



## EDWARD M. KENNEDY ORAL HISTORY PROJECT

### INTERVIEW WITH WARREN RUDMAN

May 16, 2006  
Washington, D.C.

#### **Interviewers**

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TRANSCRIPT

INTERVIEW WITH WARREN RUDMAN

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**Rudman:** It made all the press, of course, Roger Mudd and so forth, and everybody's in heavy hysterics. What happened in that picture, which was snapped by an AP reporter, and we all have copies of it, was— I don't know where Ted [Kennedy] was going but— We had a very conservative Governor named Meldrim Thomson [Jr.], a very right-wing Governor. Of course, I had a five-year term. The Governor had a two-year term. The attorney general of New Hampshire is very independent, not elected but appointed. I was appointed by his predecessor. He had a lot of strange ideas about things, but this didn't involve him.

New Hampshire had a poll tax. Now, we had an unmeasurable African-American population in New Hampshire. It had nothing to do with preventing African-Americans or any other minority from voting. It was a small revenue raiser. It was a two- or a four- or a five-dollar fee, and it may have even gone as high as eight dollars, to pay for the cost of elections. Well, Ted decided, or some brilliant staff member of his decided, to use that as a way to pin racism on David Souter. He's about as much of a racist as I am a Martian. He hammered at David on that and David just gave it back to him, very politely, to the point that Ted gave up on it.

The next questioner was Alan Simpson, who is a wonderful, funny guy. Alan leaned over and said to Souter, "Judge Souter" —because at that point he was on the First Circuit Court of Appeals— "would I be crazy, or would anybody on this panel be crazy, to suggest that you're a racist?" David looked up and said, "Senator Simpson, far be it from me to say that any member of the United States Senate is crazy." That's the result.

**Heininger:** You didn't put *that* in the book.

**Rudman:** I may not have. I couldn't put everything in the book.

**Heininger:** No, but you didn't mince any words through that book.

**Rudman:** No, I didn't mince any words.

**Heininger:** But I'm surprised. That was a really good one.

**Rudman:** Let's go ahead. How long are we going to be this morning, any idea?

**Knott:** We will see how it goes.

**Rudman:** I'm fairly direct and I tend to answer questions directly. So go ahead.

**Heininger:** When did you first meet Ted Kennedy?

**Rudman:** I first met Ted when I was incoming president of the National Association of Attorneys General in 1975. I was elected to succeed Bob Quinn, who was from Massachusetts. We had the convention in Boston of the National Association of Attorneys General. I'm pretty sure that's when I met Ted for the very first time. He came by for a reception or something. My first *real* recollection of meeting Ted is when I was elected in 1980, came to the Senate, and was sworn in. Shortly thereafter, on one of the floor votes or something, Ted walked over, shook hands, and introduced himself. I reminded him we had met briefly. He said he hoped we could work together on matters of common interest to New England, and I told him I was sure we could. From that point on, we had an excellent personal relationship. We never had a harsh word between us.

**Heininger:** What did you think of him initially?

**Rudman:** I liked him very much. He was very much a man's man: a great personality, great sense of humor, very warm. I admired his determination and his dedication to the things he believed in, even though I might disagree with some of them. I had great admiration for him then and now.

**Knott:** Is that view shared by your fellow Republican Senators?

**Rudman:** Many Republicans had a wonderful feeling about Ted. I'm sure Bob Dole and Alan Simpson would have told you that they had great respect for him. You could not help but respect anyone who was as dedicated to the things that he was dedicated to. He could drive you nutty sometimes with some of the positions he took, but I guess that's true of all of us.

**Knott:** He had run for President in 1980, the same year you won your Senate seat.

**Rudman:** I'll never understand that. It's almost as if somebody injected him with a numb drug. I couldn't believe it. It wasn't the Ted Kennedy I later came to know. The famous Roger Mudd interview and things of that sort just weren't Ted. There was something holding him back; it's almost as if he felt he shouldn't be doing it. There was something psychologically going on with Ted. I never felt he had both feet in it. It's as if he had one foot in and one foot out and it was holding him back. I never understood it. He's much better than that.

**Heininger:** Do you think it had to do with being a Kennedy and the legacy of being a Kennedy?

**Rudman:** It could be; that's one heck of a legacy: two brothers assassinated and all the tragedy in the family. It's possible. I never figured it out. It was not the kind of performance I would

have expected from him later, as I came to know him and realized how capable he is. He's a very capable guy. People like to kid around about his academic records and what not. Ted Kennedy is a very smart individual.

**Heininger:** A lot has been written about how in some ways he changed after the '80 election, in essence giving up his Presidential ambitions.

**Rudman:** It may have liberated him. I've often thought that. It's almost as if it were something expected of him, like the Prince of Wales is expected to become king someday. That has to be a hell of a burden on someone. Everybody expected that Ted Kennedy would be President of the United States. Maybe he just wasn't psychologically ready to do it, but certainly, as I came to know him for the years we were together, he was very focused on the things he believed in: civil rights, healthcare, children, equity for all people. Those were the things he believed in.

**Heininger:** You worked very closely with him when you very first got into LIHEAP [Low Income Home Energy Assistance Program].

**Rudman:** LIHEAP, yes, that's a great story. I don't know if you know the story, but we put it up as a Kennedy/Rudman amendment to the appropriations bill and it failed by one or two votes, very slim. Ted walked over and with that wonderful light touch he has, "Listen," he said, "we could bring this up again in a slightly different format. This time make it 'Rudman/Kennedy' and maybe we'll get it passed." And we did. It passed by two votes!

We worked on LIHEAP, but the other thing that was interesting, both with Ted and with Tip [Thomas Phillip] O'Neill—For a while there, I think I'm pretty accurate in saying, I was one of maybe only two people from New England on the Senate Appropriations Committee. I got on there as a freshman, which is unique, but I did. I think Pat Leahy was on the committee. We were in contiguous states, so there would always be something that Tip or Ted was concerned about for Massachusetts. Not pork, but things they really needed that had to do with the harbor, with the tunnels, with this, with that, and various things for BC [Boston College] or BU [Boston University]. I was their point guy.

Tip would call me and always started every conversation the same way, "How are you, pal?" "I'm fine, Tip. I'm fine. What do you want today?" "Well, I'm going to have a staffer come over and see your appropriations staff, and this is what it's about. I sure hope, old pal, you can help me." I said, "Well, Tip, let me speak with them and see if I can." And Ted would come up and say, "We have this issue; would you try to help us?"

It became a regional thing, because Boston and New Hampshire are very connected. Although New Hampshire people like to rag Massachusetts a lot, the fact is the two states are tied economically, inexorably. If Massachusetts suddenly went to hell in a basket, New Hampshire would be soon to follow because of all the New Hampshire people that work there, all the industry that does work with people in Massachusetts and vice versa. It was a community of interest. I recognized very early that Ted Kennedy was going to be my friend, not my adversary. We didn't have to agree on a lot of things, but in those things affecting New England it was important we did agree because of what has happened with New England compared to the Sun

Belt and the Southwest. We've been at a competitive disadvantage, so we had better haul the wagons together rather than pull in opposite directions.

I had a great relationship with him. In the mid 1980s, to my surprise, Ted came up on the floor one day and said, "You could bring a lot to the Institute of Politics at the Kennedy School. Would you be willing to serve on the board? We don't have one Republican on that board." They were all Democrats at that time and I was the first Republican. I'm still on the board and still serve with Ted on the Institute of Politics Advisory Board. I've always enjoyed it, because it brings you in contact with some extraordinary people.

**Heininger:** I remember all those debates over LIHEAP, where you all would come onto the floor and there would be these rolled eyes, "Oh, this New England thing again." These days, everybody would be going, "My state, my state! We need it."

**Rudman:** I even had to make deals with the southerners to get LIHEAP for air conditioning for poor people down in Arizona, New Mexico, and Florida. Let me tell you, LIHEAP was and is very important. I came up with a phrase during my campaign, talking about that issue against John Durkin, in which I said the elderly in New Hampshire were now making choices between heating and eating. It's a good line and I used it a lot. Ted and I always worked together on that. I worked with Ted a lot more than I worked with John Kerry. Although John and I were good friends and got along, Ted was much more engaged in those things than John was, at the time.

**Heininger:** Ted was the one who was doing the regional constituent issues more than John Kerry was?

**Rudman:** Yes. We had a New England caucus, really, and Ted was always involved. Even though he was focused on broad national issues, the interesting thing about Ted Kennedy—Some people are national Senators. Others tend to be pretty local, a guy like Al [Alfonse] D'Amato, all he cared about was what happened in New York; "Pothole Al" he called it. Ted had a dual view. Ted's view was that he had national issues for which he was the leader, but he never forgot that Massachusetts needed many things, and New England. He was a New England guy, and I was, too. We didn't look at our states just as states; we looked at the region, which had some hard times, with the cost of power and the whole heating situation, the highway systems, the industry fleeing because of higher taxes and higher power rates. It behooved us to try hard to work together, although Massachusetts and New Hampshire had many things they differed about, but there was a lot to agree about.

**Heininger:** Whose idea was LIHEAP? How did it come about?

**Rudman:** It came about before I came to the Senate. I'm not quite sure of the history, but I became one of the leaders, along with Ted, on that, along with Legal Services. Those were two things. I had many other interests, broad interests, national interests, but those were two things I really believed in. I'm a moderate Republican; I guess that means I vote like Jesse Helms or all the other Republicans except on abortion, constitutional amendments against flag burning, gay rights, all things involving civil rights. That's the difference between a moderate Republican and

a “right-wing” Republican. I was strong on foreign policy, strong on defense policy, but very liberal on social policy.

**Heininger:** You are a dying breed.

**Rudman:** Yes, but that is the classic New England Republican over the long period of time. In fact, that’s the classic national Republican. Look at Arthur Vandenberg and even look at Robert Taft. That’s what they were; they were Libertarians in many ways. My votes on personal constitutional issues were very much similar to Ted Kennedy’s, but we differed on many other things.

**Heininger:** You have a lot of company, too, with moderate Republicans.

**Rudman:** Absolutely. We had Bill Cohen and Nancy Kassebaum, Alan Simpson, Bob Dole, and Howard Baker. Many people—Lowell Weicker, Bob Stafford from Vermont, absolutely.

**Knott:** You came to the Senate in that 1980 [Ronald] Reagan victory. Did you consider yourself a Reagan Republican?

**Rudman:** Not at all. In fact, I quickly became critical of the administration, because one of the foundations of my campaign was fiscal responsibility. I went on to found the Concord Coalition, authored [Philip] Gramm-Rudman. I had deep disagreements with the administration over that issue more than any other.

**Heininger:** Why did everybody vote for the tax cuts, Reagan’s first tax cuts? You did, too.

**Rudman:** As a freshman member of the Senate, you pay some heed to someone like Howard Baker, who says, “We now have taken the Senate over for the first time in 40 years. Either we hang together or we’re going to hang individually. You have to follow my leadership.” I did. There were some of those votes that, down deep, I wasn’t comfortable with, but I could see the greater good of holding the party together to get some major things done, so I did. I later voted against some of those things as well, but at that time we had something like 54 or 55 straight votes. We went for two weeks on a budget resolution and won every vote. It was remarkable.

That’s a great picture over there, taken in March of 1981, when Baker brought his freshmen down to the White House to have breakfast with Ronald Reagan. There were 12 of us, and 2 Democrats; 14 new Senators and it was just the Republicans. A lot of memories are on this wall. I have thousands of things, but the ones on this wall are the ones I particularly appreciate. A Gramm-Rudman pen is over there. The crime bill I authored, which is very important, is next to it. The first bill I ever passed, the Small Business Innovation [Development] Act, is the one on the right with the picture of Lowell Weicker and the President.

**Knott:** I’m going to take you off track here a little bit, but we’ve also done a Ronald Reagan oral history project. Do you have any impressions of Ronald Reagan?

**Rudman:** That picture there says it all, that one up there. He was such a terrific human being. He was so likeable and so disarming in many ways. As Richard Reeves says in his new book—I just recently read it. I always knew this, but—Reagan was one hell of a lot smarter than many people gave him credit for. He wouldn't care much about all the details. He wouldn't clutter his mind up with those things. He had good people like Jim Baker and others who knew what he wanted and carried out his—I was very fond of him. That picture, and there's another one, sitting with him, taken the same day, I think, after the MX [Missile X] vote, in which I was instrumental in getting enough votes to pass it. His secretary called me about 2:30 in the afternoon and said, "Could you come down and see the President around 4:00?" Is the Pope Catholic? So I went down. He just wanted to come embrace me and thank me. He said, "Without you, we couldn't have done it. I wanted to thank you myself." That's the kind of guy he was, special.

**Heininger:** But by the time you got to Gramm-Rudman, you were no longer a backer of Reagan's economic plans.

**Rudman:** No, because I could see that the cumulative effect of what we were doing would lead to a national debt in excess of \$6 trillion or \$7 trillion—I'm right; it's about \$8 trillion now—and that we would be loading a tremendous burden on future generations, which is the whole genesis of the Concord Coalition, that we had become a party of spend and borrow, whereas the Democrats had been a party of tax and spend. I thought probably tax and spend was more responsible than spend and borrow. With all the money being bought up by China, by Japan, by the Saudis, by all the European countries, I thought we were headed to hell in a handbasket.

The genius of Gramm-Rudman-[Ernest] Hollings was that, number one, it was attached to a debt-ceiling extension, which everybody hated to vote for, hated to vote for, so it gave them a crutch. On the other hand, Ted Kennedy and Tip O'Neill liked it because they thought it would slow down defense. Many Republicans thought it was good because it would slow down social spending. There was something in it for everybody and people were afraid to vote against it. That was one of the most incredible things I described in the book: the meetings with Reagan and the pressure against us to withdraw it. It was crunch time.

**Heininger:** You had an opponent in Robert Byrd, though, didn't you?

**Rudman:** Sure. Robert Byrd doesn't want any limitations on spending whatsoever. That's Bob, that's him. I admire him; I like him. I always got along with him. He chaired my committee, but no, he didn't like it at all. Ted voted for it.

**Heininger:** How important was it for somebody like Ted Kennedy to vote for it?

**Rudman:** It was very important that we get broad support and show the country that this was something that should work. It did work, for four years, until they finally rammed against a wall and decided to walk away from it. Then, of course, they evened it away with the last provisions of it, the so-called PAYGO [Pay As You Go] provisions, which mean if you want to spend, you have to have a zero effect, a zero-sum game. Those rules are still in the budget act from Gramm-

Rudman, but not terribly effective. Had they followed it, we wouldn't be in the mess we're in today.

I always said, when I'd give speeches around the country, that Gramm-Rudman was never about "more of less." It was always about "less of more," meaning the budget would continue to rise. The only limitation you had was in how much you could borrow. If you wanted to spend \$100 and you only had \$97 in revenue, you could do it one of two ways: you could cut the \$100 in spending down to \$97 or you could raise \$3 in taxes. The one thing you couldn't do was to spend the \$100 and do nothing.

That was all that Gramm-Rudman was about. Everybody made so much about it, saying it was so complicated. People have written books about it. Professors have interviewed me. There are books written about Gramm-Rudman. They found things in that law we never even knew existed, because they didn't, but that's the privilege of being an academic I guess. *[laughter]*

**Heininger:** At the time, you didn't expect it to be invoked. You figured it was going to force the Congress to have—

**Rudman:** I figured the first year it would get triggered and it did. I did figure that. I was a little disingenuous about that, but down deep, I kind of figured. I figured there would be a \$2 billion or \$3 billion sequester and it did the first year. After that, I figured people would just not allow it to happen. I was about right about that until they finally walked away from it because it was too tough. There was no self-enforcing mechanism on the Congress. Congress can pass all the rules it wants to and break them the day after they pass them. Nobody has a standing decision.

**Heininger:** Did you expect it was going to mean a tax increase?

**Rudman:** I thought it well might if we want to continue the defense spending increase. What happened? Defense decreased, which was a good thing, because it was getting out of control at the time, the amount of money we were spending on defense. I understood the Cold War battles and everything else. Reagan was right about some of that, but I still felt we ought to pay for it if they want it, so I did it. Some tax increases came along with the [George Herbert Walker] Bush administration. Ted was pretty good on Gramm-Rudman. He quoted from some of it in a couple of speeches he gave. It was time to do something. We couldn't continue going round and round. I'll never forget the debate on that; it lasted four days, including a Saturday. Were you up here at that time? What were you doing?

**Heininger:** I worked for Robert Byrd.

**Rudman:** Did you work for Robert? What years?

**Heininger:** Eighty-five to '92.

**Rudman:** I always liked him. He and I had a good relationship. He liked me a great deal, liked me personally. The reason he liked me was I did my work, that's what he wanted.



**Heininger:** You had a good work ethic.

**Rudman:** He wanted people who were going to work. I was either ranking or chairman of State, Justice, and Departments [U.S. Senate Appropriations Subcommittee on Commerce, Justice, and State, the Judiciary, and Related Agencies] during all those years and I was always prepared. I worked with Fritz Hollings, of course, which was really— He's a handful, but a good guy.

**Heininger:** You had the Republican votes to pass it, but you obviously needed to bring along Democrats or ultimately it was not going to be—it wouldn't be able to exert discipline. Who on the Democratic side did you—and you had a powerful opponent in Byrd, who for constitutional reasons didn't want to abdicate any Congressional responsibility on spending. Who on the Democratic side did you feel you needed to bring along for credibility and to garner votes? How important was Kennedy in that piece?

**Rudman:** He was very important. It was very important to get Ted. It was very important to get Chris Dodd. It was very important to get a whole number of people whose names now escape me, but it was not just getting a few. We had to have an overwhelming vote to, in my view, get that through the House. There had to be strong support, and there was. I forget the final vote, but it was, what, in the 70s?

**Heininger:** It was in the 70s, I think.

**Rudman:** Ted was very important and so were people like Chris Dodd and Sam Nunn, or southerners and what not. It was important, including the military, because the military was the one— They were petrified about this, as well they should have been. They were right; the gun was pointed right at them. That's where the money was going. But it was very important. Of course in the House, I had support from Leon Panetta, who was throwing his hands up about this. He and Les [Leslie] Aspin and Tom Foley—we all met and talked a great deal in these long conferences, big huge conferences and smaller conferences. We finally got it done about 3:00 in the morning in Les Aspin's office, I remember. The small group was there. Lloyd Bentsen was involved; he was very supportive. Pete Domenici was very supportive; he was terrific, the chairman of the [Senate] Budget [Committee]. Ted was very important because of how he was perceived.

**Heininger:** Did you have to appeal to him directly?

**Rudman:** I talked to Ted about it, as I recall, sure. I talked to many people about it. I lobbied everybody. I was always one to believe there's nothing like person-to-person contact. I'm a great believer in staffs; they're very important. You can't operate without them, but there are some things that people rely on staff for that I never did. I thought there were some things that were mine to do and I was going to do them.

**Heininger:** You'd sit next to Senators on the floor. I remember when people were up there, you going and sitting next to them and talking to them.

**Rudman:** I did that all the time. I would spend as much time on the other side of the aisle as my own side. I was always working—Gramm-Rudman, people remember Gramm-Rudman. I had much other legislation, many very important amendments and much other legislation, over the years that was as controversial as hell and that I had to work hard on to get people to do. I was a great believer in the power of personal persuasion.

**Heininger:** Ted Kennedy said about you that—I think this is when you were leaving the Senate.

**Rudman:** I read that yesterday, yes. He said I was like the E. F. Hutton commercial. That's nice.

**Heininger:** “When Warren Rudman talks, everyone listens.”

**Rudman:** That's probably because I have a loud voice. I considered Ted an ally on many things I did. The remarkable thing about Ted Kennedy as a colleague was that he was so approachable for a guy who had such a national reputation. He never acted like he was somehow a cut above anybody else. Ted was down to earth to deal with. You could talk to Ted about anything, any issue. He might not agree with you, but he was always trying to find some middle ground. He and Alan Simpson did many important things together. They're very different politically, but both very decent human beings, both with very warm hearts and passion about the things they do. I had the same kind of relationship with Ted, and we were able to get a lot done.

**Heininger:** Tell us about Legal Services.

**Rudman:** It's interesting. I have some plaque around here from some national organization saying I saved Legal Services. That may be an overstatement, but certainly I was a major part of it. I had come to realize in New Hampshire as attorney general, after being sued by Legal Services Corporation, the state being sued for personal assistance for a mental health program, and the way we took care of disabled children. They were right in many cases, that it took outside pressure through the courts to get some of this done. I also believed that if people without financial means don't have access to the courts, you're eventually one step away from anarchy. You cannot have two classes of people, one of which has access to justice (i.e., the moneyed class), and the other that doesn't. You just can't have that. Although I got very angry with Legal Services for some of the bonehead things they did, I basically was very supportive of them.

When I got here, it was the position in the administration—Ed [Edwin] Meese, the Attorney General, and Reagan—to abolish Legal Services Corporation. It almost became like a [Richard Milhous] Nixon-to-China syndrome, that Ted Kennedy might not be able to stop that, but I could. I found myself in a key position. As luck would have it, I was on the State Justice Commerce Subcommittee with Lowell Weicker as the chairman. I had this great interest and eventually succeeded him as chairman, and then Hollings, of course. All through that time, I was fighting off some really right-wing people over in the House. Bill McCollum and that group were trying to kill it. Finally, I was able to put together a compromise that saved it for all time to do things.

I thought it wasn't too much to give up. With all due respect, there was too much nonrepresentational work going on by Legal Services lawyers. It's much more fun to lobby the

legislature than it is to take Mrs. Jones to court to make sure she doesn't get evicted for the wrong reason or to help somebody get their disability check. The young Legal Service lawyers were becoming social advocates instead of lawyers. That's when we put the limitations on lobbying and things of that sort and finally put together a big coalition to get it done. Ted was very helpful in all of that, he always was, but I was the focal point for saving Legal Services Corporation over that entire 12-week period. I believed in it, and I still do.

**Heininger:** I want to talk at some length about the Supreme Court nominations, because you've clearly been very involved in an important one.

**Rudman:** By the way, there's one thing that I read in the material. I forget how you put it, but that David Souter—I don't think you put it in these words—did he mislead anybody about his positions and so forth. Absolutely not. Anybody who listened to that testimony would have known exactly where David Souter was coming from. In fact, there have been a couple of very interesting law review articles written about his testimony.

If people were listening, they would have heard David clearly when he talked about *stare decisis*, talked about institutional reliance and how that counted and how it was important. When you go back and read *Casey vs. Planned Parenthood*, which is that brilliant decision, he drew the five together to uphold *Roe [vs. Wade]*. If you look at the language of that decision and go back and look at his Senate testimony, it's a mirror image. That's where David was coming from. The problem David had is everybody thought John Sununu had wanted him. It was not John; it was *me*.

**Heininger:** I know. That's why I used the word "misled" because he was perceived as a Sununu—

**Rudman:** They were misled, but not by David. When John, who is a good friend of mine, said it's a slam dunk, he's an ultraconservative, whisk him to the side and he'll vote—I thought to myself that he had met David Souter for 20 minutes in his entire life. I recommended when John became Governor that David go on the New Hampshire Supreme Court. I was in the Senate. John said, "Warren, if that's what you want, that's what you'll get." David went in, met with John. John liked him and put him on the court, but he had a great reputation. It was a low-risk appointment, but I was the guy who knew David. I was the guy who went to George Bush originally and to [Richard] Thornburgh and to Boyden Gray and got him originally on the First Circuit, then a few months later on the U.S. Supreme Court. But there was nothing about his testimony that would have deceived anybody who was listening.

Ted, John Kerry, Bill Bradley, and [Frank R.] Lautenberg, those four—Alan Cranston was five—I forget who the other four or five were. I think there were nine votes against him. I know exactly where they were coming from. You had Faye Wattleton, and the people from Planned Parenthood, all going wacko. This man is this; he's that; he's going to repeal *Roe vs. Wade*. I knew that wasn't—David couldn't say he would or he wouldn't. I didn't know, but I knew his general philosophy, but Ted and the others figured, *If this guy gets on the Court and votes to repeal Roe vs. Wade, I've got problems*. They decided the perfectly safe vote was to vote against him, which a number of them have since told me was the wrong vote.

**Heininger:** Let's look at the history of the Supreme Court nominations up until then. You had [William] Rehnquist.

**Rudman:** Yes, up until then—[Antonin] Scalia was a slam-dunk, a rubber stamp.

**Heininger:** It was a slam-dunk for Scalia, who has turned out to be—

**Rudman:** Nobody looked at these things. Abortion had not become quite the issue at that point. Suddenly, it's become an abortion hearing.

**Heininger:** It was about '84 when it started, but there had been these Supreme Court nominations. It was more controversial for Rehnquist's elevation.

**Rudman:** Yes, because of some things in the past.

**Heininger:** But Scalia comes through and then comes Robert Bork. Let's talk about the Bork nomination and your sense of that.

**Rudman:** I think Bork got a raw deal, I really do. I voted for him and I'd vote for him again. I thought Robert Bork was penalized for being a very challenging law professor, a man who tried to challenge his students by, in many cases, saying things he probably didn't even believe himself, but just challenging the conventional wisdom and being very much a contrarian. I thought Bork was brilliant, but his attitude before the committee was not good. His whole presentation was not good and his writings, in many cases, were flamboyant. I fully respect those who voted against him. I can understand why they did. I thought in some ways he got a raw deal.

**Knott:** Do you recall that Kennedy came out, I think on day one, when Bork was nominated, and gave that speech about "In Robert Bork's America, there would be back-alley abortions." Do you recall reacting to that?

**Rudman:** I thought that was harsh.

**Heininger:** Who shepherded Bork's nomination through the Senate?

**Rudman:** I don't recall.

**Heininger:** I don't either, but when David Souter was then nominated, you had a very active role.

**Rudman:** I was given—Bush said to me in the Oval Office, "This is your guy and I expect you to personally make sure this gets done." I said, "You have my word," and I sought every member of the Senate, every one.

**Heininger:** How much in terms of the strategy of getting his nomination through the Senate had to do with the experience that had happened to Bork? I'm trying to weigh the Bork experience versus your personal relationship with David Souter.

**Rudman:** With the Bork experience and the Kennedy experience with the previous nominee, for which David had been briefly considered at the time. What I said was that here is a brilliant individual with an extraordinary academic record, a great record as a trial judge, terrific record on the New Hampshire Supreme Court, but not with much writing on the issues for which the Democrats in the Senate would like to hang him up on a lamppost. He was very much like [William J.] Brennan, who came off the New Jersey Supreme Court, whom he was about to replace, who did not have much writing on federal issues, but if you read his opinions on a whole variety of things, you saw that he was very sound, very pragmatic, not liberal, not conservative, very oriented to what the law was.

The strategy was to go in and say this is an extremely competent, experienced guy who will represent what we all want represented on the Supreme Court. That's how we succeeded. That's how we got 90 votes. Those who voted against him, the Faye Wattletons of this world and some of the others, were saying things. I remember going on *Nightline* with her two days after and she was saying things. I looked at her and said, "Ms. Wattleton, where are you getting this from? I've known this man for 25 years. Where are you getting this from? What you're saying has no basis in fact whatsoever. You are worse than a demagogue; you are getting close to the point of lying on national television." I went after her. I was really angry.

His appearance—I don't know if you watched it—but his appearance before the committee was extraordinary. With all due respect to [John] Roberts, Souter was in a class by himself.

**Heininger:** There were two basic charges in the media against him as they were looking for what they could attack him on. One was his sexual orientation.

**Rudman:** Which was crazy.

**Heininger:** And the second one was that he was a recluse or an oddball.

**Rudman:** Which was also crazy.

**Heininger:** Why did they pick those?

**Rudman:** They picked the first one because at the time, 1990, he would have been 50, and he was single, never married, although I have personal knowledge of a number of women he had long relationships with, but it just never led to marriage. The second was because he lived in an old family farmhouse in Weare, New Hampshire, in the middle of nowhere. The press took those two things, put two and two together, and came up with five. He had all kinds of friends all over the state of New Hampshire. He was president of the Concord Hospital while he was on the state Supreme Court, very community involved, likeable, delightful, great sense of humor—a normal human being. I was ripped about that, and so was he.

**Heininger:** Did Kennedy ever—

**Rudman:** I never talked about *those* things with him.

**Heininger:** Did he ever in any way impute to the media that those were things he was concerned about?

**Rudman:** No. Ted just thought David Souter was a right-winger from New Hampshire who was appointed by Meldrim Thomson as attorney general, but that was due to *my* persuasion of Thomson, not David's. That's how that happened.

**Heininger:** What were the issues that bothered Kennedy?

**Rudman:** Civil rights and abortion. I think those were the things that concerned him, although truth be known, when it comes to those issues, you couldn't get anybody who was more liberal than David Souter.

**Heininger:** How much leeway do attorneys general have in crafting the arguments in court cases where they are directed that this is what they have to?

**Rudman:** Your relationship with the legislature is you must defend laws of the legislature unless the law *totally* is on its face contrary to the state's or the nation's constitution or so egregious in terms of public policy that you have an ethical obligation to say, "I cannot defend this; somebody else will have to," but that's rare. For a Governor, it's a little different, but he wasn't defending the Governor. The state legislature passed a poll tax in 1885 or 1890 to help pay for elections. That was not a civil rights issue. Kennedy made it into one.

**Heininger:** Why did he?

**Rudman:** I don't know. Ted has a great staff. I've always thought he had a great staff, but maybe some of them got some bad information, because after all, he couldn't do all the research himself. Ted would have to tell you. I think if you asked Ted Kennedy today if he cast the right or the wrong vote on David Souter, he would tell you it was the wrong vote. I am sure of that and, in fact, I know that. I won't tell you how I know, but I know that. They got spooked by the fact that Sununu was for him so much and Thomson had appointed him. You had this poll tax case and whatnot, but if people had stopped to think, *I'm* the guy who recommended him. People knew my politics and people knew he and I were as close as two men could be. We were like brothers.

**Knott:** And you did work on Senator Kennedy? You attempted to convince him?

**Rudman:** I did, within reason. I told him what I thought. There are occasions in the Senate when people decide to cast a safe vote. They say, Can it hurt me if I vote no? No. Can it hurt me if I vote yes? Possibly. The safe vote is the no vote. I think that's what Ted did; and once Ted did, then you had Kerry fall into place and Bradley, who was thinking of running for President at that point, and so forth.

**Knott:** Has something happened to the judicial confirmation process?

**Rudman:** Yes. It's totally out of whack. It's all about abortion today and there are litmus tests. I'm on a committee that's putting a conference on in the fall at Sandra Day O'Connor's request. It's a conference here in Washington on the independence of the judiciary, the whole process. It will be very interesting. It's out of control, I believe. It's become unbelievably nasty. Souter's was not nasty, but since then, the [Clarence] Thomas hearings were awful.

**Heininger:** Why did Kennedy not engage in a floor fight when Souter—?

**Rudman:** I don't know, but if I were to guess, I think down deep he thought maybe he [Souter] might be more of what I said he was than what other people said he was. I don't think he [Kennedy] was too anxious to be "the guy who killed the nomination."

**Heininger:** Do you think it had anything to do with your relationship with him?

**Rudman:** It might have. You'd have to ask him; I don't know. We had a good relationship. Ted knew me well enough to ask, "Why would you be so far in front for this guy if this guy is as bad as some people are saying?" It turned out that I was totally right and all those critics were wrong. He's not a liberal; he's not a conservative. He is a moderate, mainstream judge is what he is. On this Court, they call him on the left. It's no wonder.

**Heininger:** Let's talk about the Clarence Thomas nomination.

**Rudman:** That was not one of my proudest moments, but on the other hand, there are three great Federal judges in New Hampshire who wouldn't be there if it weren't for that vote. I had a deal with Bob Dole on that, and Bill Cohen and I had a deal. The deal was that we had ultimate trust in Dole. He was a wonderful guy. We said, "Look, we're going to vote against him [Thomas] if it will kill the nomination, but if it's not going to kill the nomination, we'll vote for him." He said fine, and told us ten minutes before the vote that he was going to win no matter what, whether we voted with him or not. He had a couple of Democratic votes in his pocket if he needed them. On that basis, why vote against him and destroy my chances to take three extraordinary people and put them on the Federal District Court of New Hampshire and the First Circuit Court of Appeals? I've said that in the book, that's what I did. I confessed to it on public television about a month or two later. It was a purely political vote.

**Heininger:** I wish we had known at the time, because do you recall Byrd going to the floor that day and announcing he had changed his mind on Thomas?

**Rudman:** Yes.

**Heininger:** We sat there at 5:30 in the afternoon counting votes and had gotten calls all day of vote switching and picked up at least five votes. He looked at me and said, "Jan, if I were still Majority Leader, Clarence Thomas would not be sitting on the Supreme Court."

**Rudman:** Did he vote against him finally?

**Heininger:** Oh, yes.

**Rudman:** That's what I thought. Bob Dole had a couple of Democratic votes that Byrd didn't know about. But Cohen and I were together. We told him from the beginning, and my great friend Jack Danforth, we said we're going to vote against him and it had only to do with one thing: I didn't think he was, at the time, of the intellectual heft of the United States Supreme Court. It had nothing to do with anything else. It had nothing to do with Anita Hill or all the other tragedy. It had to do with qualification. It was that simple. I think we ought to get the very best in the world for the Supreme Court. You have to give this guy, this President, credit. [Samuel] Alito and [John] Roberts are both extraordinarily talented people. There's no question about it, they're both brilliant people.

**Heininger:** What did you think of Ted Kennedy's performance during the Clarence Thomas hearings?

**Rudman:** I thought he represented his point of view very well. He made a lot of sense. That was the position he was going to take and I thought he did it responsibly. Occasionally here and there you might think somebody went over the top a bit, but by and large, I thought he was on target from the point of view he was espousing, and responsible and proper, as he usually is.

**Heininger:** Given how active he'd been against Bork and how active he had been against Souter, are you surprised he wasn't more active against Thomas?

**Rudman:** No, I wasn't. It was a different thing. He viewed Bork, as many people did, as extraordinarily intellectual and therefore very dangerous, but he didn't look at Thomas that way. Bork was the kind of guy who, if he had gotten on the Court, could be much more persuasive, in my view, than Clarence Thomas could be. There's no question he's a towering person intellectually.

**Heininger:** Look back retrospectively on Kennedy's career. What do you feel is his standing with other Senators and whether that's changed over time?

**Rudman:** You'd have to look at not only the ones he's serving with now, but all the ones he served with over the years. If people would be honest and not political, they would tell you he is an extraordinarily hard worker, very smart, has very deep core beliefs that guide his life: civil rights, healthcare, children, criminal laws that are fair and just and equitable. He's easy to work with, a tough adversary, but not a mean one. Someone you can disagree with who never gets disagreeable. Someone whose word you can absolutely trust. In short, he's a great Senator, one of the great Senators of this past century. That's my point of view. I said so in my book.

**Knott:** He's a somewhat polarizing figure.

**Rudman:** Sure, but that's because you can raise a lot of money running against Ted Kennedy. I understand that, but that has much more to do with politics than it has to do with substance. It's



interesting. Politics *outside* the Senate versus the politics *inside* the Senate are two different things. Alan Simpson, the self-described cowboy from Wyoming, who forged an incredible personal and professional relationship with Ted Kennedy—that tells you something about both of them. That’s my point of view.

**Heininger:** To what extent did you see him working across the aisle?

**Rudman:** When I was there, we did much of that. Today there’s much less and that’s not Ted Kennedy’s fault. I don’t know whose fault it is. The political process has devolved into something very petty and mean and partisan and different. Robert Byrd is as partisan as they could get, and so is George Mitchell, but I could always work with those guys. If I had something where I thought we had a community of interest, we could always get together without a thought. Today I’m told by my friends that it’s much harder.

**Heininger:** Do you miss it?

**Rudman:** No. I don’t miss the Senate. I miss some of the people I used to see on a regular basis, but most of them have since retired. No. I still stay in touch with a few people up there I’m very close with. I see Ted occasionally at meetings and we talk occasionally. John McCain and I are very close. It’s interesting; he and Ted get along extremely well. That doesn’t surprise me because they’re both upfront guys. They can agree on things and disagree on things and they’re not petty. Neither of them are petty people and neither of them are mean people. There’s the McCain/Kennedy relationship, the Simpson/Kennedy, the [Orrin] Hatch/Kennedy relationship, which used to drive some of the conservatives up a wall. Orrin Hatch found many things he and Ted could get done together that were good things for the country.

Everybody’s talking about what their mother told them, what their father told them, but my father did say something very interesting. My father died in 1990, when he was 92. When I was elected, he was about 80 or 81, in great health. There’s a picture of him over there with me, the picture in the center, taken during my campaign. My mother was a Julliard School graduate. She died at the age of 95 in 1998.

**Heininger:** You have good genes then.

**Rudman:** Evidently, but I’ve lived a much harder life than they lived. Who knows? My father said something to me that was very interesting. He was a World War I veteran, was brought up in Maine, a solid guy, smart. We were having dinner at his house a few days before I was leaving to come down here to be sworn in. It was late December 1980. He was always interested in politics. He was never *involved* in politics, but he was always *interested* in politics. He said, “You’re going to meet some really interesting people down there. Let me tell you something, Warren. Go in there with a clean slate. Make your own enemies, don’t make somebody else’s.” He was right. Don’t go down there thinking Ted Kennedy has horns and he’s a monster, or Jesse Helms, who I became very friendly with. We disagreed on so many things, but on the Ethics Committee, when I was chairman, he was a rock. You couldn’t have a better guy on that committee.

I think back on my years in the Senate, and I followed that. I didn't make enemies there as it turns out. I didn't. I left the Senate with many friends on both sides of the aisle. There are still many people I correspond with. I decided I wasn't going to get involved in this hate game because somebody else felt that way about it. If somebody else thought Ted Kennedy had horns and was a terrible person and was trying to soak the rich to take care of the poor and all this other crap you hear, I wouldn't have anything to do with that.

My attitude was find out what people are like based on *your* experience and go from there, so I did. I said it in my book and I've repeated it in speeches. I've given interviews. I think Ted Kennedy is truly one of the great United States Senators in the recent modern history of the United States Senate. His record of achievement, the things he stood up for, which he believes in, and the way he's done it, there aren't too many other people with that kind of record, that's what I thought.

**Heininger:** Who didn't get along with him?

**Rudman:** The only person I can think of—they really had a testy relationship—might have been Jesse Helms.

**Heininger:** That's exactly what we've heard.

**Rudman:** Yes, that's what I think. Other than that, I never heard any cloakroom talk about Kennedy. I've heard some cloakroom talk about others people thought were stupid or not trustworthy or whatever, but not Ted. How can you not like the guy? You've spent time around him. How can you not like the guy? He's a very likeable human being who, when I look at the life of that family and what he has been through—burying his brother, the President; and his brother, the Attorney General, a Presidential candidate; the troubles with his family right up until today with Patrick [Kennedy]—yet able to go on out and carry on. I admire that.

I admire people who can overcome personal tribulations, personal tragedy, and go out and continue to do what they think is right for the country. I admire that. Many people would fold up their tent and go home. Not Ted. Ted didn't have to have the career he's had. He had adequate resources to have done anything he wanted to do—take life easy, go sailing around the world—but public service is what he deeply believes in. That's how I feel about him. I'm a fan.

**Knott:** Do you think there is a Senate temperament? That the best Senators come into that institution, as it sounds like you did, with a certain concept of what the institution is all about? You know how to make it work. You don't come in there with an ideological axe to grind. Is that what it's about?

**Rudman:** I would think so. I agree with that. I said in the front of my book, in the preface—I've received a lot of kidding about it. I said at the beginning of the book, in the foreword someplace, that from my experience, one third of the members of the Senate knew why they ran, knew what they believed, knew what they wanted to get done, and knew how to get it done. Another third had a vague idea of why they were there, had some idea what they wanted to do, and had some instance of how to get it done. The other third, I'm not sure why they were there. Typical

Rudman, but you never tell people which third they're in and therefore, you don't make any enemies. *[laughter]*

I think you should come to the United States Senate with my father's admonition in mind; make your own enemies. Try to look at everyone as having redeeming value. Try to work on things you think are important and oppose those things you don't, but do it in a rational, reasonable way. Never be nasty to people. That's the way the place worked. That's the way it did work for a long time. I'm kind of a historian. I am one of the few people who have read all of Robert Byrd's books. I've read every word of them. I've read probably most of the major biographies done by people who have served in the Senate. I'm a great student of American history, a lot of political and military history, and that's how I feel.

**Knott:** What's gone wrong? What would you say?

**Rudman:** The whole campaign system has gone wrong. The genesis of this is in how campaigns have evolved. Campaigns have become so money intensive, so negative, so nasty, that it carries on. The other thing that happened is you have all these House members who suddenly get elected to the Senate. Tremendous numbers of members of the House who come to the Senate bring much that vitriol with them, because the House was always much more vitriolic than the Senate.

**Heininger:** Some of those House members do make the transition easily, a Byron Dorgan perhaps, who moved right in.

**Rudman:** Absolutely. Some don't.

**Heininger:** It's not the same Senate as when you were there.

**Rudman:** Not at all. Will Robert Byrd have any difficulty getting reelected this year?

**Heininger:** He may have an opponent this year. He usually doesn't.

**Rudman:** The age issue has to be an issue.

**Heininger:** It has to be an issue, but with his wife just dying, too, this is a tough year for him.

**Rudman:** I remember that, yes. I just exchanged correspondence with him.

It's very interesting, coming back to Souter. [Daniel] Inouye, who is a dear friend of mine, also just lost his wife. I'll never forget this and David Souter will never forget. Well, there are two things we won't forget. One was going to Strom Thurmond's office, introducing him to Strom, and Strom leaning over and handing David that little copy of the Constitution the Senate has. He hands it to David and says, "Now Judge, this man's for you, so I'm going to vote for you, but just remember, this is your guidebook." And he handed him the Constitution, a wonderful anecdote.

And Inouye, he came in, and we talked. Iran Contra had been three years before. You remember that; that was when you were there. We were like that; we held together. Danny's a dear friend of mine. I did the Japanese Reparations Bill with him when he couldn't do it. He and Sparky [Spark M. Matsunaga] came to me and said, "We can't do this. Will you do this?" I said, "Of course I'll do it. It ought to be done. It's the right thing to do. It's a horrible time in our history." I did that, and I could have gotten elected in Hawaii, I got so much press in Hawaii. We got through with our meeting in about 20 minutes. We got up. David shook hands with Danny and I thanked him for the time. He looked at David and said, "I judge people by their friends." He pointed at me and said, "I'd trust this man with my life. If he says you're OK, then you're OK and I'll vote for you."

Ted was not willing to go that step, and that's fine, but that's how the place works. One of the hardest things I had to do was oppose Clarence Thomas, although I voted for him eventually because of my friend Jack Danforth, who I just love. We were attorneys general together and good friends.

In the meantime, it's been a great experience, nice talking to you.

**Knott:** Thank you very much for your time, we appreciate it.

**Rudman:** I hope I've given you something you can use.

**Heininger:** Actually, we have forgotten one thing. Iran Contra. We know where Kennedy was in terms of Contra aid. You were on different sides on Contra aid.

**Rudman:** We were, although I was somewhat of a reluctant guy toward the middle to the end.

**Heininger:** There were a couple of votes in there where you were—

**Rudman:** Right. I was a bit schizophrenic on that issue, I was. I had a lot of trouble with that issue. I believed in what we were trying to do, yet on the other hand, I didn't like the way we were doing it. I didn't like some of the people who were involved in it, the way the money was being raised and so forth. I knew Eddie Boland very well. In fact, I was on the Appropriations Conference that finally approved the Boland Amendment. But Ted and I would talk about that issue. Tip would always lobby me on that issue. Tip and I would be on the same airplane before we had direct service up to Manchester in the early '80s, the mid '80s. I'd be on the shuttle going to Boston and Tip would say, "Hey, pal, come sit with me." He'd always be lobbying me because the sisters, the nuns, man, they had Tip right there.

**Knott:** The Maryknoll nuns?

**Rudman:** The whole aid to the Contras, I looked through your very accurate analysis and you're right; toward the end of it, I started to slip away from it. Privately I was very unhappy with what was going on. That whole thing would have ended up the way it did anyway without our intervention because Nicaragua could not have gone the way it was going. There was some basis to what Reagan was doing, but I thought they went over the top, I really did.

**Heininger:** When the Iran Contra stuff came out, where was Kennedy? Was he one of the very vocal critics?

**Rudman:** No. Ted, as I recall, took the attitude of I'm going to wait to see what these hearings are about. He was very supportive. John Kerry was very much involved because he had been involved even before. He wasn't on the committee, but he wanted to be on the committee, I'm sure, but was too junior, I guess, to be on the committee. I wasn't very senior. Bob Dole shot me over everybody else. He put me on the committee along with [James A.] McClure and Hatch and others, and made me the ranking member. Then Inouye trumped it and said, "There will be no ranking member. There's going to be a chairman and a vice chairman and Rudman's the vice chairman." And the Democrats accepted it.

**Heininger:** He was not out there attacking the President?

**Rudman:** I don't recall. Kerry was.

**Heininger:** I don't recall it, either. That's one of the reasons I wanted to raise it with you.

**Rudman:** What are you going to do with all this stuff when you're all done?

**Knott:** We have five more years on this project. At the very end of it, all of these materials will be open, including your transcript after you clear it. We'll send you a transcript in a few months.

**Rudman:** There's nothing I've said here I would worry about. You have my permission, if I'm not around at that point, to use it. *[laughter]*

**Knott:** OK, we have it on tape, so that's good. We're trying to create a resource for future generations of historians and political scientists.

**Rudman:** That's great. What do you teach?

**Knott:** Political science.

**Rudman:** And you?

**Heininger:** I spent five years teaching international politics and diplomacy in a Washington semester program at AU [American University] before I came to UVA [University of Virginia]. I was teaching how foreign policy was *really* made in Washington, not the way the books say.

**Rudman:** Let me tell you, UVA is such a great place. A few years ago, they invited me down to the Darden School. It's beautiful. I've been down on the campus several times. What a beautiful place.

**Knott:** I should tell you, I taught at the University of New Hampshire for about a year and a half.

**Rudman:** What year?

**Knott:** Ninety-ninety-one, during the Thomas hearings, I was there.

**Rudman:** Who was president of the university at the time?

**Knott:** I know who my department chair was, Bob Craig, the political science department, but I don't know who the president was.

**Rudman:** I had a Professor Palmer over there who was a great friend of mine, a criminologist, famous guy who wrote an excellent book on criminology with the lady who came from Brandeis, Evelyn Handler. I got a lot of money for some building. They named a building for me, the huge marine biology building. I had been a big supporter of NOAA [National Oceanic & Atmospheric Administration]. New Hampshire is a great state.

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