



## The Election of 2004 – Collective Memory Project

**Interviewee: John Ryder**

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**May 2, 2014**

Q: John Ryder, you, at the time the 2004 election year began, you were in your 8<sup>th</sup> year as a member of the Republican National Committee from Tennessee. What does the Republican National Committee do in elections?

RYDER: Well, I was finishing my second term. National Committee members serve for four-year terms from convention to convention. So my term actually ended at the end of the convention in New York. At that point in time, on the National Committee I was vice chairman for the Southern region and involved in, thereby, on the executive committee of the RNC. The RNC, like any party organization, assembles and trains volunteers, and warehouses them in the sense of maintaining lists and maintaining their availability to be put into service at -- during the campaign. It can provide a messaging platform for the party's principals and in support of the candidate. And there is a certain amount of joint fundraising that the national committee can do with a presidential campaign which no other party organization can do.

Q: So the connection between the party organization, the RNC, and, say, the Bush -- let's start with the first Bush election campaign. What was the RNC doing in 2000, the first time George W. Bush ran?

RYDER: Well, it was interesting because George Bush obtained broad support [00:02:00] from within the RNC during the nomination process-- that is, members of the RNC



endorsed him in large numbers. So there was always a good relationship between President Bush and the RNC. And that worked well. In 2000, when you're coming off a period where you're not the party in power, then the RNC does -- and the DNC would operate similarly -- the chairman becomes the spokesperson for the party and attacks the incumbent president of the other party, appears on the Sunday talk shows and dishes up the party line. But you're also beginning to assemble and refine the resources that will be put into play in the campaign. And that may be data, it may be lists of volunteers, [00:03:00] lists of donors, the structural apparatus that can be deployed in the course of the campaign.

Q: And is the focus of the national committee on the presidential election or on -- or does it include the other elections that are going on in conjunction with the presidential election?

RYDER: To a great extent, the primary focus of the national committees is on the presidential level. Remember that under the Federal Election Campaign Act there are three recognized federal committees: the national committee, the national congressional committee, and the national senatorial committee. So the senatorial and congressional campaigns have their own committees that focus primarily on those races. And then you have the Republican Governors' Association which focuses primarily on governors' races. So the RNC is the only entity that focuses principally [00:04:00] on the presidential.

Q: And do you work together with these other --

RYDER: Absolutely.

Q: So for example, in 2000, was there any effort to knit together the Bush for President campaign with the various Republican campaigns for Congress and governor and so on?

RYDER: Yes, and even more so in 2004. And interestingly, the liaison in 2004 between the Bush campaign and the senatorial campaign was Senator Bill Frist of Tennessee. So that created a very important nexus between the senate and the presidential campaign.

Q: Who, at that time, was majority leader of the Senate, am I right? In 2004?

RYDER: I'm trying to remember whether he became -- yeah. Yes.

Q: After the '02 --

RYDER: The -- yeah, when we picked up a couple of seats in '02 to switch it back. After [Jim] Jeffords had switched in 2001 [00:05:00] to switch it, it was -- remember, after 2000, it was 50-50 and Vice President Cheney would have broken the tie for purposes of organization. Then Senator Jeffords of Vermont switched parties, which gave the



Democrats a brief majority. Then the Republicans picked up two seats in 2002 to regain the majority.

Q: And then Trent Lott said something, indiscreetly, complimentary about --

RYDER: Strom Thurmond.

Q: -- Senator Thurmond.

RYDER: Well, he said something -- yes -- indiscreet about -- not well thought out. The words were not well chosen. (laughter)

Q: And -- and so Lott resigned as Senate majority leader and Frist was elected.

RYDER: That's correct.

Q: Republican National Committee, Republican National Convention --

RYDER: Well, the National Committee is the host organization for the National Convention. [00:06:00] So the Convention is organized by the National Committee and under the direction of appointees and employees of the National Committee.

Q: I'm thinking, though, that once it's clear who the party's nominee is going to be -- which is usually well in advance of the Convention -- doesn't the -- didn't the Bush campaign essentially take over and program the events of the Convention? Or is that overstating it? Did the National Committee continue to play an active role in that?

RYDER: In terms of the content, the programmatic content of the Convention, yes. The campaign tends to dictate that content to fit with the message it wants to present to the American people during the week of the Convention. The -- but the underlying logistical [00:07:00] structure is largely still under the control of the National Committee.

Q: Logistical structure meaning...?

RYDER: Who gets the suites and where are the parties. (laughter)

Q: I was thinking more like where it'll be and when it'll be, but...

RYDER: Well, that's decided -- yeah, that's decided well before the primary season starts. The typical cycle is that the site selection committee is formed two years before the presidential election. So for the 2004 cycle, the site selection would have been created in 2002, would've reported its decision by the summer meeting in 2002 -- in, say, August of 2002 -- or possibly January of 2003. But the decision about where to hold the convention would have been made probably not later than January of 2003.

Q: Is it different when you've got a [00:08:00]-- when you don't have an incumbent president running for reelection, which was the case in 2000? And when you do have an incumbent president running for reelection, as you did in 2004.

RYDER: Well, there are a number of things that are different. The National Committee tends to be fairly autonomous when the -- its party does not control the White House. That



is, the members actually have meaningful debates and decide what their policies and their budget and their chairman is going to be. When your party is in control of the White House, then the National Committee tends to respond to the needs of the White House and gets its marching orders, by and large, from the White House Office of Political Affairs. I mean, there's a very close degree of coordination between the political office in the White House and the National Committee. [00:09:00]

Q: I'm thinking about 2000. That was an election that wasn't really decided for -- until five weeks after Election Day because of the controversy over how Florida had actually voted. Did the RNC play any role in that series of events that took place after Election Day?

RYDER: Not so much as the RNC. Of course, you had lawyers for Bush-Cheney, which was an arm of the campaign. And that group was fairly active in deploying lawyers. And that goes back to what I was saying earlier about the National Committee's warehousing and refining resources that can be deployed. Obviously, in the post-election [00:10:00] litigation frenzy that took place in 2000, one of the principal resources to be deployed was lawyers, and so to the extent that the RNC had and could identify the names of lawyers with knowledge of election law or good litigators who were lawyer -- loyal Republicans, they can pass that information on to the recount effort at the Bush campaign.

Q: Were you involved in that in any way?

RYDER: Not seriously. Just as a bystander.

Q: And in 2000, what was your involvement in the election more generally?

RYDER: Well, the -- and 2000 had a couple of, I think, dramatic consequences. One was that since 2000, there has been a dramatic spike in the amount of post-election litigation at all levels. And, [00:11:00] you know, to a large extent, what happened between Gore and Bush opened the floodgates for challenging elections. Before 2000, there was very much a sense of following the example of Richard Nixon in 1960, of saying well, it's close but I will not put the country through the difficulties of recounts and post-election litigation. Al Gore did not choose that path and, as a result, lawyers have now coined the phrase "winning beyond the margin of litigation," because any election that's close enough is going to be litigated. And so you've had a many-fold increase in the volume of post-election [00:12:00] litigation. There's a whole specialty of law that has risen up to deal with that. And in fact, the Republican National Lawyers' Association really came into being out of the Bush-Gore recount effort. And the veterans of that organized an entity, separate and apart from the RNC, to train lawyers in election law, educate them on the problems of election lawsuits, and then



maintain lists and structures so that people can be deployed as needed during an election cycle. And those people were available in 2004.

Q: I was going to say, so in the lead up to 2004, you were prepared.

RYDER: That's correct. And we had some litigation. We had some in Ohio, I recall, involving I think the way -- [00:13:00] the manner in which provisional ballots were counted in Ohio. And this is typical of the type of thing that would happen is this litigation moves extremely quickly because the time limits are so short. So Friday before the Tuesday election Democrats in Ohio challenged the rulings of the Secretary of State of Ohio on how to count provisional ballots.

Q: And what are provisional ballots?

RYDER: Well, a provisional ballot is if you show up in your -- in a precinct and present your identification for purposes of voting and they check you against their roles, and discover that you are not -- they have no record of your registration there. And you say oh, yes, I live in this precinct, and I'm entitled to vote here. Rather [00:14:00] than leaving, you can cast a provisional ballot which means, basically, you mark a paper ballot, it's put in a sealed envelope, and it's counted after the election, at a time when the election officials have more time to validate your address, to determine whether or not you really do live in the precinct in which you're trying to vote. So the question arises from time to time as to whether those people should be voted on the machine, whether they should be voted provisionally, and under what circumstances do you vote provisionally rather than voting on the machine. Remember, if you vote on the machine, the vote can't be erased. If you vote provisionally, that ballot can be held out, and if you're not a legitimate voter in that precinct, your ballot can be disallowed. But if you voted in the machine, your vote can't be disallowed, even if you were not entitled to vote in that election. So that's part of the issue. The rules for counting [00:15:00] or the -- for determining the circumstances under which voters would be required to cast provisional ballots in Ohio was challenged. I believe the suit was filed on Friday before the Tuesday election.

Q: By Democrats?

RYDER: By Democrats.

Q: Because the Secretary of State in Ohio is a Republican?

RYDER: At that time, yes. And the matter was decided in a district court in Ohio and appealed on Saturday to the 6<sup>th</sup> Circuit Court of Appeals in Cincinnati.

Q: These are federal courts?

RYDER: These are all federal courts. Which agreed to receive briefs on Sunday. We -- people in Tennessee were asked -- two lawyers in Tennessee who were members of the



Republican National Lawyers' Association were asked to file an *amicus* brief in support of the Ohio Secretary of State, which was filed on Sunday or Monday morning.

[00:16:00] And the case was decided by the 6<sup>th</sup> Circuit on Monday afternoon, on the eve of the election. But that illustrates the timeframe and also the ability of these national associations then to call in legal resources from all over the country.

Q: What I remember is that people expected Ohio to be perhaps the decisive state. And arguably, it did turn out to be the decisive state. So how did the court rule and did that ruling affect the voting in Ohio?

RYDER: My recollection is that the court ruled against the Ohio Secretary of State and in favor of the Democrats, and it did not change the result in Ohio, which was carried by Bush in 2004. And Ohio's an interesting example of what Bush was able to accomplish in 2004. Because he obtained the votes of [00:17:00] a significant percentage of African American voters in Ohio. I think it was between 15% and 20% of African American voters in Ohio.

Q: That was a year when Ohio had a same-sex constitutional amendment on the ballot, in other words, an amendment that proposed to make same-sex marriage unconstitutional in Ohio or something along those lines. Did that help drive the Republican (overlapping dialogue; inaudible) --

RYDER: That -- it could have, although the analyses of those votes is kind of mixed in its conclusions as to whether that helped or hurt Republicans. I mean, it turned out -- undoubtedly turned out additional voters but had -- they didn't necessarily split all one way. They didn't -- it wasn't all Republican.

Q: So how did Bush get -- how did Bush get 15% to 20% in Ohio?

RYDER: By working with the African American community out in Ohio. And because there was -- (laughter) there were -- [00:18:00]

Q: What does that --

RYDER: -- African American Republican leaders in Ohio. For instance, the secretary of state at that time was Ken Blackwell, former Mayor of Cincinnati, a very active and very conservative Republican. So you had both support from the White House and, I think, then you had -- you combine that with indigenous black Republican leadership, and that creates a fairly powerful example and powerful vehicle for voters to express themselves through the Republican Party. One of the things that helped Bush in the African American community was his support of faith-based initiatives. And that's important in the black community. That is a tremendous source of social services in the inner city. [00:19:00] You know, there are a lot of people who think that faith-based initiatives accomplish a lot more in dealing with the problems of inner cities



than do government initiatives. But those -- he was supporting the people in the community dealing with the problems of the community. And he was rewarded by the respect accorded him for that initiative.

Q: That's interesting because all the focus in 2004 is on how well Bush did among Latino voters.

RYDER: Well, and he did well there. I think 40%, 44%, so.

Q: Let's talk about the lead-up to 2004. And I guess, one thing I'm interested in general - and your perspective on the RNC would enable you to speak to this -- [00:20:00] did the Republican Party, the National Republican Party regard President Bush during his first term as somebody who was interested in seeing the party succeed?

RYDER: Yes. And there's kind of a mixed message here. I mean, he was very close to a lot of the members of the National Committee. And in --

Q: Why was that?

RYDER: Because they supported him in the primary; they'd been with him from day one. And so he had a good personal relationship with a lot of the members.

Q: Did this have anything to do with his father having been RNC chair, and having been president, and so on?

RYDER: Some. I mean, there was some carryover from his father's service, although that had been, what, in the '70s?

Q: A while. (laughter)

RYDER: Yeah, that had been, you know, we're talking 25 years -- a whole generation -- earlier. And you know, and the turnover on the RNC [00:21:00] is, you know -- it's, like, about 25% every four years. Twenty-five to 33% turnover.

Q: OK, let me get (overlapping dialogue; inaudible)

RYDER: So back where we were going is the relationship with the RNC. A large number of RNC members ultimately became ambassadors under Bush. Slovakia, the Czech Republic, Tanzania, Luxemburg. I mean, I can think of three or four people which obviously was a nice reward for those people, for their service. And clearly had not happened during the Clinton administration, (laughter) as one would expect. On the other hand, there tended to be a sort of cycling through of chairmen. [00:22:00] Because we went through half a dozen chairmen during the eight years that George Bush was president. And that did not preserve the level of stability that is helpful to an organization.

Q: How much of that happened during the first term?

RYDER: I'd have to go back and look at the terms. But I think we went through Jim Gilmore from Virginia and Marc Racicot from Wyoming and then wound up with Ed Gillespie at



the time of the election. And then after that, we went through the – [Mel] Martinez from Florida, and that was a temporary that he -- and we wound up with Mike Duncan from Kentucky, who'd been a longtime member of the National Committee -- and he's still on the National Committee -- and he served very ably as chairman [00:23:00] during the last, in 2008.

Q: Where was Ken Mehlman in this?

RYDER: And I'm trying to remember whether -- did Mehlman serve as chairman? I think he did, for one period of time. And I think Mehlman was there as chairman and Maria Sino was deputy to the chairman when he was there.

Q: Well, in addition to the kind of personal relationships that Bush had with RNC members and the rewards he gave some of them in the form of appointments, was there a sense among RNC members that he was interested in helping them -- their candidates back in their home states succeed?

RYDER: Yes, very much so. Very much so. I mean, he was very supportive of the party and helped the party raise its money, and helped states perform their functions as well.

Q: Is that unusual, for presidents to--because the line on some presidents is that [00:24:00] they're interested in the National Committee to the extent that they can use it, as opposed to helping the National Committee to help build the party from, you know, top to bottom?

RYDER: Well, he's the only president I've had direct experience with -- only Republican president I've had direct experience with. So you know, he was very, very supportive of the party. But I suspect it's -- you know, if you look back, it's, like, -- and if you look at the other party and their relationships with the National Committee, it's like anything else, it varies by person. Some people are going to be very supportive and others are going to be more White House-centric. There is a tension there. Is -- you have the White House -- the presidential campaign team, [00:25:00] which is not the RNC or the National Committee team. And so they have their agenda, which is to elect the guy they're working for. And the National Committee's agenda is a much broader agenda involving 50 state parties and a multitude of candidates. So the -- there can be some tensions there. And then if the presidential campaign team is successful and they get in the White House, the White House tends to consider itself the center of the political universe and tends to view everything as being in orbit around it, including the National Committee.

Q: And you think that was true, in general, during Bush's first term? --

RYDER: I think that's true in general.

Q: You think it's true in particular, Bush's first term?





- RYDER: I think Bush [00:26:00] was probably a little more deferential to the National Committee than most presidents are.
- Q: Well, he -- I think I've seen data that he -- in the 2002 midterm election, when he wasn't on the ballot, but a lot of Senate seats and all the House seats and a lot of governorships were on the ballot -- that he made more campaign appearances and raised more money for those -- for his party's candidates than any other president in history. Did any of that manifest itself in Tennessee, where you had a Senate election and a governor election and so on, in 2002?
- RYDER: Well, Tennessee, like a lot of the South, was undergoing this tremendous transition to the Republican Party. And you know, it's a transition that started probably as early as the 1950s, when Eisenhower was able to carry [00:27:00] Tennessee, Virginia, Texas, and Florida. Between the two elections, he carried all four of those states at one time or another. And then, you know, it grew over the years, and sometimes slower and sometimes -- and then it became a torrent, really, after 2008, and in 2010 particularly. But in 2004, you could see a lot of this transition in the South happening. So presidential support, while valuable in raising money, was not as critical in Southern states as it was in some other states.
- Q: There was -- there were stories that in '02, White House staff members intervened in some Republican nominating process [inaudible] state candidates. And I remember that year there was a primary between Lamar Alexander and Ed Bryant, [00:28:00] seeking the Republican nomination. Did you feel -- did you get any sense of the White House had a thumb on the scale in that primary contest, to help Alexander?
- RYDER: As co-chairman of Ed Bryant's campaign, I -- we felt some pressure from (laughter) Washington on that. And to an extent, you know, Ed was able to run against Washington and say, "I'm not part of that crowd."
- Q: So how -- felt the pressure in what (inaudible)?
- RYDER: Well, in terms -- you feel it most emphatically in fundraising. Is, you know, there are donors that are going to be more aligned with the -- they're going to be very responsive to indications [00:29:00] from the White House that they're supporting Alexander, and a challenger candidate, and you really almost have to view Ed Bryant -- Congressman at that time -- as being a challenger because Lamar Alexander had been governor and secretary of education, and he was virtual incumbent when he was running in the primary. So it was an uphill race and that means that you have to get the kind of money that you get when you're running an uphill race. And that's harder to raise. But that's where you feel it most, is in fundraising.
- Q: Why do you think the White House wanted to see Alexander be the nominee?



RYDER: They thought he had a better chance of winning in November.

Q: And the Republicans did pretty well in that -- in fact, that --

RYDER: They did indeed.

Q: Having lost their majority in the Senate when, as you mentioned, Jeffords defected, they regained it in [00:30:00] '02. Something else that happened during Bush's first time was the passage of bipartisan campaign reform act known universally as McCain-Feingold.

RYDER: Yeah, poor Chris Shays gets no credit for that, or blame, as the case may be.

Q: He was the House --

RYDER: He was the House sponsor, yeah.

Q: -- sponsor? I've got several questions on this and maybe I can just package them into one or two. One is what was the problem to which McCain-Feingold was intended to be a solution? And then, what were the consequences of this new campaign finance legislation for the parties -- for the political parties?

RYDER: Yes. Well, the problem that McCain-Feingold was attempting to solve is a pure fantasy in the minds [00:31:00] of people like Common Cause and the media and John McCain, and does not exist in the real world. And the problem that they thought they were trying to solve is that there's an enormous amount of money in politics. And as I think George Will has pointed out from time to time, manufacturers spend more money advertising pet food annually than the combined total of all political campaign spending in a presidential year. And one would think that the fundamental issues of democracy in this country are somewhat more important than pet food. But, nonetheless, [00:32:00] there's a group of people who think that money in politics is a terrible thing. And the problem with that theory is that money is like the Mississippi River, which we have blocked from view in this interview, but (laughter) the Mississippi River -- you can put a dam across the Mississippi River and you're not going to stop the water from flowing down to the Gulf of Mexico. Now, you may flood the State of Arkansas and you may divert it somewhere else, or you may back up some tributary, but you're not going to stop the water from flowing from north to south and you're not going to stop the flow of money into politics. As long as political actors are making decisions that affect the lives of American people -- and that's what they do -- the American people, in various permutations and combinations [00:33:00] and organizations, are going to funnel money into the campaigns that select the people who act upon them. So what McCain-Feingold did, by banning soft money from the -- banning -- prohibiting the National Committees from soliciting or receiving unlimited contributions -- commonly called soft money contributions -- was to divert



the flow of those soft money contributions to non-party organizations. And so you had --in 2004, you had the beginning of the phenomena of the outside groups -- the 527s, so-called because of section 527 of the Internal Revenue Code, which permits a political organization to raise money without disclosing [00:34:00] much about them - - and spending in unlimited amounts. And that was this Swift Boat Veterans for Truth that ran attack ads against John Kerry as independent expenditures -- because they can't be coordinated with the Bush campaign and they can't be coordinated with the National Committee. So you've got these free actors kind of roaming around in the atomic universe of politics, spreading their own message. That trend has accelerated since 2004. And you've had a proliferation of 501(c)(4)s and then the Super PAC concept. And so you have a situation like you did in the 2012 Republican presidential primary, where one single individual -- Sheldon Adelson, from Las Vegas [00:35:00] -- was able to send tens of millions of dollars through a super PAC in support of Newt Gingrich as a candidate for the Republican nomination. And I do not think this is healthy for the American political system. I think we would be much better served if all that money were coming through the National Committee. And that's because I think what political parties -- when they do their job right -- is they aggregate, mediate, and moderate various interests. Parties are coalitions of interests; they are not interests themselves. So in the Republican coalition, you have people who are strongly in support of Second Amendment rights; that's their principal policy initiative. You have folks who want low taxes. You have folks who want less regulation. You want people -- [00:36:00] you have people who are opposed to redefining marriage to include same-sex relationships. So you have all these different interests and they come together, aggregated in un-- in one organization. And they often have to sit down at the table together and kind of mediate their differing priorities, and allocate resources based on the priority of winning as a coalition and not just winning as an individual interest. The other thing that happens when you have this aggregation is that because the coalition that is a national party has a long-term view of things, it's not looking out just to this election. It's looking out to this election, and the election after that, and the election after that. You know, both of our political parties have now been in business in this country for over 150 years. [00:37:00] They have a long -- a far horizon that they're looking at. The campaigns look only at the next election. And it's amazing the number of these super PACs, 527s, and 501(c)-- 501(c)(4)s that spring into being in an election year and then dissolve by December; they're gone. They're like, you know, toadstools after the rain. And so what you have -- and so those outside groups behave, I think, like the factions that James Madison identified



in Federalist number 10. You know, it's a small group acting contrary to the public interest. And I think that when you can get all those factions to operate together as part of a coalition, I think it's much healthier for the politics of America. So I think that that aspect [00:38:00] of McCain-Feingold was very injurious to the American political system.

Q: So in 2004, as a result of McCain-Feingold, the parties couldn't raise as much money --

RYDER: That's right.

Q: -- and how did that affect the ability of the Republican National Committee to do its job? What were -- what weren't you able to do that you would have been able to do if that law hadn't been passed?

RYDER: Well, you have a number of impacts. Number one, it makes an enormous amount of work for lawyers, trying to figure out how to get around the restrictions (laughter) of McCain-Feingold. And what it means is that instead of the National Committee raising money for a national convention -- and a national convention is a hugely expensive project. You know, \$50, \$60, \$70 million. But instead of the National Committee raising that money -- because remember, the officers of the National Committee cannot solicit soft money contributions for anything. So instead of the National Committee doing that, you have to create a host committee, which is a separate entity. And it can raise soft money. But then it can't spend that money on the political aspects of a convention. So you have to separate who's paying for what. And it became-- it's really fairly artificial. But it's all about, you know, how many accountants can dance on the head of a pin and satisfy the requirements of the Federal Election Commission and their staff of lawyers and accountants. So that's -- you know, that's a typical example. The other things is, is soft money would have been used to do data builds, [00:40:00] turn out the vote efforts, some mass communication. And instead, that has to be done either directly through the campaign or it ends up being done by these independent groups who, by law, cannot coordinate their message with the candidate. So you get -- if you're a candidate, this is horrible. Because you've got a plan to get your message in front of the American people: who you are, what you stand for, what you want to accomplish if you get elected. And you've got somebody else out there who has a different agenda, but a lot of money, putting out a message about what they think you ought to be doing or why they're -- or attacking your opponent in a way that you find unseemly. So it's a nightmare [00:41:00] for the campaigns and it's not healthy for the national parties.



Q: Well, you mentioned the Swift Boat Veterans for Truth attacking John Kerry right after the Democratic convention, at which he had sort of asserted his national security credentials based on having been a Vietnam War veteran and so --

RYDER: Well, John -- yeah, John Kerry tried to have it both ways. I mean, you know, he had made -- he had made his political career on the fact that he was a young Vietnam veteran opposed to the war, and famously testified before Congress in opposition to the war, and was, in essence, a war protestor during the war. Not all of his colleagues in the Army appreciated the position he took back in 1970. So when he came to the Democratic National Convention and tried -- you know, and said, you know, "John Kerry reporting for duty," and tried to assert his military bona fides, the people who were offended by his attacks on the military -- or what were perceived as attacks on the military back in the '70s -- threw that back in his face.

Q: What my question is, did that add -- help the Bush campaign?

RYDER: I think it -- well, I think it emphasized the contradictions in John Kerry's own career.

Q: So here was a case where --

RYDER: So that was helpful.

Q: So here was a case where the independent group did something on the -- on behalf of (inaudible) --

RYDER: Well, no, not on behalf. They did something to vent their own frustrations with John Kerry, which -- from which Bush was able to benefit.

Q: So you don't think their purpose was to help President Bush win the election?

RYDER: Well, I don't -- I wouldn't know that. I couldn't have coordinated with them. (laughter)

Q: And you know, most people are somewhat cynical about the idea that there's no coordination between the official campaign and these independent groups posting advertisements on behalf of that candidate? Is that a suspicion that is warranted by the (inaudible)? Is there -- are there sort of behind-the-scenes conversations taking place about, "Here's what we're planning to do," or "here's what would be helpful for you to do," or anything like that?

RYDER: Well, I mean, everybody in Washington breathes the same air, drinks the same water, goes to the same watering holes, and, you know, eats the same steaks. So you know, there's certainly a lot of common conversation. [00:44:00] But people are pretty careful about not doing anything that the Federal Election Commission would deem as coordination.

Q: Let me ask you a big question about the long-term consequences of the 2004 election. But I want to make sure you address in the course of that this big point you've made



about 2000 being the inspiration for what started manifesting itself in 2004, in terms of increasing involvement of lawyers. And you mentioned, sort of, voting procedures in the states earlier, and then you just mentioned trying to help find some way for the parties to keep raising money within the confines of this new law. Talk more about that, in the course of addressing the long-term consequence of the elections. Because that's something I haven't seen really talked about, and I wonder how it's affecting [00:45:00] the electoral process in ways that voters would feel.

RYDER: Well, for a very long time in this country, political parties were treated as unregulated voluntary associations. And political parties are voluntary associations. I mean, if -- one of the things that I'm always struck by is -- in *Democracy in America*, in Tocqueville's book, he talks about the voluntary association as being really a quintessentially American characteristic. Americans see a problem and they pull together a group of friends and neighbors and likeminded individuals, and organize themselves to solve it. They don't sit around and wait for the government to design a program to solve the problem, or at least historically that's been the case. And so political parties, I think, grow out of that [00:46:00] quintessential American characteristic of organizing ourselves into groups to address our concerns. And then you get to this very interesting state that we're in now, where politics and parties have become a highly regulated industry. And there's a fundamental tension between the regulation of politics in the "public interest," and the First Amendment, which says that Congress shall pass no law -- shall make no law abridging freedom of speech or the freedom of association. And political parties are all about free speech and freedom of association. So on the one hand, we have this broad constitutional principle. On the other hand, we have a lot of people who, for the most part, are well [00:47:00] intentioned, who think that politics needs to be regulated in the public interest so that you have such absurdities as the Ohio commission that is charged with the duty of determining whether any political advertising is false. And they -- that -- this was just -- there was an argument before the Supreme Court within the last week: *Susan B. Anthony List v. Driehaus*. You know, I think this is something that the founders could never -- (laughter) would never have imagined and probably would have taken to arms if they thought the government itself was going to regulate your ability to put out a broadside attacking your political opponent. Even in pretty tough [00:48:00] language. And you know, the course of American history, of American political history, has been that campaigns are pretty rough. And people say a lot of tough things. So what we've gotten to is this kind of regulatory mindset where there is a general theory that, well, if there's a problem, we'll just regulate it.



So we'll regulate campaign contributions, we'll regulate political speech, we'll pass laws that say you can't attack your opponent within 60 days of the election -- as one subsequently found unconstitutional provision of McCain-Feingold provided. And when you start regulating, then immediately you get an influx of lawyers because... One of my favorite characters in legal history [00:49:00] was in real property law. And there's a guy named -- in the 15<sup>th</sup> or 16<sup>th</sup> century named Orlando Bridgeman. Great lawyer in the Anglo-Saxon tradition. Every time Parliament passed a law trying to regulate the way people could pass property onto their descendants, Bridgeman came up with a new device to get around it. And he's the guy who created springing trusts and springing uses and a lot of things that lawyers only remember from their initial property course. But that's what happens in the campaign and political world. As soon as Congress passes a law or the FEC adopts a regulation or a ruling, saying these are the limits of what you can say and how you can say it and how you can raise money to spread the word about what you said, a team of lawyers is at work trying to figure out, now, how do we get around that? I'm not sure that's healthy. [00:50:00] I mean, I'm not sure that we aren't better served by just having a more wide open system, let all the voices be heard, let them be heard at whatever decibel, level the people will tolerate, and let the people ultimately decide.

Q: That's part of what I hear you saying, but I also heard you earlier talking about very closeness of the 2000 election and the anticipated closeness of 2004 that got the parties and the campaigns organizing teams of lawyers, not to deal with matters of federal legislation, but --

RYDER: But to deal with -- oh, absolutely. To deal with the mechanics of the election and counting the votes.

Q: The last couple of elections haven't been as close. I mean, '08 and '12. So is there less of that sort of --

RYDER: No. No, it's increased, if anything.

Q: Really?

RYDER: The number of lawyers that each side prepares to deploy in connection with an election has increased [00:51:00] with each election cycle. And because, certainly in the last election, in 2012, the polling on the Republican side, which turned out to be badly flawed, led a lot of people to believe that the election was going to be very close and, therefore, all of these lawyers were prepared to be sent in to potential battleground states or sent to deal with recounts at other levels, whether it's a Senate election, like the recount involving Al Franken in Minnesota -- that was what, 2008? And so you have different -- you can recount at a lot of different levels. And because



of what I would call the Gore effect, people are more willing to go to court to challenge election results now than they -- than they have been previously. [00:52:00] And in fact, the tendency now is the margin of litigation gets wider and wider. People are willing to litigate more extreme cases. If you have an election that's decided by a couple of hundred votes out of a couple hundred thousand, that's a close election. I don't think anybody -- I don't think any experienced election lawyer would tell you that you shouldn't go to a recount or you shouldn't have some kind of review process on an election that's that close. If you have one that's 3,000 or 5,000 votes out of 100,000 votes, most experienced election lawyers will tell you you're not going to shift that many votes. There just -- even with all of the flaws of the election system we have in this country, it -- you know, the volunteer nature of things, the temporary nature of the employees -- whatever inadequacies we have, [00:53:00] the system is actually fairly honest and the results are pretty good in the sense that you might shift a couple of hundred votes in a recount, but you're not going to shift several thousand.

Q: Other long-term consequences?

RYDER: Well, the other long-term consequences that I think you saw, Bush, in 2004 -- the Bush team in 2004 solidified the progress the Republicans were making throughout rural America and particularly throughout the rural South. But in the victory of 2004 were the seeds of future disasters, in the sense that 2000, 2002, 2004 were all one on a model of turning out the base. [00:54:00] And consequently, the Republican Party, as a whole, did not invest as much resource as it should have in trying to win converts. Go to a campaign school in that era and what you'd see is the consultant writing on the board that a, b, c, d, e. So you have the a voters, the b voters, the c voters, the d voters, and the e voters. And usually just write off the d's and e's.

Q: What does that mean, a, b, c, d, e?

RYDER: OK, the a are the solid -- those are the people who vote in every election and always vote for your party. And the b voters are the ones who vote in most elections and most likely vote for you. C are the more swing voters. The d's and e's are the partisans on the other side. And so you know, these lectures would go along the lines of, "forget about the d's and e's; focus [00:55:00] on the a's and b's and, if you have time and resources, then go to the c's." And as a result, Republicans, I think, tended to focus more resources on a -- on the a's and b's without attempting to persuade c's, d's, and e's of the correctness of our position. And that kind of harvest reaped a very -- or that kind of sowing reaped a very bitter harvest in 2008 and 2012, when the other side was able to increase the number of d's and e's from our point of view and





to pull some of the c's and b's over to their side. And we're still trying to work on a -- on the a's and b's. And there aren't enough a's and b's.

Q: So what groups do you think -- [00:56:00] what d's and e's, if you will, from a Republican standpoint were winnable? In other -- if the strategy had been broaden the coalition, add new elements to the party, where would the likeliest prospects have been? And where would they be now?

RYDER: Well, the Republican Party is quintessentially a party of the middle class in this country. The Democrats have a lock on the very poorest voters and the very richest voters in this country. The Republican value system and policies tend to be middle oriented. So the obvious targets for the Republican Party are those people who are aspiring to become middle class, [00:57:00] from -- or are fighting to remain middle class.

Q: Well, it seems like that's something Bush himself was interested in doing.

RYDER: Absolutely. And I think he understood that intuitively.

Q: So where did things go wrong in terms of the different strategy or (overlapping dialogue; inaudible) --

RYDER: Well, I think that --

Q: -- more narrowly focused?

RYDER: Well, because turning out the base vote is easy and cost-effective in the short-term. It just doesn't build a base for the future.

Q: So who was responsible for that choice of (overlapping dialogue; inaudible) --

RYDER: I think -- well, I think that would be his team and, you know, I think to some extent the policies that Bush advocated as president were designed to try to combat [00:58:00] some of the tendencies of the campaign, so that you have prescription drug benefits, which is kind of senior oriented; social security reform, which is youth oriented, since younger voters are the ones who are being taxed to the max to pay for their elders; and faith-based initiatives which gave him an entrée into the minority community. So there were efforts through policy to reach and expand the base. But the tactics of the actual campaign tended to be more narrowly focused.

Q: Can you think of a scenario under which 2004 would have been the beginning of an enduring Republican majority? [00:59:00] Was there an opportunity that was lost in the aftermath of that election?

RYDER: Not through politics. I think the perceived failure or lack of overwhelming success in Iraq is what eroded support for President Bush and the Republicans between 2004 and 2008. I think the election itself was successful and created an opportunity. But that victory was overtaken by events. Had they actually found weapons of mass



destruction (laughter) in Iraq, I think it would have been a different story. You wouldn't have had the vitality and an antiwar mentality that fueled first Howard Dean and then Barack Obama into the Democratic nomination. [01:00:00]

Q: Well, John Ryder, thank you so much for your insights into this election and to politics more generally.

RYDER: Well, it's a pleasure being with you. Thanks. (laughter)

Q: All right.

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