Baker: We said no, we wouldn’t do that. There was something else that I said no to, absolutely not. Perry said, “If we can’t get this, we won’t have a report.” I said, “Then we won’t have a report.”

Williams: What was it? I’ve racked my mind over the last 24 hours. It was not a contentious group.

Baker: That was the only really contentious time that I remember.
Williams: There was not much contention.

Baker: He was threatening me by saying, “If you don’t agree to this, we won’t have a unanimous report.” I said, “That’s fine, we won’t have one.”

Nelson: Who were the most constructive members?

Baker: We had good people on this. [Leon] Panetta was the biggest leaker. He would leak everything. Vernon [Jordan, Jr.] was a big leaker too. Vernon loved being on there. I may have suggested Vernon. It was a good group and we worked together in a kind of bipartisan way that we used to do when I was up there in government. And Hamilton—We never had a tense moment except when Ben Rhodes thought I shouldn’t be consulting so closely with the White House. I said, “Now, wait a minute.” Remember how he got Hamilton all spun up? But that was the only time.

Riley: The concern was that you weren’t maintaining your independence as a commission?

Baker: Anybody who thinks that was an independent commission is smoking dope. We were Republicans and Democrats. They were talking to their people all the time, but somehow I wasn’t supposed to talk to the President? That was the sense I got of the objection. That’s ridiculous. I said, “I can’t make these decisions on my own and you want something that will work. You want something the administration will support, at least by action if not by rhetoric.” It blew over. There was just that one time.

Nelson: How did the election—you mention Perry’s change of mind. It was probably the only midterm election in history that revolved so much around foreign policy issues and the Democrats won. How did that affect you?

Baker: It just made it harder for us to prevail on stuff that we wanted. I can’t go back and tell you on point one, point two, or point three. John has given you a good example: the time frame. That was a big matter of contention. We weren’t going to put a time frame on our administration. I wasn’t going to do that. I said, “I’m just not going to do that.”

We did have some standards and measurements to judge the Iraqi government’s performance.

Riley: The diplomatic pieces of it were yours?

Baker: I wrote that. Djerejian might tell you he wrote it. He helped me. That was something that I thought was really important, and I didn’t have any trouble with the Democrats on that. I might have had some trouble with some of the hardline Republicans.

The administration might not have particularly gone along with that, but it’s what should have been done and it is what needs to be done even today if we’re going to get out of this trap. We have to do that. We have to find a way. Every country in the region—This is fast-forwarding to today—has an interest in not having a terrorist organization control a state in the heart of the Middle East from which to export their terror. Everybody—Iran, Israel, Europe, all the regional states, Saudi Arabia, Gulf states—even if they’re against Iran. We need to all come together and say we all want to see this thing blotted out. And they all do. But you have to get them together
and get it done. That’s pretty much what we talked about there.

**Riley:** Why wasn’t this happening before you were writing? Who were the critical actors in the administration who were responsible for quelling any movement to try to develop larger diplomatic initiatives in the Middle East?

**Baker:** I don’t know that I can answer that.

**Williams:** I don’t know.

**Baker:** But the administration embraced that provision and the training provision and they took some steps to do the diplomacy we talked about there, particularly Arab/Israeli. They worked particularly hard on that, without effect.

**Nelson:** When the Bush administration launched the surge, did they do it in the way that you wanted them to do it?

**Baker:** They did it in a way that was very effective, in my opinion with 20/20 hindsight. It was very effective. It is too bad that they weren’t able to negotiate a status of forces agreement that would permit us to leave a sufficient force there, but the first thing Obama did was say, “We’re not going to do 24,000; we’re going to do 10.” That cut it by more than half. Then he wasn’t able to negotiate the status of forces agreement because they wouldn’t guarantee immunity, and now we’ve sent 300 of our best men in there without any immunity agreement from the parliament of Iraq.

**Riley:** So your sense about the administration’s policy after the Iraq Study Group report was that their actions were largely consistent with—

**Baker:** Find me an instance where their actions were inconsistent with the Iraq Study Group report. I don’t think you can find one. They may not have tried to implement everything, but they did not take actions inconsistent with it.

**Riley:** From what you’ve said earlier, the surge was a more central component of the—

**Baker:** It had been initially, until the election. Then it became less of an important recommendation. It was going to be a major recommendation, but became less of an important recommendation. But it was still a recommendation.

**Williams:** The reason it became less of a recommendation was because we met in Baghdad with government officials and they said, “We don’t have the manpower.”

**Baker:** Our military said, “We can’t do 100,000.” That’s when we first came off of our surge recommendation. That was Martin Dempsey, among others, Chairman of the Joint Chiefs.

**Nelson:** The fact that the surge recommendation was not in the executive summary: Would you attribute that to the consequences of the election on the commission?

**Williams:** No, it was not a major recommendation because it was if your military leaders think
that you have enough people, then you should do it. It was not do this if your military leaders think you don’t, so it was not at the level of making a full recommendation.

**Baker:** That is correct. It wasn’t a numbers recommendation, but it says here, [Reading] “We considered proposals to make a substantial increase of 100,000–200,000. We rejected this because we did not believe that the needed levels are available for a sustained deployment,” which is exactly what happened. So it is a mistake to blame it too much on the midterm. As a matter of fact, let me take back what I said about the midterm now that I read this. We had rejected the idea of 100,000–200,000 troops because our military people told us we didn’t have them.

**Williams:** And Chuck Robb maintained a consistent voice for that. We said OK, let’s put it in this manner. We can’t make a full recommendation because by our interpretation of what the military said we don’t think that we have those people, but we can couch it in such a way—

**Baker:** We could support a short-term surge if the military commanders say.

**Riley:** Was it your sense from your discussions with the President that he was already leaning in this direction when you were navigating the work group?

**Baker:** I don’t know that I had that sense. Defense had their own review on the course and we knew they were going with that. Hadley was keeping us pretty well posted on that.

**Nelson:** I think that exhausts the subjects we planned. You knew George W. Bush as a kid. You observed him through the years and then very closely toward the end. What is the arc of his life?

**Baker:** He went from becoming a bad little boy to becoming President of the United States and he handled the job pretty damn well. You can say what you want about Iraq, and unfortunately I think his Presidency is going to be determined to be in large part about what eventually happens in Iraq. The course we’re now on is looking a little bit problematic.

**Nelson:** When you saw him you had intense encounters with him during the recount, which was before he became President, and then with the Iraq Study Group. Did he seem like he was transformed by those experiences?

**Baker:** I think he was much more mature. But I think he matured in the Governor’s office, I really do. I had no contact with him when he was Governor. As I told you, I did fund-raisers for him when he was running, but I had no contact with him.

**Riley:** One other thing I think you might help illuminate for us is the relationship between the father and the son once the son becomes President.

**Baker:** He’s writing a book about that.

**Riley:** Forty-one is?

**Baker:** Forty-three. If Panetta were here we’d know about it.
Riley: I’d gotten a whiff about that from somebody in Dallas at one point.

Baker: Well, you can read the book. I’ll tell you what the relationship is. The relationship is one of absolute unconditional love. Forty-one never said one critical word about 43. People know that he had reservations about what was going on in Iraq and about some of the hardline advice that 43 was getting. That’s a known fact. But their relationship—They are extraordinarily close. I’m not at liberty to tell you some things I know about that would indicate that to you, that 43 has shared with me, particularly when we were camping out at 10,000 feet, killing elk. But they are so close. All this bullshit that you read about how they’re competitive, and they criticize W. for saying, “I take advice from a higher power” and all that. There is unconditional love flowing both ways in that relationship.

Riley: I’ve had two conversations with 43 at the beginning of the project when we set up, and in both instances he said, “You have to get to my dad. You have to get to my dad soon.” But we couldn’t get him to talk to us. I think it was probably a manifestation of his closeness with his son that he didn’t feel comfortable even talking to people who were authorized by the son.

Baker: That’s the way he feels. It is also because of his illness. I don’t want this on the record. Do you want to turn off the recorder?

Riley: Sure. I’m not sure whether it’s on or off.

Baker: I was privileged to work for four really beautiful human beings who were President of the United States, every one of them: Gerry Ford, Ronald Reagan, George H. W. Bush, and George W. Bush. I’m talking about them as human beings. They were just wonderful, lovely people with great character and integrity and with great leadership skills. Sure, they all made mistakes; we all do. But that was a privilege that not many people have, and I’m very conscious of that.

Riley: Is it possible for you to say a few words about the particular strengths of each of these?

Baker: I always resist doing that. People have been after me for years to compare, and I say, “I don’t do windows, I don’t do floors, and I don’t do comparisons of Presidents I’ve worked for.” The minute you say something nice about one it is going to be taken as a knock against the other.

[END OF TRANSCRIPT]
Recounting Election 2000

Articles
Mark C. Alexander ♦ Stephen G. Bragaw & Barbara A. Perry ♦ Roy L. Brooks ♦ Paul S. Herron
Hugh M. Lee ♦ Jon L. Mills ♦ Marin R. Scordato & Paula A. Monopoli
Carl Tobias ♦ Jeffrey L. Yates & Andrew B. Whitford

Essays and Commentary
Theresa Amato ♦ James A. Baker III ♦ Tom Campbell ♦ Governor Jesse Ventura
Observations on the Florida Electoral Dispute

James A. Baker, III*

I went to Florida because I had told Governor Bush early on that I would help him in any way I could, and I thought my experiences in law, politics, and diplomacy might be useful in resolving an important issue facing the nation. It was a difficult thirty-six days that tested our institutions and our traditions. Politics is inherently partisan, but even while acknowledging up front my partisanship in this affair, I believe the outcome was correct, because it vindicated the rule of law. Others will write the history of what happened in Florida and analyze its meaning. I submit this article at the request of The Stanford Law & Policy Review, solely to provide a record of my thoughts and observations about the event.

I arrived in Florida late Wednesday afternoon, November 8, and my first impression was that things did not look overly bright for our side. The other side already had former Secretary of State Warren Christopher and Gore Campaign Chairman Bill Daley on the ground in Florida. The press was also reporting that a plane-load of Democratic lawyers had flown from Nashville to Tallahassee early Wednesday and was already hard at work. To its credit, the Gore campaign had done more homework before Election Day on states where the outcomes might be close. It had a better understanding, at least initially, about the Florida law that governed protests and contests. And it had a tremendous public relations advantage, as angry and confused voters complained on camera about butterfly ballots and other problems.

But Governor Bush had two decisive advantages. One, of course, was more votes. On November 8, the Associated Press reported a Bush lead of 1784 votes.1 He later won the mandatory machine recount by 327 votes, according to the AP. And even though we resisted the partial hand recounts sought by the Gore camp, the fact of the matter is that Governor Bush was still ahead when that process ended on

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1 See David Roche, Florida Recounts Deciding Votes, ASSOC. PRESS, Nov. 9, 2000.
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November 26. After inclusion of the overseas ballots and the results of partial manual recounts in the contest phase, Governor Bush’s certified margin of victory was 537 votes.

The law was Governor Bush’s second great advantage. By that, I mean: (a) the Florida presidential election law, as it stood on November 7; (b) the United States Constitution, which said, first, that the Florida legislature, not the Florida courts, controlled the selection of presidential electors; and, second, that the process must provide due process and equal protection of the laws; and (c) a federal law that set December 12 as a “safe-harbor” date for selection of those electors. After a great deal of turmoil and uncertainty, these laws operated and were applied by courts as they should have been, and Governor Bush’s victory was thereby confirmed.

Some say that Governor Bush had yet another advantage, a sympathetic state government in Florida. His brother was the governor, and the chief elections officer, Secretary of State Katherine Harris, was an elected Republican official. But I honestly believe the other side had the home-court advantage. More than two-thirds of the election supervisors overseeing the recounts were Democrats, I was told. And practically every state judge, including all but one Florida Supreme Court Justice, was a Democrat.

Despite this, we won everything that mattered. We won every significant state trial in every disputed county, and we won twice before the U.S. Supreme Court. The first time, we won nine-to-nothing. The second time, seven of the nine justices (including one of the two Justices appointed by a Democrat) agreed that the recount process in Florida was unconstitutional on equal protection grounds. This was not a narrow partisan decision, as some contend. The five-to-four split, which we also won, was on the remedy, not on the issue of unconstitutionality. In fact, the slip opinion said, “Seven Justices . . . agree that there are constitutional problems with the recount ordered by the Florida Supreme Court that demand a remedy. . . . The only disagreement is to the remedy.” Not only was this decision legally correct, but, as The New York Times reported after a ten-month study by a consortium of eight news organizations assisted by professional statisticians, “[c]ontrary to what many partisans of former Vice President Al Gore have charged, the . . . Supreme Court did not award an election to Mr. Bush that otherwise would have been won by Mr. Gore.”

I think the other side made two tactical mistakes. The first was in suing to extend the protest period. You will remember that Florida election law called for the votes to be certified on November 14, seven days after the election. That would have given the Democrats twenty-eight days between the certification and the December 12 deadline to mount an election contest, if they had chosen to do so. Instead, they persuaded the Florida Supreme Court to extend the protest period by twelve days, to November 26, the Sunday after Thanksgiving. When Secretary of State Katherine Harris certified Governor Bush as the winner that evening, the other side had only sixteen days left to fight a legal contest of the certified result. It was simply not enough time. The other mistake, and it was a big one, was demanding manual recounts

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6 Ford Fessenden & John M. Broder, Examining the Vote: The Overview; Study of Dispute Ballots Finds Justices Did Not Cast the Deciding Vote, N.Y. TIMES, Nov. 12, 2001, at A1 ("A comprehensive review of the uncounted Florida ballots from last year's presidential election reveals that George W. Bush would have won even if the United States Supreme Court had allowed the statewide manual recount of the votes that the Florida Supreme had ordered to go forward.").

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in only four heavily Democratic Florida counties. This undermined the Democrats' otherwise very effective public relations slogan—"count every vote"—and gave us the moral high ground.

I want to be clear, however, that I do not fault the other side for its initial efforts. The race in Florida (and, accordingly, across the nation) was simply too close for either campaign to have walked away without a recount, which was mandatory in any event. What I think is less defensible was the filing of the contest lawsuit—Gore v. Harris—8—to overturn the election in the courts after it had been certified, particularly where no fraud or illegality of any kind was ever even alleged. This was, I believe, the first time in our history that a candidate went to court to try to reverse the results of a presidential election after those results had been certified. Others who have lost in close presidential elections have accepted the results without going to court to overturn them.9 They understood—correctly, I think—that court contests would stir passions in the nation that would weaken the public's confidence in our system.10

While I believe Vice President Gore could have conceded earlier, his gracious concession speech nevertheless was a model of the genre. It was a major reason the system worked and the nation was able to move on. Our country owes him a great debt of gratitude, and I salute his patriotism and record of public service.

We have some lessons to learn from Florida. One, obviously, is that our voting technology needs a hard look. The public has understandably lost confidence in the punchcard system. To restore public confidence, those machines need to be improved or replaced.

Another lesson is that the media have some serious explaining to do about their erroneous calls in Florida—first for Al Gore, then for Bush, then for neither of the above. The call for Gore was even made before all of the polls had closed in Florida, and I don't think any fair-minded person would argue that it did not hurt the Bush-Cheney ticket. The polls that were still open were in the Florida Panhandle, which is strong Republican country. I believe many potential voters there simply stayed home after they heard that the race in their state was over. Furthermore, given the obvious importance of Florida to the national race, and the closeness of the races in Iowa, New Mexico, Oregon, and Wisconsin—all within one percent—it is also reasonable to argue that the early call well may have influenced the results in one or more of these states. It may even have affected the outcome of the national popular vote, which, of course, Vice President Gore won by more than 500,000 votes.

The obvious answer—to forbid networks from calling any states until the polls in all states have closed—is clearly unconstitutional. Freedom of the press is an important and necessary part of a healthy democracy, even where (as here) the mandate of press freedom conflicts with the need to protect the integrity of our elections. We should probably consider rearranging our polling schedules in presidential elections, so that voting ends at the same time in all states in the continental United States. This is radical surgery, and it is a shame that we even have to consider it, but we need to do something to prevent the media from prematurely suggesting that the election is over.

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9 But it must be said that those other elections were probably not as close as this one, and the conceding parties probably had not won the popular vote, as did Vice President Gore.

10 It is true that we filed the first lawsuit, but it was a defensive one, designed to bring finality to the election and to confirm the vote counts that had taken place, not overturn them. The equal-protection arguments we made in that case—that the recounts were selective, standardless, subjective, unreliable, and biased—were the same arguments that later served as the foundation of our Supreme Court victory in Bush v. Gore, 531 U.S. 98 (2000) (per curiam).
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We also need to take a close look at our voting laws. Whatever systems we use, there should never be any confusion about counting procedures and deadlines and, most importantly, about what is or is not a legal vote.11 Our litigious society now demands that common sense be shored up by laws that say this is a vote and that is not a vote, to avoid a repeat of the situation we faced—hand counting of machine ballots with no standards whatsoever, except that the counter should “divine the intention of the voter!” We need a bright line, standards that can be applied consistently from one person to another and from one jurisdiction to another, within a single state.

While the federal government clearly has an interest in the conduct of federal elections and should support efforts to improve them, we should not federalize our elections. The Constitution gives authority over the selection of presidential electors to state legislatures. That is as it should be.

Likewise, we should not try to abolish the Electoral College. In the first place, it will be impossible to persuade the less-populated states to give up the constitutional advantage the Founders gave them. More importantly, however, electing our presidents through the Electoral College is a good idea. Our union was founded on the basis of this bargain, in which the states ceded some of their sovereignty to the national government while retaining, among other things, a strong state-by-state influence in the U.S. Senate and on the selection of our chief executive. Our Founders were less impressed by the intensity of a candidate’s support in a few large states than by the breadth of a candidate’s support among all states. The Electoral College (like the Senate) ain’t broke, in my opinion, and we don’t need to fix it.

Finally, we should never forget the biggest lesson of all from Florida—in the end, the system worked. The rule of law prevailed. It was a close election and the aftermath was difficult. But there were no riots, no tanks in the street, only a few peaceful demonstrations. We Americans may take this peaceful transfer of power for granted. Measured against the standards of the world and all of recorded history, however, this was a rare and precious event—testimony to the strength of our constitutional democracy and our faith in the rule of law.

11 For the record, I think a vote on a machine ballot is, and should be, what a properly functioning ballot-reading machine says is a vote. The very reason we adopted this system of voting in many jurisdictions was to transfer the ballot-counting function from partisan human beings (that open up possibilities for mischief and human error) to nonpartisan machines. One reason our laws are not clear on this point, I believe, is that the lawmakers thought it was self-evident.