



EDWARD M. KENNEDY ORAL HISTORY PROJECT

INTERVIEW WITH DAVID NEXON

June 27, 2007
Washington, D.C.

Interviewer

Janet Heininger

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TRANSCRIPT

INTERVIEW WITH DAVID NEXON

June 27, 2007

Heininger: This is an interview with David Nexon, who was Health Subcommittee Staff Director from 1983—

Nexon: Yes, '83 until two years ago, so 2005.

Heininger: Two thousand five. It's June 27, 2007. There's a big story about the [William] Clinton National Health Insurance Plan. Why don't you tell me what the state of play was prior to Clinton running for office.

Nexon: Yes. It was interesting, you know. Kennedy of course had this long history with a single-payer type approach, although his last version in '79 had a little bit more private sector aspects to it. Then we were sort of moribund when [Ronald] Reagan had come in, and it didn't look like there was any possibility.

Around '85, we started noticing the increase in—the numbers on the uninsured were going up pretty dramatically. Even though the recession was over, they were continuing to rise, and it seemed like a good time to revive the thing and try and get it going. I was relatively new to the staff and didn't really have the history or the involvement with the previous efforts, and so just looking at the big deficit and everything, I thought what we ought to think about was an employer mandate, which wouldn't have a major federal cost to it. So we put out a bill called Minimum Basic Health Benefits for All Workers, which was an employer mandate, basically.

Heininger: What was the name of the bill?

Nexon: Minimum Basic Health Benefits for All Workers Act.

Heininger: Now, Kennedy had been an opponent of employer mandates earlier on.

Nexon: Yes. The [Richard] Nixon Administration had proposed that. I mean, there's a whole story that I'm not the guy to talk to about. Kennedy had already moved to the Wilbur Mills thing. Labor was all over him, you know. He just felt he couldn't go there.

Heininger: Why the decision to switch to employer mandates?

Nexon: Well it just seemed like the kind of thing that was more attainable at that point in time, thinking in terms of the huge deficit was the main thing we were thinking about. And by that time, Labor was so battered and bruised that they didn't have the same sense any more, that a Social Security act or a Medicare-like model was achievable.

We actually got the bill reported out of—we developed a proposal in '86, if I remember this time sequence correctly, introduced it in '87. Reported out of the committee in '87. It must have been '87, because we had control of the committee by that time. We got it back in '86. We did a lot of talking with the business community, and with Labor. The main thing Labor was pushing on was that they wanted some cost control aspects in the plan, which we resisted because we didn't want to get the providers opposed to it. We figured it was enough to take on the employers.

We reported it out of the committee, and it wasn't quite universal health insurance because it was just for workers only, but they were 80 percent of the uninsured. We reported it out of the committee, which was the first time that any committee had reported out on something approaching a universal health insurance bill. We picked up one Republican, Lowell Weicker, and ironically that was one of the issues that [Joseph] Lieberman used against him in beating him in '88. We would have had Senator [Robert] Stafford, but he was mad about something else unrelated that had to do with the right to sue—I think it was the vaccine compensation program.

So we reported out in '87 but didn't take it to the floor. In retrospect it's a little hard to think why we didn't. I think we felt we didn't have the votes and we didn't want to have a loss, but you know, probably in retrospect it would have been better to force a floor vote on it.

Heininger: You were also focusing on catastrophic at that point too.

Nexon: No.

Heininger: Eighty-seven.

Nexon: Oh, you had the bill from the—that's true, but that was really a Medicare bill and it was Finance. I mean, I don't think it was committee consistent.

Heininger: Kennedy introduced it though.

Nexon: Oh, we put it out, yes. That was more of a—you know, we knew in the end we weren't going to have jurisdiction over that thing. It was hot because Reagan had introduced it, had talked about it. So we beat Finance in getting the bill in and managed to get it referred to the Health and Labor Committee. I guess we had thought that maybe we could do something with but it never really did—after the introduction, I don't think it ever went anywhere in our committee, and they took it over in Finance pretty quickly.

So then we reintroduced our universal health bill in the next Congress, which would have been '89, and at that point we did it with [Henry] Waxman, and we had a full universal healthcare program. So we had a mandate for employers and then a public program sort of standing side by side with it for people not eligible for employment based coverage—no employee in the family.

I've forgotten now whether we did the public program through private—whether it was public or it went through private insurance. I can't remember exactly how we set it up. I think it was a private insurance plan but I'd really have to go back and look at the bill, because I've forgotten.

That would have picked up the 20 percent of those people who were not eligible for employment-based coverage. We reported that one out of the committee as well, and again, didn't take it to the floor for whatever reason. That would have been, let's see, we did the first one in '87.

Heininger: It would have been '89 and '90.

Nexon: So that would have been in '89, '90, yes. Then we're going into the new—Clinton was elected in '92, right?

Heininger: Yes.

Nexon: OK. So now we're in the last Congress before the Presidential election. People are now getting on this, seeing that this is a big issue for the Democrats, and people are wanting to expand it beyond Kennedy and the Labor Committee, Health Committee. Two things happened: First of all we had the Pepper Commission that [Claude] Pepper stuck into the catastrophic bill. Pepper died midway through the—as the commission was just getting going and [Jay] Rockefeller came and took over as the chair, and I think [David] Durenberger was the deputy chair or the co-chair. They came out with basically a pay-or-play proposal, which was kind of a variant on the employer mandate, which made a lot of sense because it was easier for companies with lots of low-wage workers.

Heininger: So it was a version of employer mandates?

Nexon: Yes, the so-called pay-or-play, where basically you either had to provide the coverage or you had to contribute a certain percentage of your payroll to a public fund that would then insure the workers, as well as everybody else. That passed the committee. We lost [Max] Baucus in the Pepper Commission, because he was afraid of the reaction in Montana to the small business requirements, but we picked up—I can't remember if we got Durenberger or not, but we got one other Presidential appointee.

Anyway, so it was narrowly adopted by the Pepper Commission. Somewhere around that time [George] Mitchell felt that this was an issue that he ought to—and Kennedy may have urged him to do this. I've forgotten these details now, but Mitchell established a taskforce to come up with a Democratic Caucus position. [Donald W., Jr.] Riegle was very active on it, Rockefeller was on it, we were on it. Senator David Pryor, who had also been on the Pepper Commission, was on it. We ended up with something that looked pretty much like the Pepper Commission Report, you know, it was a pay-or-play model with public program coverage. Oh, and Mitchell of course was on it. And it was a very contentious process, but we did come out with something.

We then reported it once again from the Labor Committee. I don't think I ever got the committee report written, because the cost estimates were so high and it was sort of overtaken by events.

Judy Feder, who had been appointed staff director of the Pepper Commission, ended up being the chief health policy advisor to Clinton during the campaign. There was a little taskforce that presented a number of options to Clinton. Clinton didn't want pay-or-play. I think he may have felt it was too complicated, or he wanted to do something different than the Democratic—you know, he wanted it to look new even though it was going back to where we'd been three years earlier. So he just did a straight employer mandate in his campaign speech, along with the public program.

So it really was pretty much what we had proposed with [Henry] Waxman three years earlier, but also it was close enough to the Senate consensus position. I think basically that whole thing that we set in motion in '86 was the track that took us to the Clinton proposal in '91 or '92. I can't remember when he came out with it, but it was during the general election campaign or in the primaries. I think it was the general election campaign. We had done a lot of hearings, and Kennedy did a national tour on healthcare to try to get interest in this kind of stuff. All of a sudden we were in a position where it looked like it was possible, and that takes you to the Clinton era.

Heininger: Which raises a big issue, and that is there had been a progression with a basic concept that remained relatively intact all the way through the campaign.

Nexon: Right.

Heininger: Why then did Clinton come in with an entirely new process?

Nexon: Well that's a good question, and I don't really know the answer to that. I can't even speculate. You need to talk to the Clinton people, because I just don't know why he chose to do that.

Heininger: What was Kennedy's reaction when Clinton set up the whole taskforce, headed by Ira Magaziner and Hillary Clinton?

Nexon: I don't know that he had a reaction particularly to that. Again, you would have to ask him, because he didn't share it with me. I don't know that he had a particular reaction to that process versus some other process on the White House to get anything out immediately.

That taskforce, despite all the rap about this closed secret project, was very inclusive. I've never seen anything like it in government in all the time I'd been there. There were like a hundred people involved in this thing. Any member of Congress who wanted to participate was invited. We were the only ones who really took him up on it full-bore. Some of the Waxman people were there for a couple of the issues.

I had a staff of about eight then if you count the fellows and stuff, and we were all up there spending almost as much time working with that taskforce as we were working for Senator Kennedy, because he really wanted to be a full participant in that, and help shape it and move it in what he considered the right direction. In retrospect, we probably spent a lot of energy on stuff that wasn't so central. I remember when we were there, it was pretty physically draining because

I was essentially working two jobs. I worked for Kennedy during the day and then I'd go up and spend into the late evening up there.

Kennedy was the only—you know, the thing devolved after a while, and I've forgotten exactly at what point, to a fairly small group, which involved Ira, Paul Starr, Marina Weiss representing Treasury, Len Nichols who was there for OMB [Office of Management and Budget], and I was there for Kennedy. Kennedy was really inside that thing in a way that no other member of Congress was. A lot of the other guys were sort of standoffish, like, "Who is this guy Clinton?" It was almost like they thought Clinton was presumptuous somehow in doing it himself. It was pretty bizarre.

Heininger: He was the President.

Nexon: Yes, that's right. That's why I say it was a very bizarre kind of situation. [Daniel] Rostenkowski affirmatively declined to participate in the process. He said, "We're up here. You propose; we dispose. Set it up, we'll look at it." As I said, Waxman participated in it a little bit but not full-bore. [John] Dingell wasn't involved at all as far as I know, and [Daniel Patrick] Moynihan certainly wasn't. The relationship between Moynihan and Clinton was poisonous, and Moynihan did everything he could to tube it, I don't know whether consciously or unconsciously, but he just was a terribly destructive force.

The other thing about that taskforce was although people sort of blame it for that delay, I think the failure to get the plan out early was one of the key things that ultimately killed it, because at the beginning there was a sense of inevitability, and all the interest groups weren't trying to think, *How could we stop it?* They were thinking, *How can we be part of it?* And the Republicans didn't know which way to go.

As you waited, that changed. You know, the HIAA [Health Insurance Association of America] ran those ads, which helped buck up the opposition and made people think it could be beaten. The Republicans—there was that memo from Bill Kristol. The Republicans began to gel into opposition, but that was not true early on. The fact was that, despite all the toll gates and this involved process—I mean, Ira was willing to yank it, to get out of the whole thing and put it in the reconciliation bill, and that was very seriously discussed. It was essentially vetoed by Robert Byrd and had he not done that we probably would have passed the thing.

Heininger: The Byrd rule.

Nexon: Yes.

Heininger: What was the involvement of Hillary at this point?

Nexon: Well, she ran the taskforce.

Heininger: Was she involved in all of these meetings?

Nexon: No, no. It was mostly Ira.

Heininger: So they come out with—

Nexon: Ira would do these meetings and I'm sure he went and then conferred with Hillary on what happened, and she probably talked to others as well. I was in some meetings with her but the day-to-day operations, putting together the plan, she was leaving Ira to do the nuts and bolts but I'm sure reviewing it very carefully. She didn't sit in the meetings late at night with the group of staff members.

Heininger: So this went on through, I don't remember, was it about April, May?

Nexon: Well, it was longer. They probably didn't put the plan out until after the August recess, or maybe it was just before the recess. They didn't get the bill up there until like November, by which point a lot of the steam had gone out of it. It was too late by then I think.

What had happened internally, after this brief flurry over the reconciliation bill, was that the economic team, which had never really been enthusiastic about doing this in the first place, said to the President, "You can't put out this big, expensive healthcare plan at the same time we're going through this economic plan that involves raising taxes and cutting spending. It will look inconsistent. It will undercut the support for getting the economic plan done." There was some merit to that, I suppose, since we only got the thing through the Senate by one vote. That wasn't even clear until the day of the vote—where Bob Kerrey was going to go. That was what really kept it from coming out earlier, because that ended up not getting done until almost the August recess.

Heininger: All right. So talk a little bit about the general structure of the plan that came out and how that differed from pay-or-play, and just the straight employer mandates.

Nexon: It was an employer mandate like our original bill, and then it had a public program beside that. I shouldn't say a public program, a publicly-funded program. It's astounding how much you forget over these years. I was so involved in the details of this thing. I think we had private insurance as the delivery mechanism for the people who weren't eligible for employment-based coverage. The White House wanted these HIPC's [Health Insurance Purchasing Cooperative], and that was something new that we hadn't envisioned when we did our original plans.

That whole HIPC thing went in there for two reasons: One was because Ira thought that would appeal to the moderate conservative market-oriented Republicans, because that was what this Jackson Hole—it was sort of this managed competition, I think, that the Jackson Hole group was pushing, and Durenberger was a part of that group, and they had a fair amount of credibility, we thought. The White House thought that would bring in some of those Republicans.

Heininger: Who was in that group? This was the market—?

Nexon: It was the market-oriented conservatives. Market-oriented moderate Republicans, I would say.

Heininger: And this was Durenberger?

Nexon: Durenberger was one of the leaders of that group.

Heininger: And wasn't [John] Chafee?

Nexon: Chafee, yes, although I'm not sure Chafee was so enamored with this market-oriented approach, particularly, but he had been appointed to head the Republican healthcare taskforce by [Robert] Dole, partly as a way of keeping him on the reservation and not jumping over to the Democrats.

Heininger: Was [John] Danforth part of that?

Nexon: Yes, probably. The person to talk to about what was going on in that group is Christy [Christine Ferguson], Chafee's chief of staff. I think she's up in Massachusetts. Nick [Bancroft Littlefield, Jr.] will know how to get hold of her.

Heininger: So this was done—the HIPC alliances were done.

Nexon: OK, so that was the first reason, to appeal to this group. The other reason was that Ira was under instructions, I think quite rightly, in terms of the policy from the President, not to have significant new taxes in it. So the question was how in the world were you going to cover all these uninsured people, because you had both cost for subsidies for them, plus you had some cost for subsidizing small businesses. That was the way the thing finally came out.

The HIPCs were a way—he basically was pooling all these people under these HIPCs so that essentially you shifted some of the costs for high-cost Medicaid disabled people into this pool, which was now largely paid for by private insurance. In effect, you saved enough for the federal government on the Medicaid side that you could pick up most of the cost of the plan without any new taxes. I think the only tax they put in there was a tobacco tax.

Heininger: Yes.

Nexon: And that was because of this HIPC, which was a very clever idea, from a fiscal point of view. I think it was pretty much Ira who came up with it. The flip side of that was that this HIPC thing really was a lot of fodder for the opponents, because it seemed very complicated. But more than that, you know, they were allowed to raise the specter of, you have good insurance and now the government is going to take it away from you and make you do something else. Eventually business caught on to the fact that there was a cost there for Medicaid and them too.

Heininger: So at this point, what's new and what's different from what the state of play had been prior to that, and from what Clinton was advocating during the campaign?

Nexon: This HIPC arrangement.

Heininger: It was this HIPC arrangement, which was very complicated but was designed, in part, to try to bring along those moderate Republicans, whose votes would be necessary for passage.

Nexon: Yes. The other negative effect was that it scared off the AMA [American Medical Association], which had been rather supportive, actually. They were developing this—managed care was really coming in, partly stimulated by the Clinton plan, and they were increasingly resentful of the restrictions it was putting on doctors. They saw HIPCs as a way of forcing all the doctors into HMO [Health Maintenance Organization] or network plans, and that may have had a negative effect on it, although I may have the timing off a little bit. You probably would need to talk to somebody at the AMA who remembers. I don't know who is still around who was at that. The guy who was head of it was a very nice guy. He was a surgeon from New Jersey and really wanted to do something. He has since died.

Heininger: So this long and involved process comes up, and it's more complicated than this, but comes up with one central deviation from what had been proposed prior to that.

Nexon: Right, yes.

Heininger: But this process delays it from—

Nexon: Yes, except that I don't think it delayed it that much, because in the end—first of all, Ira was willing to short circuit it if we could have gotten it on the reconciliation bill. Second, they weren't going to send the bill up. In the end, they didn't send the bill up, not because it couldn't have been done, but for political reasons, which was this issue of the economic plan, not wanting to sink the economic plan. The Treasury Department guys and the Council of Economic Advisors won that argument internally, on the timing of the thing.

Now maybe, had they just sat down and written it in two weeks, right after the election, which could have been done, they would have gotten it out before the perils to the economic plan were apparent, and then maybe they really would have been successful. There may have been some issue about the timing of welfare reform relative to the plan, too, but I've forgotten what the story was on that. Moynihan, I know wanted to do welfare reform first, and I'm not sure whether in that end that's what happened. But I wouldn't say that was the key problem.

Heininger: Did welfare get done first?

Nexon: Well, I can't remember now.

Heininger: I can't either. I thought welfare dragged on for a couple years.

Nexon: It must have, you know, because a bunch of guys were—Peter Edelman resigned over it, and I know that was after the health plan had long since been failed. So that probably was not an issue. I mean, it was an issue in Moynihan's mind but probably not really a factor in this.

Heininger: Did you get a sense as to how committed Clinton was to enacting some kind of universal health insurance?

Nexon: I thought he was pretty committed. I mean, he got up there and waved that veto pen around. Chris Jennings feels that he had a lot of competing things for his time, and maybe it didn't get the full attention it might have, had he had a less ambitious agenda overall. That's again something you would need to talk to Chris about. I certainly didn't have that kind of ground's-eye view.

He certainly did a lot for it and made a lot of public statements, and was out there campaigning for it. Mrs. Clinton spent an immense amount of time on it, both internally and in terms of testifying and appearing at events and that kind of stuff. We held like a hundred hearings in the Health Committee on universal health insurance.

Heininger: A hundred hearings?

Nexon: It was some unbelievable—again, Nick would have those figures. It cheated a little bit because it included field hearings that were held by other members of the committee. We were just dying out there, between the hearings and working on the plan and all that stuff. Most of the hearings were by nature kind of cheerleading to demonstrate the need. I remember we did a great one up in Boston at some hospital. It wasn't *in* Boston; it was one of the southern suburbs. We had this veteran up there, talking about how he could get his drugs through the VA [Veteran's Administration] but his wife couldn't get them. They were dividing them in half and they'd decided they'd go together. That was just—everybody was practically in tears.

Heininger: When does Mrs. Clinton come to the Hill to testify? Not until early '94? Or does she do that in late '93, after the bill comes up?

Nexon: I thought she did it shortly after the bill was released, and I think the kickoff hearing was in our committee, although I might be wrong. We held it in the Russell Caucus Room. She did a stellar job, I mean, she was so much better prepared and better informed and probably smarter than most of the guys who were asking her questions.

Heininger: What was Kennedy's reaction to her?

Nexon: He thought she was terrific. That's my impression. You should ask him. She had a private meeting with the Labor Committee members, in addition to the Health Committee members and in addition to the public testimony, and again, was just totally in control. I think she probably did the same kind of thing with some of the other committees.

Heininger: Let's back up a little bit to Kennedy. During the campaign, did Kennedy have any discussions with Clinton on healthcare?

Nexon: I don't know the answer to that.

Heininger: Do you know whether he did, once this process started taking place?

Nexon: Oh yes, I think they talked rather frequently. There's something on that in that article that was out in the *New Yorker*. Do you remember that one? There was a long article about Kennedy and the Kennedy–Clinton relationship, in the *New Yorker*.

Heininger: How old?

Nexon: Well, it was—I think it was after health reform. It was probably around—I can't remember whether it was post the [Newt] Gingrich election or not.

Heininger: Some time mid '90s?

Nexon: Oh yes. It might have been '94 or it might have been '95.

Heininger: OK. So there are lots of discussions between Clinton and Kennedy.

Nexon: Yes.

Heininger: Did those filter back to the staff?

Nexon: Yes.

Heininger: What kind of interaction did you have with Kennedy on what was going on in the taskforce? Were you funneling a lot of daily information to him, or just keeping him apprised overall?

Nexon: Well, we certainly kept him posted. I don't think we did anything like daily memos. You know, it was interesting. Again, the Senator and Nick would know more about this than I would, but I thought that the Kennedy–Clinton relationship was very interesting, and you'll see this a little bit. As I say, you'll see some of this in the *New Yorker* article.

Kennedy was sort of negative toward Clinton when he was initially—you know, during the primaries, and I think it was because he saw him as a DLC [Democratic Leadership Council] kind of a guy. He was critical of some of the things that Kennedy believed in. But then at some point, and I don't know if the process started after Clinton was nominated or after he was elected, Kennedy, as he does so well, really established a personal relationship with Clinton, and became kind of a trusted advisor. Of course Clinton had many, many people that he talked to, and sort of weighed lots of things in his mind, but Kennedy really developed quite a close relationship with him.

Heininger: Do you remember when he went sailing?

Nexon: No.

Heininger: He took the President and the First Lady sailing off of Martha's Vineyard, with Jacqueline Onassis.

Nexon: Actually that was all part of the charm offensive, yes. That might have been right after the election, wasn't it?

Heininger: No. It was in August of '93.

Nexon: So it was the first year, but not—

Heininger: It was the first year, yes. What we read about it is that Kennedy was very prepared on all the healthcare stuff, but didn't raise anything with him when he was out sailing.

Nexon: Yes. Well, he's got a sense of what's appropriate and what's not, and what the timing was. He's always prepared. For any of these meetings, he does tremendous preparation. Any time he's over at the White House, and this is true now, he'll have a card with a set of the points he wants to make, and if he sees somebody who he thinks can be helpful on any of those, he'll go and talk to them. He'll leave the card with the talking points on the issue behind.

He never wastes an opportunity to try and get his viewpoint across to anyone he thinks may be helpful. This was true under [George W.] Bush, and it was true under Clinton. It was true probably under Reagan, although I didn't see it as much then. Say he had a corporate bill signing ceremony. He's collared three people during the course of the ceremony. Often the President will take—I mean, at least under Clinton, probably not under Bush—sometimes they'd take him back to the Oval Office and chat for a few minutes. I think he'd always be prepared with an agenda he wanted to get, if it was possible and appropriate. And he had materials to leave behind if that seemed indicated.

Heininger: So the bill comes up and at this point Kennedy's role, in essence, through '93 had been cheerleading, had been both keeping the staff deeply involved in the drafting.

Nexon: Right.

Heininger: OK. To what extent did you have that Kennedy's ideas were incorporated into the drafting?

Nexon: We secretly—they sneaked us into the White House to review the draft. They weren't letting anybody else do that. We went through it and made notes, suggestions. A lot of that was focused on jurisdictional stuff at that point, to make sure that our committee got a piece of the bill, which was important because Moynihan was never going to do anything with it. They only reported a bill out of there when we did. If we hadn't moved it in Health, a bill never would have emerged from the Finance Committee.

There's a great story about the jurisdictional fight on the floor. What happened was that two bills were introduced. One was the full bill, which we referred to Finance because it had a tax and a Medicare component in it. Then we introduced the part of the bill that dealt with the private side, so we had everything but Medicare and the taxes. There was this big thing on the floor with the Parliamentarian about where that bill was going to be referred. [Robert] Packwood was sort of

dragging Moynihan around. The two of them harangued the Parliamentarian. They came over and harangued Kennedy. I think they briefly were threatening to raise an objection to the referral. It was quite a scene.

Heininger: Was Al From still the Parliamentarian at this point?

Nexon: Yes he was. Al was quite a stalwart. That's a lot of pressure for somebody to be under. But we had talked it through with him and he had already concluded that the way we had written it was appropriate Labor Committee jurisdiction.

Heininger: So it then did go to both committees.

Nexon: In the end, it didn't go to either committee or it just went to Finance. Referral is by unanimous consent. Moynihan objected to referral of our bill, so it went directly to the calendar. I can't remember whether we objected to the referral of his bill. We ended up treating our bill as if it had been referred and reported out an original bill.

Heininger: Two separate bills. So at this point, because we've seen conflicting accounts of this—that the Senate leadership made the decision not to refer it to committee, but to take it straight to the floor.

Nexon: Well, that was later. Technically, Mitchell brought the Finance-reported bill to the floor and offered a substitute.

Heininger: That was later, OK. So this would have been the introduction in November, if I recall. So it was the initial proposal that came up from—

Nexon: Clinton, right.

Heininger: Clinton. This is about November of '93. So this does get referred to both committees. What did Finance do with it?

Nexon: They had hearings and sort of dragged their feet, and Moynihan sniped at it. It was not going anyplace and of course, we went full-bore. We had a two-week markup on the thing. I remember I nearly killed myself on the way home because I fell asleep at the wheel. I was so tired after that.

The process of that was kind of interesting, just how Kennedy operates. We got an agreement with the Republicans that at least we would do sections of the bill. You know, we would only do amendments on particular sections of the bill on particular days. But they of course were going to file a zillion amendments and we didn't know which ones they were going to call up. So there were a lot of talking points and preparations to deal with.

The drill went like this: We'd have the markup maybe from 9:00 to 3:00. This is from the staff point of view, obviously. We'd then go back to the office and prepare for the next day's markup, writing talking points, trying to pull facts together, analyzing whether we needed to do second

degrees or alternatives to what they were offering. We'd then go over to the Senator's house at about 8:00 to brief him. He would think of about six things we hadn't thought of, either arguments or issues, which were all good things. He's very acute, very smart, and we'd go back to the office to work on those things until about 3:00 AM. We'd go home, get a couple hours of sleep and be back at 8:00 for a breakfast briefing with the Democratic members of the committee, and then start the markup again.

It was quite an experience, and Kennedy of course is doing a million other things at this time. He's not spending full-time on the health reform, although it certainly had taken a lion's share of his time. When appropriate—and this is another thing he likes to do—he likes to bring in what he calls a hotshot, you know, an outside hotshot. If there's an issue where he feels he's not terribly familiar with it and maybe the staff isn't quite as up on it as he'd like, he wants somebody brought in who can brief him and give him some ideas.

I remember there was some—I can't remember the issue but it involved getting somebody with an expertise in administrative law from the Federal Court, you know, the Central Federal Office Administrators of Federal Courts, to come in to do this briefing over at the house after dinner.

Heininger: I do recall this was an extremely busy time, yes. So we're still at the end of '93, when it looks like something is not going to come out of the Finance Committee. The Labor Committee reports out a bill.

Nexon: We report our bill out. I think it's in '94 that we actually reported the bill.

Heininger: Yes, early '94.

Nexon: Yes. There's a brief splurge. Although we had [James] Jeffords as our co-sponsor—we were in danger of losing him briefly, and we got him back on by rewriting a major section of the bill. It was incredibly painful; it's the lion's share of the thing. We made a compromise. We lifted the—there had been an exclusion of small businesses below—I think there had been no exclusion. All small businesses had to be included, you had the mandate in the original bill and I think we bumped it up to ten.

The amendment was offered by Senator [Jeff] Bingaman, and was sort of worked out in advance with the other Democrats. There was a brief splurge where that looked like that was the compromise, and the thing really had some momentum for about a week. Then immediately after that the Finance Committee reported their bill out and it was quite a different approach. I'm sure they were stimulated to do that because we had moved, not because Moynihan was particularly interested in reporting a bill out.

Now the other thing that was interesting that happened was that the bill they reported out, which did not have an employer mandate in it, and it wasn't universal coverage but it was a big expansion, sort of had the support of this—I forget what they called themselves. It was like this little centrist group.

Heininger: It's possibly the Mainstream Coalition.

Nexon: The Mainstream Coalition, yes, correct. And that had Chafee and Durenberger both participating in it. It looked for a brief moment like there was something that would—of course at the time, we were very tunnel vision—we were very upset: “Oh, this is not a universal—” It probably would have been a huge expansion if we got it, but the Finance Committee stance, you know they have these conceptual markups, and then the Finance Committee majority staff went off and wrote the bill.

These Mainstream guys, for whatever reason—I don’t know what exactly they were so upset with, but they were just furious. They felt that the staff rewrite didn’t reflect what had been reported from the committee, and so they were off the wagon again, and this brief moment of bipartisanship vanished. They were under immense pressure from their caucus, too. Finally, they were going to put—they never even got their bill in. They had their own bill, which was, as I say, actually pretty similar to what Finance reported out in this conceptual markup, but they had their own bill. After, though, they could never even get it introduced because their guys wouldn’t stick with them. It would have been an embarrassingly small group had they put it in.

Heininger: Does this take us up to spring of ’94?

Nexon: Yes, I think so, and then the bill came to the floor relatively quickly after the new markups, within three or four weeks, I think. You probably know the chronology better than I do.

Heininger: I’ve got a chronology here. Where was Mitchell in all this? When did Mitchell’s role become so important?

Nexon: I think after the bills were reported out of committee, and the first issue is what bill to bring to the floor, and who was going have floor management. Mitchell basically told Kennedy, “I can’t work with Moynihan. I’m going to have to work with you.” But then for a variety of reasons, the bill that—what he did was he called up—as you say, he wrote another bill that had—basically, the compromise was that there was some kind of a trigger—I think it was an employer mandate, but with a trigger if you didn’t achieve a certain level of coverage.

Mitchell really wanted not to put that trigger in there because he thought that was the only thing he had hope for in getting it through the Senate. Clinton resisted doing that, so Mitchell loyally followed the President on that. He brought the bill up—I think the Finance bill and offered his own proposal as a complete substitute. In any event, it ended up that because the underlying bill was Finance, Moynihan was floor managing it. It was really quite a disaster because he was incompetent, and wasn’t in sympathy with the thing. Not that it probably made that much difference.

Heininger: Was this in June or was this prior to June?

Nexon: This is whenever it came to the floor. I can’t remember. It seems to me it was more like July.

Heininger: I recall June being the critical month, and then July was back to redrafting.

Nexon: Kennedy wanted Mitchell to keep it there, to keep working on it.

Heininger: OK. “Labor Committee votes 11-6 to approve a healthcare bill model and Clinton’s plan in June of ’94, with Jeffords’ support.” And then, “August, Mitchell proposes his own bill.” I actually thought he had another bill.

Nexon: Well, the bill that he took to the floor was his bill, really, his hybrid. Maybe it was the beginning of August when it came to the floor.

Heininger: Yes, I think it was August.

Nexon: That’s probably right. The committee reports were being written in July, and then maybe they were during appropriations bills. Then it was clear we didn’t have the votes, after it had been on the floor for a while. And Mitchell didn’t force it to a vote, which I think may have been a mistake, but who knows? Not that we would have won it, but at least captured it on the record.

Kennedy was for keeping people around further into the recess, to show we were doing our job, but other guys were just scared to death and said they needed to be back on campaigning, so Mitchell pulled it down. Then throughout August the staff was trying to work something out with Mitchell as the focal point of the negotiations with this so-called Mainstream group, and they couldn’t put it together. There was some point where Mitchell just called it off. It might have been after Labor Day or just before Labor Day.

Heininger: I think it was after Labor Day. So the Labor Committee bill never makes it to the floor.

Nexon: Right. And neither did the Finance Committee bill. I mean, it was a Finance Committee bill of some kind, but what they were really debating was a Mitchell substitute.

Heininger: Which was even more watered down.

Nexon: Well, not more watered down than the Finance bill. It was stiffer than the Finance bill, because it had this employer mandate as a trigger.

Heininger: OK, stiffer than Finance but less than Labor.

Nexon: Yes.

Heininger: And that one didn’t fly either.

Nexon: No.

Heininger: Now what’s going on in the House during all of this?

Nexon: Well, I remember a meeting that we had in the White House, where the chairmen were kind of rah-rah about—Rostenkowski was forced out before this came to fruition. What happened over there was that Dingell couldn't get a majority in the Commerce Committee, and he tried his damndest, and I think ended up with a tie vote or something. I don't know if he reported a bill out. They got a bill out of the Labor Committee [House Energy and Commerce Committee], but that was not considered very seriously because that was regarded as such a liberal committee. And then Finance reported out its own bill, which was more of a—

Heininger: You mean Ways and Means?

Nexon: Ways and Means, which was—was Jamie [Reuter] there at that point?

Heininger: Yes. I didn't see him for six months.

Nexon: Yes, I'm sure that's right. I walked into my wife's—into our bedroom one night about 3:00 AM, and I can't remember if it was in the taskforce or during the markup, but I'd been—as you said, she hadn't seen me in a long time. I bumped into something and she said in this groggy voice, "Who's there?" I said, "David." "David who?"

Heininger: There was some of that in my household too.

Nexon: They had more of a kind of Medicare as an alternative, so you could go either with a private insurance or Medicare, as I remember, the way their thing was constructed. Then it never came to the floor. I think had they gotten it out of Congress they might have brought it.

Now, the fellow who was the staff director for the Ways and Means at that time, David Abernathy, said, and I don't know if this is true or not, that they thought they had the votes to pass it in the House, but they weren't going to do it unless the Senate went first, because they didn't want to get "BTU'd" again. Again, I don't know if that's true. I mean, I know he said it was true. I don't know. You'd need to talk to the House people, who were much closer on it than I was.

Heininger: Now let's go back to Kennedy. When Clinton came into office, did Kennedy think that there was a good chance that this bill—

Nexon: Yes.

Heininger: That national health insurance could finally be enacted?

Nexon: Yes. We all did, and we came actually pretty close. After the State of the Union, in fact, there was a little story in the paper that Clinton approached Kennedy on the floor. After he'd made this call for universal health insurance in the State of the Union, he approached Kennedy on the floor as he was walking off and Kennedy said, "I've been waiting for umpteen years"—however many years it was—"for a President to say that."

Heininger: Throughout the process did you sense any shift in Kennedy's sense as to whether this was going to be possible? Did you sense any erosion, that he thought this was slipping away?

Nexon: Well, I'm sure that he had a fairly realistic view of what was going on. Basically, the way he is—he's always flat-out—and certainly this was a huge issue for him. You know, he's been central to this forever. His goal throughout was not to give up, to try and find a way to pass it. He urged Mitchell to keep the Senate in, in August, to continue to work on it. He had us involved in the negotiations to try and resuscitate it, and so he really gave it his all. The *New Yorker* article was by the woman who was married to Bob Woodward. I don't remember her last name.

Heininger: Elsa Walsh.

Nexon: That's it. It was by Elsa Walsh, a very long article, quite insightful, I think.

Heininger: OK. We'll get a copy of that. So he goes full-out all the way through. Did you hear him say things about, "I don't think this is going to—"

Nexon: No.

Heininger: So he never uttered pessimistic words.

Nexon: To me, and that's not really his style. His style is, if he's committed to something, even if everybody else has given up hope, he'll—he's realistic. He understands what's going on, but he won't give up if there's still a shred of a chance. I mean, look at what's going on with that immigration bill.

Heininger: Some things die very slow deaths.

Nexon: I don't know if it's going to die.

Heininger: I don't know either.

Nexon: I think he can still resuscitate it.

Heininger: Yes. Maybe it will come back. Why ultimately do you think—

Nexon: Oh, the other thing that's interesting is that Kennedy also had a very close relationship with Mitchell. Mitchell was a guy who, as I said, played things very close to the vest. Kennedy would drop by at the end of the day, just after the floor closed down, to chat with him and sort of push his viewpoint, and we heard back from the Mitchell staff that they used to dread those little chats because they would have persuaded Mitchell of one course, then he'd talk to Kennedy and think, maybe I've got to go a different way. He was very sensitive to Mitchell's moods, as he is to other people's. So he would say, "I was going to talk to Mitchell but I could tell he was strung tight as piano wire, and this wasn't the time to bring it up."

Heininger: What was Kennedy's relationship with Moynihan?

Nexon: Interesting. It was very friendly. Personally it was very friendly. It was poisonous between the staffs. I think personally they were very cordial and very friendly. Kennedy was not a fan of Moynihan's, though, I would say.

Heininger: So why did this moment of opportunity not result in national health insurance?

Nexon: I think there was a set of reasons. In my mind, the biggest thing was the timing, that we didn't move it when people were still trying to get their piece of it instead of trying to block it. I think the second thing, which was related to the timing, was that the Republicans decided that the way to get a Republican Congress was to deny Clinton any legislation on the subject of health. It didn't matter what it was.

So we would advance toward them and they would back off. We may have made some mistakes. Maybe had we been less insistent, maybe had we moved earlier to the kind of compromise negotiations that we did in August, we might have been successful, although I think it was really that as we moved toward them, they moved away from us.

There was a lot made of the complexity of the plan. I think that was very much overplayed. I do think that there was a level at which Clinton, as good a communicator as he was, and as good a job he did on the need to move ahead, did not do as good a job on explaining the plan itself, the proposal itself, because although it was very complicated, there are simple ways to explain it. There was a very telling poll in the *Wall Street Journal*, some point rather late in the process, where they asked people about approval of the Clinton plan, and it was either that a bare majority approved it, or it was a minority approved of it. Then they asked them about each of the key elements and there were big majorities for each one.

Oh, the other thing that Clinton added that was not in the original plan, although most people have forgotten about it now, was a cap on premium increases. So he had a rather robust cost control program, although nobody was quite sure how it worked. It was sort of putting the burden on the insurers to figure out how to keep the amount the providers were charging down.

Heininger: So if you take timing, Republican blockage of anything that Clinton wanted, and you cite maybe if you'd moved to compromise negotiations earlier, that might have happened—Where was the public on national health insurance at this point?

Nexon: I think it was, as I say, from that *Wall Street Journal* poll they were still pretty strong about wanting to do some action. It may have ebbed a little bit as the thing went on, and certainly the Republicans apparently were successful in tarnishing the specific Clinton proposal. But I think support remained pretty high for universal coverage.

Heininger: Well, some people argue that the reason we haven't gotten it is because if 85 percent of the people are covered, that's most people, and that's not that 15 percent.

Nexon: I think there were a couple of things going on that were true then and are true now: First of all, the number is much higher than that, because as you know, about a quarter of the people, over a two-year period, are without coverage for some period of time, a month or more. Second, particularly at that point and somewhat now, too, there was a great level of insecurity. People who had coverage were afraid they were going to lose it or it was going to be diminished in value. Every strike was about employer take-backs and this kind of stuff, and obviously the private insurance coverage was dropping fairly precipitously.

People were concerned about cost, and that kind of got mixed up with the whole insurance thing because it wasn't—they weren't concerned about the share of GDP [Gross Domestic Product] but about their own personal affordability, which had to do with whether they were insured and the adequacy of their insurance, and how much their premiums were going up. All those things played into it. Plus there is a kind of moral aspect to it or an ethical aspect to it. Most people feel that everybody should have healthcare regardless of their ability to pay. While that in itself may not be enough to drive it over the top, it's certainly an important element in providing momentum for the thing.

So the public support is there and it waxes and wanes depending on whether there's a sense of crisis, which is partly based on what's happening in reality in terms of premiums going up, people losing coverage, and so on. And it's partly based on how much attention there is among the press and the politicians talking about it, and they reinforce each other a little bit. You know, the more the polls show the public's worried about it, the more politicians talk about it, which makes the public more worried than they were previously. It's interesting, I saw a poll two or three months ago that the proportion of people who think the whole system is broken and needs to be reconstructed is similar to what it was at the start of the Clinton Presidency, which suggests that there is a basis out there for moving forward again after the 2008 election.

Heininger: What about the opposition of the healthcare providers?

Nexon: Well that's the other factor, and it's not just the providers, who were generally favorably disposed toward the thing, although the AMA began to drift away as it moved along, because he didn't have overt price controls on providers. They got nervous with the premium caps.

But I think it's more just that this industry is so big now and there are so many diverse interests that have a stake in the way things are, that it just—you know, there's a lot of inertia, political inertia, in the system, and there's an awful lot of people to be bought off if you're going to do anything. It makes it a very difficult—it's not like you just have to deal with the tobacco companies or something like that. It's a full set of very powerful interests, which I don't think makes it impossible but it certainly makes it more complicated and difficult.

Heininger: Is that a big difference between earlier attempts to enact it, that the—

Nexon: Yes, you certainly have insurance companies and physicians, who were probably the main engines of opposition when Kennedy was doing his original plans. It just wasn't as big a piece of the national economy then as it is now. There's so much money floating around among healthcare. You know, half the consultants in town have healthcare clients.

Heininger: What effect did the *Harry and Louise* ads have?

Nexon: It was very significant. I mean, I haven't seen any studies. I've seen studies debunking it and I haven't seen a whole thing of it as a key issue. To me it really changed the whole dynamic, because people who were seeing this as a positive thing began to worry about how it would affect what they had, and that goes to your point about most people having insurance coverage. People were made to feel afraid that they were going to lose what they had.

Heininger: Whose idea was that?

Nexon: Well it was the HIAA. I don't know personally who did it but a guy who used to work here, Blair Childs, took some of the credit for it. [Charles N.] Chip Kahn was involved in it, and I think the guy who headed the place actually thought it up himself or had the genesis of the idea, in saying that we've got to make this a kitchen table issue, or something, which is the slang for so many people. So they filmed "Harry" and "Louise" at a kitchen table.

Heininger: Was that Bill Gradison who headed it?

Nexon: Yes.

Heininger: So part of the process throughout, by this taking over a two-year period, which is hardly a long period for any major piece of legislation—

Nexon: Except it wasn't really a two-year period. It started to some extent in '87 when we put in our bill, as we just discussed. Then of course there's a long chain certainly since '71 when Kennedy put in his first bill, and maybe it even went back to Harry Truman. It's not as if the issue hasn't been around. It's not as if somebody thought it up all of a sudden.

Heininger: But back to your point that if Clinton had walked into office in January and put down a bill.

Nexon: There's a possibility we might have passed it. I think we would have passed it, actually, assuming that—again, this was all intertwined with this economic plan, but there was a good chance we would have passed it had he done that.

Heininger: But the economic plan wasn't in—I mean, the outlines of the economic plan weren't in place at that point, were they? That took a while.

Nexon: Yes. What happened was they did this quick—it was supposed to be a quick stimulus for the economy, which was really done at Robert Byrd's urging, and that thing was porked up a lot, and procedurally they did it in a way that alienated the Republicans. So that was defeated and that took a bit of the steam out of the Clinton Presidency.

And they also had the gays in the military and a bunch of others things that took a little bit of the bloom off the rose. The economic plan came fairly quickly after that, though, and they probably

had the outline of that pretty well drawn up before they came into office. Remember, the first thing he did after the election was hold these economic summits.

Heininger: Yes, I'd forgotten about that. Where is Kennedy now on national health insurance?

Nexon: He wants it. Right now his position is Medicare-for-all.

Heininger: He's gone back to the old—

Nexon: Yes. We did it just before I left, and I think he's going to stay there for a while. I thought he maybe ought to move to the Massachusetts plan, which he was very instrumental in, as sort of a—but for whatever reason, and I'm not sure what the internal thinking is, he's sticking there, sort of staking out the left position. And then my guess is that if we get a President in 2008 who makes this a key plank, he'll try to influence the President and then support whatever the President puts forward, assuming it does the job, you know, that it's a big comprehensive plan. I think he will feel that, in that environment, Medicare-for-all is not realistic. But that's all speculation on my part.

Of course we had that fight in—Interestingly, we did not get much pressure with the '87, '89 employer mandate plans, when people felt it was real. That was in the run-up to the—once Clinton was elected and the issue was what we were going to do about—clearly, universal health insurance was on the public policy table. There was a lot of single-payer pressure, effort, and some people were quite angry at Kennedy, that he was no longer in that place. We had like a hundred co-sponsors in the house for a single-payer bill. Not so much support in the Senate. Paul Wellstone was very strong on it, and the way we eventually accommodated him was to give states the option of doing it if they wanted to.

Heininger: Is there anything else we really should go over for the Clinton plan?

Nexon: Well, you're not writing a history of the Clinton plan; you're writing a history of Kennedy's involvement.

Heininger: Right.

Nexon: When you talk to him, it would be interesting to try and retrace for him his strategic calculations on the thing, about how he thought it was going to get done, what he was asking Clinton to do, how he was reaching out to other members of the Senate, you know, that kind of stuff. What his overall game plan was as he went into the thing.

Heininger: Did he discuss those with staff?

Nexon: It's kind of funny. The decision-making process in the Kennedy office was kind of amorphous. Things sort of evolve and you often can't tell quite how it happened, but you know that's where the Senator wants to go. We'll often have a discussion where we make a decision about how to do something tactically, and sometimes we'll have a set piece briefing and a decision on a big policy issue comes out of it, but it tends to be more, you know, by the time you

get to that briefing you almost already know where he's going to go because you've had enough preliminary conversations and he's given you an indication of it.

So we knew we were for universal health insurance. We had the plan. He wasn't wedded to what he had done but he wanted to get something enacted, and that was basically the direction, to get something enacted that will do the job. That meant dealing with the interest groups to the extent possible, and working with other members, and cleaving close to Clinton so you could influence him.

Heininger: Was there any discussion at the staff level with him about talking to other members, or did Kennedy know—to what extent does Kennedy take counsel from staff on talking to other members?

Nexon: He does, because he's doing so many things. A couple of things about Kennedy, I don't know if I mentioned them or not at the beginning of the session. I used to give this little talk to people who were thinking about coming to the office, and one of the things that I mentioned—a couple of things: One thing is I said he's got an executive temperament, by which I mean he's a very good delegator. He doesn't want to do anything that a staff person can do for him. He just wants to do what it takes the Senator to do.

So he will sometimes—obviously he'll say, “Well, I'd better go talk to somebody,” but he also relies on the staff to figure out, “Gee, here's a guy who maybe you could get if you go speak to him,” or, “Here's the guy who's the problem, and here's what I think you ought to say to him.” But in that stuff, he's really the guy who—he'll rely on the staff, because he's doing so many different things.

On a big issue, he'll often—he also obviously knows a lot himself and will make those decisions himself, but relying heavily on the intelligence of the staff. He does a lot of independent talking, he talks to people a lot. He'll come back with information that he's gleaned from just talking to Senators on the floor. He's always—if you see him during a vote, he's always in motion, he's always talking to people.

The second thing I tell to people is that he has very high expectations of his staff and he expects them to do all the things that everybody's staff does, at a very high level of achievement, of competence, you know, the talking points and the bill analyses and all this stuff. But what he really wants people to do, at bottom, is to think of new and better ways of improving the lives of Americans, and in our case, healthcare, and get them enacted. He's very pragmatic and he wants to get things done, not just strike attitudes like some of the guys up there. He's a very entrepreneurial kind of a guy in a way, in terms of finding opportunities to get legislation done or grab an issue and run with it and that kind of stuff.

Heininger: We've got a few more minutes. Let's talk a little bit about the staff, about how the subcommittee was organized and the relationship between the subcommittee and—

Nexon: I don't think we had a subcommittee, actually, during this period.

Heininger: Really?

Nexon: I think we just did health at the full committee, since he was the chair of the full committee and would have chaired the subcommittee anyway if we'd had one.

Heininger: But there was a full committee staff director?

Nexon: Yes. Nick Littlefield was the full committee staff director, and I was the director of the health staff. There was also an education staff, a disability staff—although I think that consisted of one person—a labor staff—labor and pensions, labor and employment policy, and then there was an economic development staff that did sort of cross cutting, things that didn't fall in those areas, but also did a lot of Massachusetts-related stuff.

Heininger: How closely did you work with Nick?

Nexon: Oh, he was involved in everything.

Heininger: How big was your staff?

Nexon: In terms of paid staff, I only had four at that point, I think. I had an administrative assistant who also was sort of the office manager. I had a deputy to me, who worked mostly on financing stuff, well, worked on whatever I wanted her to work on but it was often essentially on financing. Then I had another person who typically did mostly public health stuff.

But then on top of that, we had seven to nine fellows and detailees, plus interns. Our office has always relied very heavily on the fellows and the detailees, just because we don't have the—you know, we have a huge workload because Kennedy is so active and he wants us to generate so much stuff. We do an awful lot but we don't have the budget to hire people so we get a lot of very high-quality guys from those fellowship programs and the detailees.

Heininger: How long does it take you to train them though?

Nexon: Usually we don't get them unless we think they're very quick studies. They pick it up by osmosis, almost, and most of them do very well. We get a dud every so often. I had great people during that health reform stuff.

Heininger: And if you'd describe—in the whole time that you were there, what were the central issues that you felt were the agenda for the health staff?

Nexon: Well, there was always the strain of expanding insurance coverage. That was central to Kennedy's goals and certainly something I was very interested in personally because my background was in health financing. We also spent a lot of time on the big ticket, health insurance, and also on Medicare when it was not an in-detail Medicare issue, unless there was a Massachusetts implication, but something that would significantly expand the program or make a difference, you know, like the Medicare drugs. Same thing for Medicaid. We were involved in that stay-at-home spouse thing.

Heininger: Was that Kennedy's idea or [Barbara] Mikulski's?

Nexon: We sort of grabbed it. I think either Mikulski or Mitchell had it first, but we sort of glommed onto it to try to help move it. But then also all kinds of stuff just came up. First of all, there's always the reauthorizations, and there was always some new initiative that we wanted. Whenever a reauthorization was coming up we'd always try and think of a new initiative that would do something better and quicker and be more helpful to people.

We were driven by the issues of the day, too. There's a moment early when Kennedy realized how significant the AIDS issue was, so we were on top of that, really paying attention before anybody else, except maybe Waxman. Bio-terrorism—that actually started out as an initiative on drug-resistant antibiotics, because a guy Kennedy was friendly with was head of SmithKline Beecham and he came and talked to him about the problem of drug-resistant antibiotics. So he had [William] Frist in to see this guy and they thought they ought to generate interest in doing something together on it. Frist was then the chair of the subcommittee. This is later, obviously, and that evolved into bio-terrorism as we looked into the issue, and so we did the first bio-terrorism—it wasn't just a bio-terrorism bill, but that was a significant part of it. The [Jesse] Geisinger thing came up, so we did a whole—it didn't actually end up becoming law.

Heininger: What was that?

Nexon: Jesse Geisinger was a kid who was getting gene therapy.

Heininger: Oh, right.

Nexon: Otherwise healthy, and died, and so we went and did a whole protection of human subjects thing, which has been a long-standing cause of Senator Kennedy's. The reauthorizations drive some of it, but some of it is just because somebody on the staff gets an idea, which is again what he wants us to do, to think up these new ideas to make things better, and there's a political opportunity for some reason. Something that's driven by the headlines you know, what's our strategy? "Gee, maybe this is in the public mind, it's getting a lot of coverage. Maybe this is an opportunity to produce some legislation and get it moved."

Sometimes he hears stuff in Massachusetts, comes back and says, "I think there's an idea here that we ought to be working on." Sometimes it's reactive. During the Republican administrations, we were thrust into fights to protect things. In some ways, after national health insurance one of the most interesting things I did—and CHIP [Children's Health Insurance Program], I suppose—one of the most interesting things we did was the fight over the PDUFA [Prescription Drug User Fee Act]. I've got the pen up there on the wall from the Food and Drug Administration Act or Revitalization Act. It started out as an attempt by the Republicans right after the Republican majority was elected to gut the FDA's authority. That's how we fought that off. That's a good story, incidentally. I don't know if you've got limited space, but that's—

Heininger: No, but that's one I'm going to come back to.

Nexon: That was vintage Kennedy. Nobody else could have pulled it off.

Heininger: That was the late '90s?

Nexon: Well, it started in '95 right after the election. We stalled it off until—I think it passed finally in '97. We stalled it off for two years.

Heininger: Let's talk for just a minute about the differences that you saw in him and in the work that was done when there was a Republican Senate versus a Democratic Senate, so when he was chair versus not chair.

Nexon: Well, when we controlled the agenda, obviously we could move more stuff and had a better bargaining position. At the same time, we were awfully successful in the minority, at least when Clinton was in power, and to a lesser extent when Bush I and Reagan were in. I mean we got CHIP when we were in the minority, although Clinton was in the White House. We got [Nancy] Kassebaum-Kennedy under the same circumstances. We got COBRA [Consolidated Omnibus Budget Reconciliation Act]. I guess it was under Reagan.

Heininger: COBRA was under Reagan.

Nexon: Yes. And we did a lot of public health stuff in the Republican era too. Kennedy got a lot of other stuff, I mean, outside the health area. He did the disability bill of rights bill—I've forgotten what's it called now, but that was under Reagan. I think it was Reagan; maybe it was Bush I.

Heininger: If it was, it was right at the beginning of Bush I. It may have started under Reagan.

Nexon: Was [John] Sununu Bush's Chief of Staff?

Heininger: Bush.

Nexon: Yes, so it was Bush. The Civil Rights Restoration Act under Bush.

Heininger: Did you see a difference in how he—well, what's his relationship with Republican members of the committee?

Nexon: It's generally pretty good. He's very charming personally and he goes out of his way to—I don't think anybody—maybe [Jefferson] Sessions is an exception because they've got a long history, but I think almost all Republicans who actually know him personally like him as a person, and that always helps a little bit. When he's ranking member or chairman, you tend to deal more with the ranking member or the chair as sort of the logical place to work with Republicans, but we've worked with other guys if they were sympathetic. He tries to find an issue where he can make an alliance with somebody unexpected; that's always been—He did a church burning bill with Lauch Faircloth, of all people.

Heininger: I remember that.

Nexon: [Judd] Gregg was the most difficult, I think. It was probably the health staff. I gather relations weren't quite as sour with the other parts of the committee, but Gregg was just a very difficult, hostile in a passive aggressive way, kind of guy. I always felt like I had more work than I could do, except for those two years under Gregg, where I found myself watching the clock sometimes because he just didn't want to do anything in health.

We were able to work with [Orrin] Hatch, who was a very conservative guy. Even before he and Kennedy struck up this close friendship, we did stuff with Hatch. We did it with Kassebaum. We did it with Jeffords. Jeffords was hard in some ways because he was so worried about losing his chairmanship, but still you were able to work through things with him. But Gregg, I wouldn't—nothing, practically. In fact, we only got one thing under Gregg, and it was a significant piece of legislation in health. And there may be some public health thing that I'm not remembering, but there wasn't much.

Heininger: I didn't even start off with my very first question, which was, tell me how you first met him.

Nexon: Kennedy?

Heininger: Normally that's the first question I ask.

Nexon: Well, I had been at OMB. I started there in '77 under [Jimmy] Carter. I had been in academic jobs, which had not been satisfactory for a variety of reasons, and I just loved it at OMB. I had always been interested in politics and policy, so I thought it was this wonderful environment. I was in charge of the Medicare and Medicaid program, if you can believe it. In those days they had one budget examiner for Medicare and Medicaid, and it was me. So the first time I saw a federal budget, I had national health insurance, cost containment, all this stuff. It was just wonderful. I was going to make my career there, you know, be a career civil servant.

Then Reagan came in and there were also some personnel changes within the career staff at OMB that made it a less comfortable place. At first it was OK under Reagan. [David] Stockman was so interesting to work with that even though I didn't agree with a lot of the stuff he did, it was kind of fun intellectually. But then Stockman left and it looked as if Reagan was going to get reelected. As a liberal Democrat, I felt, *Do I really want to keep working for these guys, where my job is to serve a President who I find basically at odds with most of the things I believe in?* Of course that sort of ruled out any other place in the administration, so I started looking in the Congress.

There were two jobs I remember. One was with Waxman, one was with Kennedy. The Waxman job paid better, although they might not have offered it to me, I don't know. In any event, I became friendly with Joe Onek, who was in the national domestic policy staff as sort of the chief health guy under Carter. He had been briefly on Senator Kennedy's staff, or had some relationship with Kennedy from way, way back. I told him I was looking and he was nice enough to hook me up with Jim Steinberg, who was at that time the committee counsel on the staff. Jim,

at that point, was thinking of leaving to go into more foreign policy-related stuff. He liked me and I guess thought I would be good as his replacement potentially.

Then the other health staffer left. Jim did move over to the defense side but not immediately. I interviewed with [Kathryn] Kitty Higgins and all the people up there, and then I guess they decided that I was the guy, or the one they were recommending, and they took me in to interview with Senator Kennedy. That's where I met him first, at the job interview. It was interesting. I did not have a particularly favorable impression of him before going to work for him. There was Chappaquiddick, but more than that, I had seen that Roger Mudd interview in 1980, where he looked like he didn't know which end was up. You know, kind of like, *This is the guy who wants to be President?* But boy, I certainly was a believer after being there only a short period of time.

Heininger: Now when did Larry Horowitz leave?

Nexon: He left maybe a year after I came on board. When they lost the Senate, they had sort of a general housecleaning. A lot of people left voluntarily. They didn't want to be there in the minority and were thinking about their careers, and they felt that they needed a little bit of a fresh start, too. Larry moved over to be the AA, I think as a transition for himself—both to help Kennedy through this transition, and for Larry's own professional transition. He was there when I was hired and stayed for maybe a year. I came in May of '83. Maybe three months after that, Kennedy announced that he was not going to run for the Presidency in '84.

Larry was staying in part, as I say, because of his transition part, because if the Senator did decide to run, he was going to be there to be the chief aide for the reelection campaign. But after the decision—and of course he was thinking he was going to leave anyway—he left. So he stayed there for maybe—as I say, I think he left some time in '84.

Heininger: But you were hired into the staff director position.

Nexon: I was hired as—my title was Senior Health Policy Advisor. It was only a two-member health staff at that point, and the other guy was not working out very well, so the idea was that I would take it over, even though they didn't call me the Health Staff Director. I'm not sure when I acquired the title.

Heininger: I think we can stop for today; that's great.

Nexon: This has been useful I hope.

Heininger: Extremely useful, extremely useful.

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