

ROBERT J. DOLE  
ORAL HISTORY PROJECT

Interview with

ROBERT J. DOLE

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Interviewer

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Smith: In 1968 when you were running for the Senate, of course, Earl Warren announces his retirement, and [Lyndon B.] Johnson wants to put Abe Fortas on the Court. That didn't happen. Then you had this whole—

Dole: Well, Senator [Robert P.] Griffin precluded that.

Smith: What did Senator Griffin do?

Dole: Well, in effect, he filibustered it, and then Johnson withdrew the nomination. You're talking about the Abe Fortas nomination?

Smith: Yes, yes.

Dole: Yes.

Smith: Do you think basically is that a good idea? I mean, if you establish the principle that a president in the last year of office, in effect, cannot put people on the Court—

Dole: Yes, I don't think that was the reason, the last year of office, and I don't remember all the details. I think there were some ethical questions about Fortas and maybe even his relationship with the president in different areas that—you know, there was pretty good bipartisan support for killing the nomination, but it doesn't happen very often. Did it happen since? [Robert H.] Bork, but it never got out of—it didn't happen on the floor, did it?

Smith: Right, right. And, of course, as it turned out, the next year Fortas resigned from the Court because of ethical issues.

Dole: Yes. So I think Bob Griffin was not the kind of person to run around looking for some partisan fight; I mean, a pretty moderate, conservative Republican.

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Smith: Yes. Then you come into the Senate in '69, and that's the year that [Richard M.] Nixon, obviously, takes office and is eager to remake the Court.

Dole: Yes. Well, he had a great—let's see. Well, two nominees who didn't make it.

Smith: Yes, the first was Clement [F.] Haynesworth.

Dole: He should have made it. He was—

Smith: From South Carolina, yes.

Dole: —a very good man. You know, the things that he was the most—I teamed up with Senator [Ernest F.] Hollings, the Democrat, to try to help get the nomination through, and Senator [Birch] Bayh] was on the other side. The vote, as I remember, was 55-45 against. But Clement Haynesworth was really a highly qualified judge, but they found a couple of things. I can't even—something about the country club or some thing.

Smith: I think it was stockholdings.

Dole: Yes, stock. You know, nothing that I think should disqualify a person. So I think the first nomination, I think, we made a mistake on.

The second nomination was the guy from Florida.

Smith: Harrold Carswell, G. Harrold Carswell from Florida. [laughs]

Dole: As I look back on it, the Senate did the right thing in rejecting Carswell's nomination.

Smith: Now, was that something that Nixon did just out of anger? I mean, he just was determined to have a Southerner and sort of stick it in the Senate's eye?

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Dole: Well, he was pretty upset. I remember that, because I was pretty active in the—I'd go to the White House and get in on these little skull sessions every morning. I think Lamar Alexander was in the White House at the time, and was Bryce Harlow there? I think he probably was. So we'd just look at how many votes we had, what would happen, who dah, dah, dah, dah, dah, dah, who was going to speak that day. But, you know, Senator Bayh's pretty effective.

Smith: What made Bayh effective?

Dole: I think his personality. He's a good guy and smart, worked hard, articulate. But he felt strongly about these particular judges.

Smith: That's interesting, because to the outsider it looked like kind of an early test of strength with the new President, where particularly you had organized labor and civil rights groups, who were, to some degree, calling the shots, weren't they?

Dole: Yes, but at least in those days you got an up or down vote on the nominee. You know, you didn't have somebody filibuster on the Senate floor so you never got a vote on the nominee, or you didn't report out of the committee.

You know, I remember—of course, you may want to get to that, but when [William J.] Clinton, of course, wanted two justices, and he called me up as the Republican leader and said he's going to send up the name of [Ruth Bader] Ginsburg and later [Stephen G.] Breyer.

I said, "Fine."

He said, "I'd appreciate, you know, expeditious as possible," which happened.

We had the hearings. We didn't agree with the philosophy of Ginsburg or Breyer, but they came out of the committee, and I think Ginsburg got about 97 votes or something, and Breyer got everybody who was there. He used to work for Senator [Edward M. ["Ted"]] Kennedy. Both good people. In fact, Ginsburg was right down the hall from me in Watergate. I remember at the time Clinton saying he had to get somebody close to Bob Dole. [laughter] So he picked my neighbor.

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But now it's changed. I mean, I'm wondering—just thinking out loud—this last eighteen months of the [George W.] Bush administration, if there's a Supreme Court vacancy now, do you think the Democrats are going to let it happen, fill it? I doubt it. I never know, but—

Smith: Then that also raises the question of whether the White House would be willing to—let's say, it's John Paul Stevens, who would certainly be the most likely.

Dole: Yes. That would be good if he left, yes.

Smith: He's obviously a staunch liberal. So by nominating a—quote—“moderate,” you still move the Court, relatively speaking. Would the White House be willing to do that, or would they want—again because of the base, would they rather have—

Dole: And with an election coming up.

Smith: —a line drawn in the sand and—

Dole: No. No. “I am the President. I have the right to nominate,” dah, dah, dah, dah. Of course, even with Bush and his low standing, I think most people would agree that the President—at least, that was our feeling with Clinton. We didn't agree with the nominees, but we agreed that he was President. Unless there was some open flaw somewhere that you could see, but in both cases these nominees were qualified.

Smith: Well, that raises this large issue, and that is the supposition on the part of the Senate that a President is, in fact, entitled, whether it's the Court or the cabinet, to have his choice, barring some, as you say, overriding—that was the prevailing view when you arrived in the Senate. Do you think it's the view today?

Dole: No, particularly when it comes to the Court. I mean, you know, people maybe have always realized the importance of the Court, but with abortion now, *Roe v. Wade*, there's more and more focus on that one issue and how important it is. You know, they

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have Rudy [Rudolph W.] Giuliani or whoever, strict constructionist versus somebody else. But the Supreme Court, I think, particularly, most of the nominees are going to make it through if they're qualified. If they're not qualified, they shouldn't be up there.

Sometimes Presidents withdraw nominees, like Bush withdrew recently the name of Mike [Michael E.] Baroody. You know Mike Baroody. I can't remember what the position was, but he didn't have the votes, so—

Smith: Now, you know, there is this kind of popular notion that this all sort of began with Bork, but in fact, it really began with Haynesworth and Carswell.

Dole: Haynesworth, Carswell. I mean, you could say Fortas, but that was sort of a isolated unusual case, and had it been some mud-slinging partisan, I would—but Senator Griffin was not in that category. Very thoughtful, very smart, good lawyer. In fact, I think his son now serves on the circuit court somewhere.

Smith: During the Nixon administration, when the President was considering nominees, did anyone ever ask for input?

Dole: Oh, no. They just asked for output. [laughs] Get out there on the floor. Again, working with Senator Hollings was, talk about a staunch supporter. Senator Hollings was really, I thought, very effective, and I agreed with him, so, you know, but we kind of developed a friendship there that lasted throughout the Senate, because I was helping one of his friends.

Smith: That raises two other things. One is how did he feel about his fellow Democrats? I mean, let's say the prevailing forces of the Democratic Party.

Dole: Yes, but knowing Hollings, I assume that if somebody read the records, they would find out about how he felt about his fellow Democrats. I hope he didn't go over the line, but he could be rather critical, at the least.

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Smith: Today there wouldn't be an Ernest Hollings in the Senate, would there? I mean, that kind of conservative Democrat from the South.

Dole: No, they're gone. He was the last. Well, John Breaux, maybe, but he was more of a moderate. You know, you don't have the [John C.] Stennises and the [Richard B.] Russells, although Russell [B.] Long was pretty conservative on everything but the tax area.

Smith: Why are they gone? Why are they gone?

Dole: The country has changed. Republicans appeal to a lot of Southerners, and I've got to...see, I think a lot of it was maybe racially motivated, too, which is not the right way to capture voters, but a fact of life. I mean, I think the liberal wing of the Democrats took over the Party, and President Johnson, with the help of Hubert [H.] Humphrey and other liberals, was finally able to get the Civil Rights Bill passed, over the objection of Senator Russell, who probably knew more about the Senate than anybody. Well, maybe Robert [C.] Byrd now. But I think you can give Johnson credit for doing the right thing, but the result was losing the South.

Smith: Remember what he said when he signed the bill? He said, "There goes the South."

Dole: Oh, did he say that?

Smith: Yes.

Dole: Well, about like Bush in Iraq. There goes the Party.

Smith: What were those—I mean, those are names that are history book to most of us. I mean, the Richard Russells and the John Stennises. Apart from their politics, just in terms of what they brought to the Senate.

Dole: Now, unfortunately, I didn't get to serve with Russell that long, but, you know, one of the Senate buildings is named after Richard Russell. I mean, he was a—maybe segregation is too strong a word, but he was not any supporter of civil rights and was the leader of the anti-civil rights effort. But he still had the respect of everybody in his party. I mean, he was one of those people who can have a point of view and not frustrate everybody else, because he knew the Senate, he knew the rules, and he knew how the game was played. Very effective.

Senator Stennis, on the other hand, was kind of quiet. I never heard Senator Stennis get up and criticize another member in either party. It happened, but I wasn't around when it happened. I think I've already said, I think, when I was elected to the Senate, my predecessor, Senator [Frank] Carlson, told me to get acquainted with Senator Stennis, because he was just a decent, good person, which I did.

Smith: Now, those people obviously embodied the seniority system.

Dole: Oh, well, you know, the conservative. Then you had people like Hubert Humphrey. The moderate to liberals are proud to be in that category. You know, everybody liked him in the Senate; he didn't split the Democrats. I mean, they didn't agree with them, and Humphrey could always pick up some of us.

Smith: Is that gone, too? I mean, the Senate in those days seems like a much more hierarchical place, maybe because of the seniority system.

Dole: Yes, you know, the old saying is, "You don't like it till you have some of it," you know. You hate seniority when you first get there, and then when you're in your tenth year, you think, "Boy, this is great." Somebody else is sitting down at the end.

But I think it's changed a lot. I think the thing that's changed is the so-called Republican-Democrat coalition. We used to have thirty-three, thirty-five Republicans, and you always had ten, fifteen Southern Democrats on some issues. But even then I can't remember, except for Civil Rights Bill, when the filibuster rules were used so much. Back then you needed 67 votes. It's been changed to 60.



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Now we're seeing this week. I mean, you've got to have 60 votes to pass any amendment on Iraq; it's just a given. So a majority is not 51 anymore; it's 60. That's happened just in the past I'd say ten years, maybe twelve. It was starting to happen when I was leaving the Senate. There would be more cloture motions filed, and you couldn't even proceed to the bill. That's always seemed to me to be kind of strange.

But so now it's a different animal.

Smith: It's harder to get anything done.

Dole: Seems to be. I mean, everybody walks the walk, but they don't talk the talk. "Oh, we're going to do this, and we're going to do this together." Immigration was a good example. Should have done something on immigration. I mean, that's part of leadership, you know, to make some choices.

Smith: How do you explain, because I'm sure people come up all the time to you, just average people, and either say, "I wish you were back there," or—

Dole: Oh yes.

Smith: I missed you on C-SPAN. But I mean, I assume they come up and say, "Why can't those SOBs get anything done?"

Dole: You hear a lot of that, and I'm not sure that maybe you probably heard it when I was there. But I guess people want to be nice, you know. "We wish you were back there. We really need you back there. We need to get things done." If you ask them what they need to get done, they, in some cases, probably wouldn't know. But they just don't like what they see and hear. You know, they're up to their eyeballs with all this name-calling, and "President Bush is a liar," or somebody else is this.

You're the historian. That may have happened a hundred years ago. I guess in a couple of cases, it got even pretty rough. But I don't know about the name-calling. I think there were more gentlemen then.

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Smith: It's almost as if there's a parallel universe. There's people going through the motions on Capitol Hill, and then there's this television and now Internet.

Dole: Yes. It's like living in Schumerville. This guy is on every network every night with some jibe at the President. I mean, the guy must stay awake nights thinking, "Now, tomorrow I can do this and this, and I can make ABC, NBC, and CBS."

Smith: And you didn't do that thirty-five years ago?

Dole: Not quite that way, no. We thought [Alphonse] D'Amato was pretty bad in front of a camera, but—well, I think we used to say that—

Smith: Is it something about New Yorkers?

Dole: Yes. Well, I think I said the most dangerous place in the capital is between "Chuck" [Charles E.] Schumer and a TV camera, but we used to say that about D'Amato, too. They're very aggressive; let's put it that way.

Smith: You do get a sense that it's performance art. I mean, that it's theater, and almost street theater, brought into the Senate.

Dole: Yes. Yes.

Smith: But it's feeding the cynicism and the anger.

Dole: Now, what is Congress rated 17 percent, 16 percent? And Bush is not much better off. But Harry Reid at 19 percent. I mean, this early he should be up high, and maybe he will. Who knows? But even though the American people are—I haven't figured out why they can be so much against Bush and at the same time be so much against the Democratic leader or Democratic Congress. I mean, it's sort of a pox on all your houses. They're just fed up, and I don't know how you put it back together. It's kind of Humpty Dumpty, you know.

Smith: How does it compare with the mood of anger, cynicism, whatever, say, coming out of Watergate? Is it comparable or is there something distinctive about this?

Dole: Well, it was pretty bitter in those days, too, particularly Watergate and then the Vietnam War. The McGovern-Hatfield Amendments—you're going to see [George S.] McGovern later—and the McGovern-Church Amendments, and then the McGovern-Cooper Amendments. Pretty tough debates, and I was generally on the other side, but I don't think it ever got down and dirty, you know. It was pretty tough debate.

Smith: But, you know, one difference—I don't mean to answer my own question. One potential difference is if you look at the seventies, you just answered it. You could explain people's unhappiness with specifics. They were unhappy over the war. They were understandably unhappy about Watergate or the pardon. It was specific. Now it seems to be much more systemic, just a general dissatisfaction with the system.

Dole: Well, except, I think, for Iraq. I mean, that's sort of the Watergate and the whatever. That's really polarized people. When you polarize the people, then you tend to polarize the elected officials, because, you know, they all put their finger to the wind and they take polls and they read editorials and they go to town meetings. And it's always much easier to be against something. You know, you can always find fault with the other side. And that's, one thing, I guess, if there's anything good about being in the minority, it's that you don't have any responsibility. You just have to show up and generally oppose whatever the majority is trying to get done.

That's particularly true now. But I can recall in the Clinton healthcare plan, when Senator [George J.] Mitchell kept us in part of August, which, you know, it's hard. These men and women want to go home when it's August. He had to pass the healthcare bill, but he finally gave up. It wasn't going to happen.

But I don't know. If somebody—maybe you've done this. You really sit down and take a look at it a decade at a time, there's surely been changes, because television and radio and blogs, not blogs, whatever, U-Tube. Anybody can get access. If I want to make the evening news, I just go out on the Senate floor and make some stupid statement,

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or maybe it might even be a smart statement. Less likely to get on the news, but that's the one-way ticket to the—

Smith: How did television—because you were on the floor, I guess, weren't you, when C-SPAN turned on the cameras? How did that come about?

Dole: Well, I give credit to Senator [Howard H.] Baker [Jr.], really, that really wanted the TV, and he had bipartisan support. Senator Byrd was opposed to it, and I think after Baker left, I came along and I kind of agreed with Byrd for a while, but then I decided and my colleagues decided we ought to do this. Senator Byrd had a lot of concerns about people who would grandstand and all this, but it really hasn't turned out that way. There's some people who speak every day. I think Senator [Byron L.] Dorgan, every morning he speaks, and he's probably got a regular following in North Dakota. But I like it. I watch C-SPAN when I'm home.

Smith: So on balance you think it's been good for the Senate.

Dole: Yes, I think it's good. And again there are people who really watch it, and I assume surely there must be some college courses given on political science and whatever, they probably watch C-SPAN and get a lot out of it. If you're really interested in an issue, you can get both sides.

Smith: Did you notice a change in terms of how people approached you after the cameras were turned on? I mean, just in terms of the man on the street kind of interaction?

Dole: Well, people might say, "I saw you on C-SPAN," you know, or something but I don't remember any big difference. Didn't we try radio first for a while, I think, in the Senate? We didn't want to make the big step, so we tried radio and then TV. It hasn't made the Supreme Court yet, but—

Smith: Do you think it's coming to the Court?

Dole: Probably it is. It'll be a while. Probably it should be a while. But I don't know; we're doing the public's business, so I guess you ought to be able to keep an eye on us. And I must think that people watching must think, "My god, what's this world coming to?" They're turning on the tube, and there's a quorum call, and they hear music in the background, and they keep looking for somebody who's going to say something, and nobody shows up. The quorum call goes on and on and on, and that little thing in the bottom says they're negotiating or something is probably happening. So I imagine the first-time viewer kind of wonders, "What are we paying these people for?"

Smith: Is it safe to say that most of the work of the Senate goes on—

Dole: In committees.

Smith: —off the floor?

Dole: Off the floor, in committees and then in little huddles in either the chairman's office or the ranking member's office or the Leader's office, particularly if you're trying to work together. In the committee, Finance Committee, Senator Long and I used to work together a lot. Senator [Daniel Patrick] Moynihan was great to work with when I was chairman. I think right now [Charles E.] Grassley and [Max] Baucus, nothing partisan there; they just agree with each other. There is more of a level of trust, too, I think, at the committee level. I'm not sure I'd say that about the Judiciary Committee, but—

Smith: Is that just because people work together more, spend more time working together?

Dole: Yes. I remember in the Ag[riculture] Committee, Senator [Allen J.] Ellender from Louisiana was chairman. Senator [Herman E.] Talmadge was chairman, too, from Georgia. They both had the same idea. All you wheat guys go over there and work out the wheat program, and you corn and cotton guys go over there, and dah, dah, dah, dah.

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Then you came back and you put it all together, the pieces, and you had a farm bill. As long as you weren't too greedy, you could get about anything you wanted in the farm bill, and the vote would generally be 20-0.

Smith: How has that changed?

Dole: I don't think it's changed much. As long as you're giving money away, it's pretty hard to vote against it, and farmers, they like to go to the mailbox to get their checks. A lot of it is deserved, but some of it, like any other federal program, it's gotten out of hand, without getting into—you know, we pay farmers now are getting \$4 a bushel for corn, an eighteen-cent per bushel subsidy, which was passed when the corn was \$2. Of course, now the market's taken care of it, but you can't take that away from them, because, you know, it's like taking somebody off your Christmas card list, you know. They're never going to forgive you. So that's the part that I think we need to worry about when it comes to leadership.

Smith: How do you kill a program once it's started?

Dole: I used to have a list of screwy programs, like they stopped raising cavalry horses at Fort Riley, Kansas, I don't know, not many years ago. They hadn't used a cavalry for I don't know how many years. They were still breeding cavalry horses. We had a little list of these crazy things that the government was still involved in. It's pretty hard, and every President, Democrat or Republican, liberal or conservative, will send the Congress a list of these programs that ought to be killed, and most every Congress, Democrat or Republican, will reject most of them, because there's always somebody, you know, somebody from Arkansas or California or Kansas or wherever, that has an interest in that program.

Smith: How about base closings?

Dole: Oh, base closing, yes. I remember when they closed the Schilling Air Force Base, and that was my first term in Congress in 1962. I was in the House, and I remember

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trying to reach my senators. But Senator [James B.] Pearson couldn't be found, and Senator Carlson said, "We only announce openings. We don't announce closings." [laughs] So there I was left, my first term, closing a big, big base in Salina, Kansas, the biggest city in my district, and it put a lot of people out of work. That was pretty tough, but it turned out all right. We worked hard on it and got a lot of other things moved into the airbase.

Smith: That's when John [F.] Kennedy is in the White House. Did that make a difference, that there was a Democrat in the White House and a Republican in the district?

Dole: I'm not even sure they had BRAC [Base Realignment and Closure] then. I don't know they closed it. But I don't think so. I think generally, you know, there was some thought that Clinton may have weighed in on a couple of California bases in one of the BRAC rounds. I don't think generally. I think Presidents keep their hands off, because they want to say, "Well, I'm sorry. I had nothing to do with this."

Smith: Is that your worst nightmare? I mean, as a first-term congressman, having a—

Dole: Oh yes, but Fort Riley is always on the list, and I figured as long as I was the Leader of the Senate, it was not closed. It's a good thing it didn't, as it turned out, with, you know, the Gulf crisis and other things that have happened since. We only have ten infantry divisions, and it's become a very important place. Without it, Fort Riley and Johnson City and other towns would literally shut down.

Smith: Were you ever in a room with someone, I mean, the secretary of defense or the President or someone, where something like this came up, and you said pointblank, "No"?

Dole: Well, I mean, I can't remember whatever secretary of defense it was at the time. I'd make the case for Fort Riley, because one of the problems was it was too small. We needed more acreage. We can't test our weapons, the tanks, dah, dah, dah, dah, dah. So

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we'd try to resolve all those problems and take away all the negative. But you always had your delegation, you know, from the area, and tears in their eyes and all; this is the end of the world if this happened. And it's partly true, but still you have to plead your case. I know Elizabeth [Dole] has six in North Carolina. None of them are touched by BRAC, but yes, it's tough.

Smith: Explain the BRAC process.

Dole: ]Well, it's a process where—I can't remember how many are on the BRAC Commission now. It's the base-closing commission, and it's nonpartisan, composed of—you know, I should know how it's selected. But they're given the responsibility to look at all the bases, and DOD [Department of Defense] makes recommendations; that's where they come from. “You can't justify this. You can't justify this.” Then all the delegations come in and make their case, and the so-called BRAC makes the final decision, like closing Walter Reed Hospital, which is something that we're looking at in our little Wounded Warrior Commission. How can you close a flagship hospital in the middle of a conflict when there's nothing to take its place? It doesn't make any sense. But it's pretty tough. I mean, very seldom are they overturned.

Smith: Well, what does that say to say? It's interesting because, in effect, Congress, and I suppose for that matter, the executive branch, has delegated that responsibility.

Dole: Congress gets to vote. I mean, you know, they have to vote on the Commission's report, but again, everybody who's been saved wants it to pass, so you can almost count the votes before they ever happen, because, “Oh, they didn't take my base; I'm for it,” dah, dah, dah, dah. So the few men and women in Congress who lost bases are not in the majority, so they lose.

Smith: In some ways isn't that almost a parallel with the blue ribbon commission? I mean, basically, it's a political process that says this is just too hot a potato to handle.



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Dole: It's like Social Security Commissions, you know. The only one that ever worked was the one in 1983, the one Senator Moynihan and I were on and Claude [D.] Pepper. Alan Greenspan was chairman of that commission. But that did work, and we did our job. Social Security is still good, and it's going to be good until 2017 at least.

But most of them, you appoint a commission, they report, and that's it. Don't call me; I'll call you. That's the end of it. Maybe a couple of little things get in, but it's a way to—you know, you don't have to make the tough choices. You blame the commission. "I'm not on the commission. Bob Dole was on the commission, or Pat Moynihan."

Smith: It just seems to a casual observer that over this period of time, as Congress becomes more and more gridlocked, there's more and more inclination to sort of—

Dole: Farm it out?

Smith: Yes.

Dole: Contract out? Yes. Yes, there's always that thought there. Maybe you just have the private sector take over most things and Congress just vote on it.

But you're going to be interviewing Senator McGovern. It's not a commission, but we had a Select Committee—that's another thing that was pretty popular; it's not so popular now—on Nutrition [and Human Needs], and just that one committee, you know, changed the whole face of how we look at hunger in America and around the world.

Smith: How did it come into existence, the committee?

Dole: Appointed by the Senate—I think Senator [Mike] Mansfield was the Leader then—urged by Senator McGovern and others. I was on the committee. That's how McGovern and I ended up working together on all these different programs. He's the real leader. I'm just a disciple. In fact, he celebrates his eighty-fifth birthday Saturday, tomorrow. He just lost his wife, as you know. Apparently he's lost quite a bit of weight. He's just not coping with it too well. Maybe you can cheer him up at three o'clock.

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Smith: [laughs] I know your time is limited, so let me just get back to a couple of things on the Court. Roman [L.] Hruska—

Dole: New Yorker. We need—

Smith: Tell us about Senator Hruska.

Dole: I think he made—wasn't it a speech on the floor or something, about mediocrity?

Smith: [laughs] That there are lots of mediocre people, and they deserve—

Dole: They deserve mediocrity, and I think it was Carswell or some of them.

Smith: Yes, it was G. Harrold Carswell.

Dole: They had mediocrity, he had the right nominee.

Smith: Did you know then that Carswell was—well, that he was kind of third-rate?

Dole: Yes. Yes, I don't think I was too disappointed when we lost. I was with Haynesworth. He was a Democrat, by the way. I don't think politics was—he was a conservative Democrat. But Carswell, yes. Senator Hruska is a very bright lawyer, you know, and I don't know how he came up with this statement. I guess he figured if this is a mediocre nominee, it probably a lot of mediocre people out there, so he'll fit right in.

Smith: I wonder if sometimes partisanship demands too much. [laughter]

Dole: Yes, sometimes you kind of have to hold your nose, or either that or when you're making a speech, kind of cross your fingers and say, "I hope nobody's listening." But you have to carry the flag. Particularly if you're the Leader, you have to carry the flag. If you don't, they give the flag to somebody else. I voted for a lot of things just to help

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somebody out so they'd at least have a few votes for their amendments. So did Senator Mitchell and others, both parties. So the Leader takes a few hits.

Smith: Then, of course, you have the Bork nomination, which really is a pivotal moment in this whole history.

Dole: Yes, that sort of, and the Anita Hill thing and everything that followed, the [Clarence] Thomas thing. There's even a few new words in the dictionary, I think, *borked*. Bork was, well, obviously, as you know and everybody knows, he's very erudite, intelligent, a scholar, but he's too conservative.

Smith: There's also the suggestion that he really wasn't a very good witness.

Dole: Yes, well, I think that, you know, he should have gone to charm school somewhere, at least for a day, or maybe just go for a whole week. But I think he felt so strongly about his views, I don't think he—maybe arrogant is too strong a word, but I think he just felt so confident, maybe he was just overconfident that he was right and that he knew the law better than all these so-and-so's up there on the Committee. It was a pretty brutal session.

Thomas would have not made it had it not been for Senator [John C.] Danforth, because he had worked for Danforth, and then Danforth was there. For every minute of the hearing, there was Senator Danforth seated right behind Thomas when Anita Hill was up there. He was up there every day. Danforth was a moderate conservative. He had friends on the Democratic side. And we wouldn't have [David H.] Souter without Senator [Warren B.] Rudman.

Smith: Well, see, that raises the question, I mean, are there members of the Senate who have this credibility—

Dole: Yes.

Smith: —that can shield to some degree a controversial nominee?

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Dole: Sure. I think they're two good examples. There are probably others, I'm trying to think. But certainly Danforth, and I think [John E.] Sununu and Rudman, the two of them picked Souter. It turned out to be a big, big mistake, although Rudman still argues with me that he's a conservative. I'm waiting. But Rudman brought him around to your office, and Sununu was at the White House, and this is a great guy, and they've known him for years, and he had a flawless record. He was a strict constructionist, without getting into details. You know, Senator Rudman is one of our outstanding senators, right? Good friend; take his word for it.

Smith: Was that payback to Sununu for what he had done in the New Hampshire primary?

Dole: Well, he deserved something. I think payback was getting a job in the White House; chief of staff, I think that was the big payback. It wouldn't have happened had I been elected, but I'm trying to think of another case where a Democrat or Republican senator—of course, in Steve Breyer's case, you know, Ted Kennedy, he had worked for Kennedy, and Kennedy has got a lot of friends on both sides. You know, all these people have friends. We read so much about the partisanship.

But, yes, if you've got a Ted Kennedy walking around with you or Warren Rudman introducing you to these different senators, particularly on a committee where he serves and you serve, it makes a difference.

Smith: And the notion, as long as I've been around, at least, I've been hearing Orrin Hatch wanted to be on the Court. I mean, is it true that—it sure didn't work with John [G.] Tower.

Dole: No.

Smith: I mean, what is the rule about—

Dole: Former senators?

Smith: —senators, yes, senators being shoe-ins?

Dole: I always thought Tower was held to a little higher standard, maybe. I shouldn't say "higher"; he was only five-foot-two or whatever. But because he was accused of being a drunk and—

Smith: Was there a certain amount of hypocrisy?

Dole: I thought there was quite a bit. In fact, I wanted to bring—and the White House wouldn't let me—I wanted, which you have a right to do, is to bring Tower into the Senate and let him speak for the defense, but they didn't want to do that. Because I thought we could still salvage Tower's nomination. The person who really probably sealed his doom is really one of his friends, Sam Nunn, who's a good, good person, good senator, and he just didn't think, you know, for whatever reason. But to measure what kind of a guy he was, when Tower—when they had the memorial service, there was Sam Nunn right on the front row.

Smith: What was Nunn's objection? It was genuine? It wasn't protocol?

Dole: Yes, it was genuine. No, Sam Nunn, I think, you know, in nearly every case I can recall, is a pretty straightforward guy. But I think he probably had some concerns about if you had a problem or even a perceived problem with alcohol. The secretary of Defense makes some pretty important decisions, and you want him to be really clearheaded at the time. But I know at least one senator who had the problem himself who was condemning Tower, so you find a few of those around.

Smith: Hypocrisy aside, was it a legitimate concern? I mean, obviously Sam Nunn thought it was. In Tower's case, was it? And is it a rule that should be applied? Are there certain jobs where it applies and others—

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Dole: The way things—you know, Senator [Christopher J.] Dodd voted for Tower's nomination, because when Senator Dodd's father [Thomas J. Dodd] was censured, Tower voted against it. So, you know, you have to go back. There's always somebody that's got a motive, which may be a good motive; I'm not saying they're bad, but some reason. Ten years ago this guy befriended me or something.

Smith: And did Tower—because Tower's kind of a prickly guy.

Dole: Oh yes. Yes.

Smith: I mean, he was not “Mr. Congeniality.”

Dole: No. Very smart, again; very bright. Didn't suffer fools. Yes, he could cut you off pretty quickly. But he and [Barry M.] Goldwater were great buddies, you know. Goldwater could cut you off pretty briefly, too, with his cane. But it was kind of a blow, you know. I think the only good that came of that is—and I'm not being selfish about this, because I was a big Tower supporter. We were fraternity brothers and all that stuff, Kappa Sigmas. He was one of these guys that took part in all these—he'd go to all these conclaves, speak to college students, even though he'd been out of college for years. I mean, he really was a good person in a lot of ways.

But there was always that question that, you know, after [George H. W.] Bush won the primary and I lost, that if I had won the election, that I wouldn't be a good leader. It's always something. I think my efforts in the Tower nomination kind of washed that over.

Smith: Yes, because that was also right out of the bat. I mean, it was a first test for the President.

Dole: Yes, it was pretty tough to lose one of his—well, a good friend, plus somebody he felt was qualified.

Smith: Was he angry? I mean, did you see—

Dole: I don't remember. You know, I'd have to guess, but I would be. They knew Tower pretty well. I mean, he knew John Tower. But let's face it; Tower had a problem, and his problem cost him a job.

Smith: Go back to Bork, because at that point you were obviously in the leadership position. I assume Judge Bork came and sat down and talked with you.

Dole: He and his wife, too. She was there. In fact, she went, I think, to every office with him. She's a lawyer, too. I think there was some—I don't think Judge Bork, but there was some little rumor at the time that I wasn't working hard enough on the nomination or something. I mean, something got back to me that somehow Bob Dole is lukewarm on this nomination, which wasn't the case. I don't know whether Bork ever felt that way or not, but—

Smith: What do you talk about in those meetings? I mean, we see those meetings. I mean, do you sort of give them advice about the confirmation process?

Dole: Yes. What I would do is I would generally be the first one the nominee would see when I was the Leader, and generally they'd send an escort, Tom [Thomas C.] Korologos or somebody the White House picked, who knew the ropes and knew the senators. But, you know, I couldn't lecture him on the law. I mean, these guys, these are experts. I could tell him a little bit about the Senate and what I thought about who he ought to obviously see first. If I knew something that might give him an "in" with certain senators, about where you're from, anything like that. But most of it's just happy talk, you know, congratulations, good luck.

[Anthony M.] Kennedy, I remember Kennedy, too, who has turned out to be the swing person on the Court. I never could quite figure out where he came from or how his name bubbled to the top.

Smith: Well, remember, people forget [Ronald] Reagan had two failed nominees, because there was Judge Douglas [H.] Ginsburg in between.

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Dole: Oh, that's right. Yes.

Smith: And he went up in smoke, literally.

Dole: Cocaine.

Smith: Marijuana.

Dole: No, marijuana, yes.

Smith: Marijuana, and so he disappeared. I think they needed to find someone fast.

Dole: Yes, and that's how Kennedy arrived.

Smith: Yes, and Kennedy was the third choice.

Dole: Californian, so maybe that helped.

Smith: Yes. [Antonin] Scalia couldn't be confirmed today, could he?

Dole: Today? I doubt it. Oh, today, no. I mean, he might have; not since the election.

Smith: But I mean, to make you go back and look, he was confirmed unanimously.

Dole: In where?

Smith: He was confirmed unanimously, Scalia, when he was nominated.

Dole: Oh yes.

Smith: I mean, can you imagine nominating a Scalia?



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Dole: Yes, but I mean, the point is that, you know, if the man or woman is well qualified, he can have a different philosophy, and the fact that I don't agree with your philosophy doesn't mean you're not qualified. So apparently that was—because Scalia could dazzle people with his knowledge, you know, and he had a pretty good sense of humor. In fact, I remember a House delegation calling on me in 1996, wanting Scalia on the ticket. I thought it was a good idea.

Smith: Were any feelers ever put out?

Dole: I think it was John [A.] Boehner, come to think of it, the present Republican leader. Well, apparently they had done a little checking around. I don't know whether Scalia had ever mentioned it or whether they just thought it was a great idea. You know, the Catholic vote, conservative, because there were some that didn't quite trust me all the way on the right, which is a plus. Interesting.

Smith: It was an interesting idea. What did you do?

Dole: I don't think we ever got down to checking him out, but, you know, we kept a roster.

Smith: I mean, did you have reason to believe he would have accepted if—

Dole: I kind of felt in my gut that they wouldn't have come to me unless they'd had some—it would have been interesting. I don't know. Where's his home state?

Smith: Good question. Don't know.

Dole: I think he lives in the District [of Columbia]. I don't know.

Smith: Yes.

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[End of interview]

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