

**ORAL HISTORY OF ROBERTS. BENNETT**  
**SECOND INTERVIEW**  
**MAY 30, 2003**

This is the second interview of the oral history of Robert S. Bennett as part of the Oral History Project of the D.C. Circuit Historical Society. It is being held by David E. Birenbaum, on Friday, May 30, 2003. This tape and any transcripts from the tape are confidential and governed by the wishes of Mr. Bennett, which will be expressed in the form of a written donative instrument.

Mr. Birenbaum: Bob, when we finished, I think we discussed your representation of Clifford and Altman. There was one other representation of a prominent political figure I wanted to cover before we get to the Paula Jones representation, the Paula Jones case, that is to say, and that's Congressman Rostenkowski. How did that come about, and what was involved?

Mr. Bennett: Well, the Congressman was under investigation for abusing stamp privileges in the House of Representatives. And he had a series of lawyers. I got called to take on the case and met with him. And we were in the case for a while. I can't remember how long. I think I was the fourth lawyer. I worked out an excellent plea agreement but then we had a parting of the ways, and he hired Dan Webb, who eventually worked out a plea agreement. It wasn't Dan's fault, but the government, at this point, was so angry they would not give as good a deal.

Mr. Birenbaum: Was it very different from the settlement that you were discussing with the government?

Mr. Bennett: It was harsher, but that was not Dan's fault.

Mr. Birenbaum: You have acted for prominent Republicans such as Cap Weinberger and Democrats such as Rostenkowski, Clifford, and, of course, the President. Does this present a problem for you as a lawyer? That is to say, you have been in cases which are politically very contentious and you've represented clients who are active participants in each of the two parties.

Mr. Bennett: No. In a sense, it's been a source of pride for me in that I have not been identified as a political person and that people from both parties ask me to represent them.

Mr. Birenbaum: But that hasn't gotten in the way of your clients trusting in you?

Mr. Bennett: No. I don't think that I've ever been questioned, at least to my knowledge, I've never been questioned on that basis. I mean a lawyer is like a doctor. He doesn't work on Republican ailments and Democratic ailments. I work for human beings who have problems. The politics are irrelevant. I've never let that affect any of my decisions because I am not a political person. I have views on issues, but that's never interfered with my ability to call it the way I see it or fully represent a client without regard to politics.

Mr. Birenbaum: While we are on the subject of a prominent Congressman, I want to give

you the chance to expand on something you said when we were together last time, which was your observation of Congress as an institution-- a kind of a lawyer's perspective on how Congress actually operates. You mentioned this was something --

Mr. Bennett: No. I think that it is a very mixed bag. I think there are very strong and good and honorable members on both sides of the aisle who view themselves as statesmen. And then I think there are others who are not statesmen. Sometimes partisan politics gets in the way of good policy. Some committees in Congress are vely, very good and others are not. And to use an analogy, I think there are members of Congress who are show horses and others who are work horses.

Mr. Birenbaum: Now, let's come to your representation of the President in the Paula Jones case. How did that come about?

Mr. Bennett: I got a call. I didn't know the President, and I got a call asking me to meet with Mrs. Clinton. Actually, it wasn't the Paula Jones case. It was about having a seat at the table as to all of what was going on at the time. I went up and met with her and talked with her. I then met Lloyd Cutler who was White House Counsel at the time, and then I subsequently met the President, and I was retained. And just about the

time I was retained, the Paula Jones case really exploded, and that became my primary responsibility together with being a spokesperson on a variety of issues.

Mr. Birenbaum: Just as a general question, how did you find being the lawyer for the President of the United States?

Mr. Bennett: It was very exciting. I'd have to pinch myself sometimes. Not bad for a kid from Brooklyn.

Mr. Birenbaum: Or anybody else for that matter. How do you compare your representing the President with other figures? In what way did it influence how you functioned as a lawyer?

Mr. Bennett: Well, as hard to believe as it is, it really didn't. I know that's hard to believe, but because I had already represented a lot of really high-profile people, I wasn't as much in awe of the President as I would otherwise have been. Now let me make it clear: I'm not saying I was blase about it. Every now and then, you'd say, holy smokes, I'm in the White House, in the Oval Office, or I'm talking to the President, he's my client, and you'd say, wow! But I can honestly say it did not affect me in any way in how I handled the case. There were demands on me by virtue of representing the President that have never been placed on me before.

When I represented Clifford and Weinberger, I certainly had to deal with the media. The representation of a sitting President of the United States magnified the pressures. It placed enormous pressure and stress on me because, if you say something and it's not quite right, there are immediate consequences to the President. They may not be permanent, but they're there. So you had to be very, very careful and very, very cautious. It's always best in your cases if you never have to talk to the press. That's my ideal, but when you represent the President, that is just impossible.

Mr. Birenbaum: Well, when you refer to special demands, I presume you mean dealing with the press and the public?

Mr. Bennett: Yes.

Mr. Birenbaum: Did you think of yourself as trying this case before the public, as well as potentially in court?

Mr. Bennett: Well, I don't know that I can answer that yes or no. There is no question that one reason I was hired was to deal with the press and the media. I was hired, in part, because of a perceived view at the White House that I could handle the demands of the media and press. They were not short of good legal talent. Before I ever got in the case, they had a number of very

good lawyers on the case. There was a perception, I was told, that I had a particular expertise in dealing with high-profile matters, which required some kind of response in public. You can say "No comment" in lots of cases, but you can't when you are representing the President of the United States. You must deal with the media when those people who are opposed to the President, for whatever reasons, are seeing to it that every single hour of every single day things are coming out in the press and the media.

Mr. Birenbaum: Did you experience a tension between your role as the person who is dealing with the public in relation to this litigation and I suppose other aspects of it in the role as counsel in an upcoming litigation when asked to express views about issues or disclosures or information that could be prejudicial in terms of litigation?

Mr. Bennett: No.

Mr. Birenbaum: Didn't have that experience?

Mr. Bennett: Never had that experience.

Mr. Birenbaum: Was there a strategy you followed in dealing with the press on this?

Mr. Bennett: I don't have an answer to that. I mean there was no pre-conceived strategy. It was a question of dealing with issues and questions as they

arose. There was no strategic PR plan. We would have been very happy if we never had to talk to the press. So, ours was not one of trying to make a case in the press; it was really one of responding. We were very happy if a day went by and we never had to say anything. That was sort of the goal. We couldn't let stand rebutted or unresponded to things that were being said which were not true.

Mr. Birenbaum: Did you find yourself in conflict or tension with the President's political advisors about strategy in pursuing the handling of this case?

Mr. Bennett: No, I never perceived that. It was such a unique case; they didn't really get involved very much.

Mr. Birenbaum: How much time did you spend on this case? Did it occupy your full time?

Mr. Bennett: No lawyer can spend full time on a case, as you know. I spent a lot of time. At different points, I was spending 70 percent of my time or 80 percent, and on given days, I spent 100 percent of my time, and there were other times when I wasn't spending as much time.

Mr. Birenbaum: I take it you dealt directly with the President a great deal?

Mr. Bennett: A great deal.

Mr. Birenbaum: How did you find him as a client?

Mr. Bennett: I found him to be very interesting and intelligent. There were some

issues in the case I can't talk about, but I enjoyed my relationship with him.

Mr. Birenbaum: Did you find that he was a good client in the sense of taking your advice?

Mr. Bennett: I don't want to discuss those kinds of issues.

Mr. Birenbaum: I just meant general attitudes.

Mr. Bennett: I don't want to discuss what advice I gave and what advice he took or did not take.

Mr. Birenbaum: Yes. Well, you were dealing with some extremely sensitive material to say the least, and this was the President of the United States. How did you handle that?

Mr. Bennett: What do you mean how did I handle that?

Mr. Birenbaum: Well, did you come out and confront him or raise with him directly the issues?

Mr. Bennett: Again, I don't want to get into conversations with him directly or indirectly. You know I treated him, referring back to an earlier question, I treated him like I would treat any other client in terms of a case. And I didn't say, "Gee, this is the President, I have to treat him differently." I did not treat him differently. I guess there was only one difference: I began every conversation with "Mr. President." Outside of that,



I treated him like I treat other clients.

Mr. Birenbaum: Tell me about the Supreme Court case. You argued that case, didn't you?

Mr. Bennett: I did argue that case.

Mr. Birenbaum: How do you think that it went?

Mr. Bennett: Well, at the time, I thought that it went very well. I was very pleased. I reviewed the transcripts of the argument and I thought that it went very, very well. And those who listened, especially the sophisticated folks who follow the Court, thought it went very well, at least based on the arguments. I thought I was right. I still think I was right. I thought it would be nine-nothing. I was only half tight.

Mr. Birenbaum: How do you assess the Court's reasons today in light of what subsequently occurred?

Mr. Bennett: I just don't know, I believe that they made a fundamental mistake. I believe they really believed that this would not seriously interfere with the conduct of the Presidency. I remember being asked, I think that it was by Mr. Justice Souter, he said something like the following, "Mr. Bennett, gee, I can see where this would take a lot of your time, but I don't see why it would take a lot of the President's." That was just wrong.

Mr. Birenbaum: Were there particular instances that you can recall where you saw conflict between the President's responsibilities as President and his need to defend

himself in the case?

Mr. Bennett: No. I think that the American people were very lucky, actually, that they had a person in office like him. He had tremendous energy. You have heard people say he had the ability to compartmentalize. He really did. I can only guess and wonder about how he handled so much nasty stuff. I certainly never honestly ever felt, "Gee, this case is interfering with this or that." On the other hand, I didn't deal with policy issues. I wasn't in policy meetings. I wasn't asked by him to make decisions on issues outside the case. So I don't know, you have to ask others. But I never saw it interfere with him doing his job.

Mr. Birenbaum: After it was clear that the case was going forward and with no deferral in terms of time, did you examine -- what were your considerations about settlement and what other options were disposed of in this case?

Mr. Bennett: Well, one point that should not be lost, which often gets lost, was the critical importance of getting this case delayed past the election. When the Supreme Court granted cert. in the case, we all felt that we had scored a tremendous victory. And, that no matter what happened down the road, I felt we had accomplished something pretty significant. And that clearly was the view of Lloyd Cutler, the White House Counsel. It was critical that this case not be

played out before the election. So that was critical, and I can't underestimate the importance of that in the minds of everybody. The possibility of settlement was always under review throughout the case. It was something which any good lawyer, especially representing the President, anybody for that matter, has to keep that in mind. The notion of a sitting President actually going to trial was not what you would like to see. So there was always a balance because you have to look at things as they were at that time. You know, if you paid too much money or if the terms were too harsh, you could have negative political impact especially before the election. But there certainly were efforts throughout.

Mr. Birenbaum: You know Professor Dershowitz has been critical of you not having given consideration to the default option. Is that something that you considered?

Mr. Bennett: While it was on the radar screen, no one seriously considered it. No one to my knowledge on the President's team considered default as an option any more than I considered saying that the President was incompetent to stand trial. You can be sure we considered every conceivable option. But the notion that you would allow a sitting President of the United States to

refuse to respond and to allow a judgment, a default, to be entered against him was out of the question. It would have been, in the minds of those around the President, politically absurd. That wasn't a realistic option. There is no way that this President or any of his advisors would have said yes, notwithstanding the allegations of this particularly vicious complaint. That's number one. Number two, I think Dershowitz, who loves the camera and is a world-class second-guesser, even when he doesn't know the facts, incorrectly assumed that his suggestion would end the case. But there was a punitive damages claim in the case, and my reading of Judge Wright is that, after a default, she would allow further discovery of the President on the damages issue. Dershowitz is the only person I know who thought this would make any sense at all. I can't now remember all the reasons. And it was very clear that wouldn't necessarily end the case. But just stepping away from all those reasons--just the notion of the sitting President sitting around saying "Mr. President, she says that you did this, and you have not responded to that." It was just not realistic-- it just didn't make any sense. It would have been a political disaster. And I know of nobody who advocated, nobody, none of the many lawyers we dealt with or talked to who ever suggested that as a realistic option. I heard, but I don't know if it is true, that Dershowitz was just really making every effort in the world to get into the case and was chasing after the President all around Cape Cod in the summer, showing up at every

cocktail party and things like that, trying to get himself in the case.

Mr. Birenbaum: What are your reflections on the deposition and what lead up to it?

Mr. Bennett: Well, I don't really have any reflections. It was part of the case. He was deposed. There was pretty much a general consensus, by the way, that while we would always be visiting settlement, that there was a view that we had a good shot at summary judgment. I agreed with that. So, there was a view that settlement could always be discussed, so let's take a shot at summary judgment, which, as you know, was successful. But again, we were always open to resolving the settlement of the case if we could have done it in a reasonable way. Again, we all thought the deposition went very well.

Mr. Birenbaum: Were you taken by surprise with the questions that focused on Monica Lewinsky or was that something --

Mr. Bennett: No, that was not a surprise at all, because she had been listed on the witness list. At that point, we had a limited amount of time to complete discovery. And both sides had listed on the witness list their potential witnesses. And we talked to lawyers on the other side, and they told us why Monica was on the list. Her being called and the general subject matter was not a surprise.

Mr. Birenbaum: But you were not aware of the relationship that had existed at that

point?

Mr. Bennett: I will not comment on that other than to say that there was an affidavit which her lawyer, Frank Carter, had obtained in order to prevent her being deposed by Paula Jones' lawyer that adamantly denied any sexual relationship.

Mr. Birenbaum: Ultimately you did succeed, as you mentioned. Judge Webber did grant summary judgment, which was appealed. At which stage in the appeal process did you settle the case? Had it been briefed?

Mr. Bennett: Yes, it had been briefed.

Mr. Birenbaum: And how did that settlement come about?

Mr. Bennett: I have trouble remembering all the details, but I think it was a combination of a number of things. Basically, the plaintiff made an offer we could live with, and we wanted to preserve the summary judgment ruling and not take a chance with what we felt was a hostile appellate panel. At one time, we lawyers got quite close to settlement, within the ballpark, and then apparently the rug was pulled out from under Paula Jones' lawyers by her advisor, Susan McMillan, and others. I was told that a right-wing conservative wrote a book saying that panic hit her circles when they heard about the possible settlement. They got into full gear to defeat it from occurring. The next thing you know these lawyers were out and new lawyers were in. And it was these new lawyers that made very

unreasonable demands. The first set of lawyers, Gil Davis and Joe Cammerata, treated the matter like a case and not a cause. By the time we settled the case with the new lawyers, I had the feeling that they were starting to get very disillusioned about the whole thing too; they had spent a ton of money representing Paula. So, I think they were very pleased to get it over with, and there was a settlement resolution which was more reasonable than what had been made earlier. Also, having won on the merits, it was easier for us to settle from a political perspective.

Mr. Birenbaum: I don't recall it having any political salience, the fact that, you know, there was a payment agreed to be made.

Mr. Bennett: The timing was better. We had gotten a summary judgment.

Mr. Birenbaum: Judge Webber ultimately imposed sanctions, which were accepted since you didn't take an appeal. Why was that?

Mr. Bennett: I didn't deal with that. David Kendall did.

Mr. Birenbaum: Oh, I see. Well, speaking of Mr. Kendall, you mentioned you had a role that was broader than the Paula Jones representation. Did it include the impeachment proceedings?

Mr. Bennett: No, it was more of the spokesperson role. David did not like talking to the press. And in fact, he himself asked me from time to time to talk to somebody about an issue, which technically was not in the *Jones* case, so

that is what I meant by that. For example, remember when Mrs. Clinton found the billing records, it was requested that I go on ABC. Things like that, which were not Paula Jones issues.

Mr. Birenbaum: Were you involved in the strategizing of the handling of the impeachment? There was some crossover between the two cases, I'm sure.

Mr. Bennett: No, I had discussions which I don't want to share on generic issues. Impeachment was handled primarily by Chuck Ruff. That issue involved the institution of the Presidency. Representing the President in the Paula Jones case did not directly involve the institution of the Presidency.

Mr. Birenbaum: But there was a clear connection between the two.

Mr. Bennett: Oh, yes. But Chuck Ruff did not want to be involved and did not participate in many meetings on part 1; he took charge of part 2, as he should have. Now there were meetings where some common issues were being talked about. There were a couple of occasions when settlement issues came up in the Paula Jones case where it wasn't just me in the room with the President. This was so because, if you made a decision like that, you had to consider the impact of the decision on the bigger picture. So, there were selective meetings where the President's



White House Counsel and others were present.

Mr. Birenbaum: Let me ask you about Bob Woodward's treatment of the *Jones* litigation and impeachment of the like in his book *In the Shadows of the Presidency*. There were a number of direct quotes that were attributed to you.

Mr. Bennett: Woodward was also a reporter covering the story, and one of my jobs was dealing with people like Bob Woodward on this matter, whether it was a newspaper article, whether it was a magazine or a book. There was no question that part of my mandate, my role, was to deal with these people in the protection of the President's interest. So I did. But I made it very clear to Mr. Woodward and others that I would not, under any circumstances, on any basis, get into discussions I had with the President. I think what he did was for dramatic effect. He drew conclusions about what happened from many sources, and I guess for more dramatic effect or whatever, put some things in quotations. I do recall asking him about that. He felt that he never attributed those statements to me. They were not my quotes or statements which he quoted.

Mr. Birenbaum: What was it like when it was all wrapped up? Did you feel a sense of disappointment that you now had to go on with your life, that you weren't representing the President anymore, was it a letdown?

Mr. Bennett: That is a very good question. You know, I think for a short period of time the answer is yes. I mean you are just on this tremendous high every hour of every day. And then it is over, and you are back to your interesting practice, but it is nothing quite like what I had been through. And so, yes, there was a bit of a letdown. Now I feel that way after every significant case. Again, like I said, everything here was just at a higher level. So, yes, there was a period of letdown.

Mr. Birenbaum: What are you doing now? What have you been doing since?

Mr. Bennett: Getting on with my practice. I represent Enron with their problems, and I am currently representing HealthSouth with theirs. I'm trying to help the Catholic Church on the sexual abuse crises. I have a bunch of other civil and criminal cases.

Mr. Birenbaum: Well, you also have the Olympic committee.

Mr. Bennett: I did an internal investigation regarding allegations involving the U.S. Track and Field regarding doping issues.

Mr. Birenbaum: What did your brother think of you doing all of this work with the President?

Mr. Bennett: Well, it was an interesting dynamic because he was a very outspoken critic of the President.

Mr. Birenbaum: How did the two of you manage that?

Mr. Bennett: We managed it. He has his life, and I have my life.

Mr. Birenbaum: Looking back on this extraordinary career, particularly opportunities

you've had and representations you've had of prominent public officials: executive branch, the President, the legislative branch. What lessons did you learn in terms of what's different, what's special, what talents are required, what approach did you take?

Mr. Bennett: If I can make it, lots of people can make it. That is one lesson. I don't know. I work hard. I have had a lot of great lawyers helping me, and I have been very lucky.

Mr. Birenbaum: I meant something more objective. I would think: that representing politicians in cases which are political, as well as legal, calls for an approach that is somewhat different than what most lawyers are called upon to do.

Mr. Bennett: Well, I think one skill that you need is in dealing with the media. With these public figures, it is not as private. The politicians always have aides all around them whom you need to deal with. Ironically, the President was an exception. It's just such a unique situation given the subject matter. I think that had the subject matter been different, I think that I would have never met with him or rarely met with him one-on-one. It would have been more the White House Counsel or other staff members. I think that the subject matter was such that it was very special. I think: when you are dealing with a public figure, you cannot underestimate how important their reputation is to them and how much they care about the press coverage. They feel that the media

coverage is very important.

Mr. Birenbaum: Well, I would think, and you just hinted one of them, that there are clearly tensions between what is in the clients interest in terms of winning litigation and what the client needs in terms of politics.

Mr. Bennett: Oh yes, and very often the public figures, at least based on my experience, they place the litigation second. Not always, but that is very common.

Mr. Birenbaum: Is it the client's call?

Mr. Bennett: It is the client's call. As long as it is legal and as long as it is ethical, it is the client's call.

Mr. Birenbaum: Is there anything else you want to add to what we have covered here, anything I have not asked you about that you want to discuss?

Mr. Bennett: No.

Mr. Birenbaum: Well, thank you very much. I certainly appreciate this.

Mr. Bennett: You are welcome. It is always nice to see you.