



EDWARD M. KENNEDY ORAL HISTORY PROJECT

**INTERVIEW WITH EDWARD M. KENNEDY**

**Interview 21**

August 7, 2007  
Hyannis Port, Massachusetts

**Interviewer**  
James Sterling Young

*In attendance:*  
Victoria Reggie Kennedy

© 2014 The Miller Center Foundation and the Edward M. Kennedy Institute for the United States Senate

Publicly released transcripts of the Edward M. Kennedy Oral History Project are freely available for noncommercial use according to the Fair Use provisions of the United States Copyright Code and International Copyright Law. Advance written permission is required for reproduction, redistribution, and extensive quotation or excerpting. Permission requests should be made to the Miller Center, P.O. Box 400406, Charlottesville, VA 22904-4406.

To cite an interview, please use the following general format: [name of interviewee] Interview, [date of interview], Edward M. Kennedy Oral History Project, Miller Center, University of Virginia.

EDWARD M. KENNEDY ORAL HISTORY PROJECT

TRANSCRIPT

INTERVIEW WITH EDWARD M. KENNEDY

Interview 21

August 7, 2007

**Young:** This is an August 7 interview in Hyannis Port with Senator Kennedy. Mrs. [Victoria Reggie] Kennedy is with us also. In this interview, we're following on the last two interviews, which have been on the subject of civil rights, the most recent focusing on the anti-busing situation nationally and in Boston.

**Kennedy:** Let's put this issue in a little broader context in terms of where the country is. Let's look at this issue of civil rights, let's step back a little bit from it, and then get into it in considerable detail. It's the defining issue of the country, and it stems from the fact that the Founding Fathers wrote slavery into the Constitution. We fought the Civil War and made some progress, but it was really the leadership of Dr. [Martin Luther, Jr.] King in the '50s that made such a difference—and, of course, some Court opinions like *Brown v. Board of Education*. But the leadership of Dr. King in the '50s opened up the possibilities in terms of the American public trying to do something about the walls of discrimination.

And we had new leadership after eight years of Republicanism and [Dwight D.] Eisenhower. We had new leadership, people who had fought in World War II next to men and women with different colored skin, people who thought more deeply about what the country represented and felt strongly about trying to make progress in these areas. You had the integration of the military during this period, by President [Harry] Truman's Executive order.

The mood reflected that our foreign policy had engaged with the Soviet Union and its expansionism and the dangers of nuclear exchanges in the 1960s, with the partial test ban agreement between President [John F.] Kennedy and [Nikita] Khrushchev. That was still very much out there in foreign policy.

The country turned in to see how we resolved some of these issues, and race was the issue that was front and center. There were other issues we'll come back to at another time—the progress we made with Medicare and Medicaid and others—but the overarching issue was race.

This was a time of great optimism in the country. We had new political leadership, we had young leaders. There was the challenge to young people to participate in the decision-making process: President Kennedy's call, "Ask not what your country can do for you, but what you can do for your country" resonated around the country. People were excited, they were interested, they were volunteering for the Peace Corps, and they were paying attention to national leadership. The

confidence in government at that time was exceedingly high. I can't remember the figures now, but the percentage of people who believed that the Federal Government would act in the best interest of the country was considerable, around 70. (Now we're talking in the teens.) So there was a great deal of confidence in the government in terms of its leadership.

They had some challenging issues during this period that echoed later on more strongly: the issue of prayer in schools and also some important civil rights issues, obviously, at local levels. President Kennedy backed the Supreme Court ruling that prayer should be in the home and in the church and not in the schools, that we should not have state-sanctioned prayers. That was a controversial issue and he spoke to it. He also spoke to the issue of civil rights, what it would mean in terms of our children and our children's future. We were now going to give them fairness, an opportunity. I remember his speeches, which were very good and had an important resonance. So the country was on track in a positive and hopeful way, dealing with problems.

Then we had the loss of President Kennedy, and we had President [Lyndon B.] Johnson trying to move us to meet President Kennedy's challenges. I always felt that President Kennedy's primary appeal was his belief in young people and challenging them. He had been challenged himself, certainly in the war: his boat was lost and he was responsible for saving people's lives. He was a great believer in young people and a great believer in challenging, for the individuals and for the country.

He thought, in the post-war period, that the essential challenge, the world challenge, was where these former colonies in Asia and Africa were going. Were they going with the Soviet Union and communism, or were they going to democracy? That was the central challenge of foreign policy. He was a believer in the challenge. He challenged the youth, and they came, they responded, and they were very positive.

Now we go into this period of lost leadership in the mid-'60s, and the escalation of the conflict of the war, the beginning of the breakdown of the confidence of the American people in government and institutions. They believed the government was lying to them about Vietnam, and that bred a loss of confidence in national leadership.

At about the same time, we had the continued struggle in the area of civil rights, with a number of activities that brought a lot of pressure, a lot of tension, and a lot of anxiety. We had the loss not only of President Kennedy and Robert Kennedy, but also of Dr. King, which was enormously discouraging and distressing for a whole community. The country was faced then with recognizing the loss of confidence in institutions, in the Presidency, and in the Court that had given us *Brown v. Board of Education* but was still deciding the *Mobile* case.

**Young:** The *Mobile* case was a step back. That was 1980.

**Kennedy:** Yes. After that, we had the 1982 Voting Rights Act. Then at this time we had the series of Supreme Court nominee battles that started in the late 1960s. Dr. King was lost in '68, and we had the series of battles. Under the Supreme Court, the country had gotten to respect the Courts, particularly the Fifth Circuit with [John Minor] Wisdom and [Elbert] Tuttle, and [Frank] Johnson on the Eleventh Circuit.

Now we had the swing, after 1968, with new Republican leadership and a series of battles, [Clement] Haynsworth in '69, [G. Harrold] Carswell in '70, [William] Rehnquist in '71. We had a small advance during that period of time, the 18-year-old vote that we were able to get accomplished, but it was also the beginning of altering and changing the Court, which had been the major instrument of progress in this area. We were beginning to see the shift and the change with these nominees.

Closely on top of this we had the Watergate incident, where with [Richard] Nixon there was a complete loss of respect for the institution. So we had this mood imposed over the country, and a lot of it reflected the personal mood of those who had been very close and involved with President Kennedy and the events of his administration.

I've told Vicki—and we'll see why this becomes important—that in this house, family, patriotism, and religion were assumed, and that was basically the philosophy that the immigrants brought here. They wanted to be a part of the whole American dream and system. If they had some differences, they had them within their family situations, but religion, and devotion to their family, and their willingness to serve, were all assumed. We are going to begin to see how these very real values—in many respects, core values in terms of the Democrats—were taken up by the Republicans—and particularly Ronald Reagan—and turned on their head.

In the immediate sense, you can take Ronald Reagan, who—talk about patriotism: he made training films in World War II. He never went to church, because there was always the security issue. There was the attack on him coming out of a hotel, but conversations with Secret Service revealed there never was a serious security issue in going to church. Other Presidents have gone and continue to do so. His family was very diverse and had a great deal of tension until the very end.

But he personified and captured those emotions and those feelings and effectively usurped them from a whole generation of political leadership, and from the immigrant community, which was a part of the Democratic Party, the heart and soul of it. The immigrant aspect of the party was very big. It was not only Irish; it was Italian, Polish. The ethnic groups, the intellectuals, Labor, the early civil rights groups—I mean the coalition. Large chunks of it were very devoted to these values, but what eventually happened is Reagan took all of those and turned them on their head so that he was the one who was perceived to have them.

We're going to come to why it was, but it was primarily tied to the race issue. The Democrats let this go. He captured these issues, and the race issue was the overarching one that enabled him to do it. But it was also the role of the institution of government, a government asking people, "What are you going to do for your country?" versus a government dictating where children were going to go to school. And that changed the atmosphere in terms of progress on the race issue. That mood and atmosphere of confidence in the government was completely lost, heavily undermined. The spirit, where you're asking people to volunteer to do the right thing, was suddenly being questioned, and they were being told that they had to do this kind of thing.

Reagan seized these value systems of family, country, and patriotism in a very clever way. He had a very sunny disposition, but at the same time he was assaulting and attacking the progress the country was making on civil rights.

So tied into this period and this movement we had increased questioning of the government. We had Watergate. We had a very challenging time. I did, personally, because it was just this time, '73, that Teddy [Kennedy, Jr.] lost his leg to cancer, and that took a great deal of time, attention, and involved a good deal of time away from the Senate. He had a long, two-year convalescence, with treatment every three weeks for three days, and that was certainly something that was enormously time consuming. And I had, all during this period, obvious concern about the family and family issues, having been left with the responsibilities of trying to look after not only my children but the children of my brothers Bob and Jack. So that was a personal overlay going through a lot of these cataclysmic moments that were taking place in government.

As I said, we had the Supreme Court battles with Haynsworth, Carswell, and Rehnquist, and Watergate, which is '72. We started an investigation into Watergate and made some very important progress. We have, in the papers, a note from Sam Ervin, saying, "Why don't you continue to do it? You've made a lot of progress." We were still battling, even during this period, to see what progress we could make on discrimination. We passed the anti-discrimination act for elderly people in '75, which brings us back up to about '76.

**Young:** Could I ask you a question? A moment ago you said that one of the things that made it possible for Reagan to capture these values was an underlying racism in the country. Are you saying that this was a conscious racism, or he was just capitalizing on a mood of racism in the country, without calling it by that name?

**Kennedy:** I saw it in the Senate when we had that Ohio Congressman [John Ashcroft] whose name I referred to last time.

**Young:** Yes, we had the name in the last interview. "Let Boston burn."

**Kennedy:** Let Boston burn. I think there were men and women of good will who thought we were moving too fast and we shouldn't be doing this, but there was no question, in the mid-'70s, we had these series of anti-race amendments. They were tied primarily to busing, but they were anti-race amendments: cutting off help and assistance to education, to schools, President Reagan's appeal in 1981 to Bob Jones University.

**Young:** That's right.

**Kennedy:** You start going to Bob Jones and saying they can have tax deductions for schools that encourage that kind of activity—let alone, as we'll see as time goes on, the vetoing of civil rights reform bills and anti-apartheid bills and others. I don't think there was any question in any of our minds that the battle on race was going to be enormously difficult. It continues to be one of enormous difficulty, and it's very easy to exploit that.

The code name we have just gone through recently is the subject matter of the Immigration Bill—we don't want to get ahead of ourselves—where the word "amnesty" was the controlling word. At that time it was "quotas." Anything that could be labeled as a quota was suspect—it didn't make any difference what else was in the bill, if you could say it was a quota, you were going to be successful and halt it and stop it. We had a very similar kind of climate and atmosphere recently on immigration.

I think what was happening is this was all being played out in a very difficult and challenging time, because of the loss of confidence in Presidential leadership and loss of confidence in institutions, suddenly questioning the courts, the Court that had had made the *Brown* decision, and people could look back. That was a unanimous decision, and they could look back and track those decisions all the way through, as they built up—Thurgood Marshall.

Through preparatory judgments and decisions, the institution of the Judiciary that had awakened the conscience of the country to our destiny now was being disassembled, and to a great extent politicized, as we eventually saw with the nomination of [Robert] Bork. The loss of confidence and the alteration and change from challenging individuals to better themselves to telling people what they were going to do, created a very different climate and atmosphere, and hostility and difficulty, and politicians played on it. The whole series of votes we had in the '70s on race in a variety of different ways—not only busing, but also other issues—were symbolic of what we were battling.

**Young:** A lot of it came out as anti-government. Get the government off your back; that was one of the buzzwords in the vocabulary—fronting, perhaps, for racism.

**Kennedy:** President Reagan had the mantra “Government *is* the problem.” He took the fertile ground that was out there and plowed that ground—the government *is* the problem—and did it enormously successfully.

During this period, 1980-'81, President Reagan had been very gracious to our family. In 1978-'79, the Congress had awarded a medal in honor of Robert Kennedy, the Congressional Medal, which is rarely given and is a very significant and important award. President [Jimmy] Carter would never give it to Ethel [Skakel Kennedy] or to the family at that time, and one of the first things President Reagan did was to get hold of, I think it was Ken Duberstein or Ethel, and say that he wanted to give it to Ethel and my mother, and they arranged an occasion to be able to do that, which was very touching and very moving.

My mother got to some of Jack's papers, his handwritten letters and notes about football and Notre Dame, where he mentioned the Gipper. She had those framed and gave them to President Reagan at the time, and President Reagan was very gracious and generous with his time. Mrs. [Nancy] Reagan was as well, and it was a very touching gesture on his part, which was very much appreciated.

Then at another time, probably three years afterward, I asked him to come out to our house for a dinner for the Kennedy Library in Boston and to honor President Kennedy. He agreed right away, came out and was very generous with his time. He arrived there early, stayed through the cocktail time, came up to the dinner. Usually a President drops in up there when the dinner is half over and speaks and leaves before dessert. But he stayed the whole time. He was very gracious.

I have a funny story about President Reagan when he first was elected. He had been very committed to the textile industry but not to the shoe industry, and historically, shoes and textiles were considered the same. There was a lot of overlap in Massachusetts. We were a textile state, and a lot of the states that produced textiles produced shoes. Not all, but lots.

So Reagan had been very precise during the course of the campaign about the importation of various textiles and also worrying about whether textiles were going to add to the problems of inflation. We wanted the same kind of consideration for shoes, so a group of us went down to see him. John Danforth went down with me, because of Missouri, and I think some people from Maine. Bill [William S.] Cohen went down. There were six of us, three Republicans and three Democrats.

When we sat down, the President said, “We have a half hour to talk about this subject, but I’m glad to talk and I’m glad to see you. Before we get started, I want to ask you all, are they still selling Bostonians—shoes—are they still selling them?” And, of course, because it was named Bostonian, everyone turned to me, and I had no idea if they were still selling Bostonians.

“Well,” he said, “let me tell you about Bostonians. They’re a great shoe. I was a shoe salesman for a while, and you know, when you measure Bostonians—we used to do it with that shoe rack. You take the shoe rack out, and you put someone’s foot in, and you measure the width on that slide that slides across, and then the depth. Then you have to put this under your arm and reach up here. The boxes are all piled up. There would be six or eight boxes piled up, and you have to grab one in the middle and pull it right out, and the other boxes fall down. Then you bring those shoes over and try them on.”

At this time, there’s a knock on the door, “Mr. President, the half hour is up.” So we walk out, and there are 50 members of the press out there: “Gentlemen, what did you say to the President? And what did the President say to you about shoes that gives you some hope for the shoe industry?”

He knew exactly what he was doing.

We had another incident, when I went over on something for arms control that he set up in 1980. I was an observer in Geneva. There were about 20 of us, but he read from notes. He said, “I’m glad to see we have a bipartisan group of arms control people. I want you to have a very good trip over there; this will be very important, and I want you to come back and tell me what you find. So thank you very much for serving; it’s nice to see all of you,” and he put his cards away.

He used to be a great believer in cards. [Mikhail] Gorbachev and [Eduard] Scheverdnaze said he would always read these cards that would effectively call them “sons of bitches,” and then he’d put the cards down and say, “Let’s take a walk,” and it would be an entirely different personality.

**Young:** Was he that way at all in domestic politics?

**Kennedy:** No, I couldn’t see it. I never really had a chance to talk with him on domestic things. He had a nice personal relationship with—no, that was later, it was [George H.W.] Bush, with Eunice [Shriver Kennedy] and Sarge [Sargent Shriver].

Subsequently—and we’ll come back to this—Mrs. Reagan has been very generous with her time. We have developed a warm personal relationship on the basis of the stem cell issue. She has called and asked me who she should talk to, and then she calls them and reports back on what they’ve said.

Since this is the oral history, I can tell. She said she called [Minnesota Senator] Norm Coleman, and he was very rude to her. She said she had never had a person be so rude to her. He asked her why she was doing this, why did she want to embarrass the President? And she said, “I was interested in trying to save a President.” She told me that story.

She talked to [John] Sununu, who said, “I’ve made up my mind, but I’m not going to tell you.” So she said, “I think he’s not going to be with us; it’s just my thought about it, but he won’t tell me. He could have told me, and I’d respect his confidence, but he just wouldn’t tell me. He was very sharp on this kind of thing. I didn’t think people were that way.”

Then she invited us out to speak at the Reagan Library, which I did, and she has been very nice. Out there she was very gracious, and she sent me an Air Force jacket. It wasn’t President Reagan’s jacket, but it was a nice Air Force One jacket she sent to me as a little gift.

**Young:** Yes.

**Kennedy:** We’re talking about civil rights now. During a lot of the time, we’ve skipped into the Reagan period, and we have the Bob Jones case and Justice [Sandra Day] O’Connor being nominated. I traveled a good deal during the Reagan period, because it was very difficult to get anything done domestically. We’d find out when we were battling big issues like the civil rights issues, we were battling him, for the most part. He was vetoing them. (We’ll come back to this.) I was using the time, since it was very difficult to get much done domestically, to travel to South Africa, Ethiopia, and also to do arms control. Why don’t we take a break for a minute?

**Young:** Okay.

[BREAK]

**Kennedy:** What we are basically instructing here is why the mood shifted and changed, how the mood got sad, and how—once we started to deal with the civil rights issues and all the complexities and difficulties, the emotions of those issues—they were able to use symbols and language and words in ways that had a considerable amount of appeal to the American public. The ground had been laid there. We had gone through the Vietnam War now, ’68 and ’70, and elected a leader—Nixon defeated [George] McGovern. He had a secret plan to end the war—but, of course, it never was ended—and then he was removed from office, and we had continued deterioration and distrust with government. The government lied, the government couldn’t be trusted, and it went along in that direction.

Then we had the period in the ’70s of President [Gerald] Ford. We had some of these important struggles and battles in the civil rights area. Watergate is 1972, so you’re into the Ford, ’76-’78 period. What we’re seeing now building within the Republican Party is the anti-government rhetoric. We saw, in the Carter campaign, the emergence of a political leader who was successful in 1976 because he was the outsider. Now we see how this atmosphere has really settled in, where it’s the outsiders, the Democrats, who have settled in, in 1976.



And then President Reagan, in 1980, assumes the mantle of an outsider and uses the Democratic leaders' names. He quotes JFK, he quotes Franklin Roosevelt, and he quotes Harry Truman, but he's still pursuing policies that are contrary to everything those leaders stood for. Yet he was creating this climate and atmosphere of sunny optimism. That has become a technique that has been replicated even now, with Justice [John] Roberts on the Supreme Court, his appeal in the confirmation hearings. And yet his decisions belie that kind of appeal.

I said in one of the speeches I gave up at Hofstra University, clearly those names and those figures and those heroes have a ring to it, but Reagan and this anti-government group that had taken over were basically condemning everything these people had stood for, and did it with a great deal of skill and ability. They affected in a very important and dramatic way the atmosphere and the climate that was underlying this whole issue of civil rights.

Getting back to civil rights, it was a very difficult time, and we had a President in the form of Ronald Reagan, who started off with education cuts in the beginning. He was willing to defend Bob Jones, giving tax breaks to Bob Jones even though Bob Jones University banned interracial dating. He was also in opposition to the efforts many of us made in 1983 to create a holiday for Martin Luther King. He had used derogatory remarks about Dr. King—saying we'd find out in 35 years whether he was a communist.

We had important Supreme Court decisions being made then. In 1984 the *Grove City* case, which was really the architecture of the Reagan Justice Department, said that American taxpayer funds could be used at a university, in different departments of the university, as long as the financial office of that university did not practice discrimination. That meant there could be discrimination in the dormitories, there could be discrimination among the faculty, there could be discrimination in sports, there could be discrimination in other aspects of the life of the college and university. That was decided by the Supreme Court in a 7-2 decision, which is absolutely extraordinary because one of the underlying tenets of the Civil Rights Acts of '64, '65, '68, and others, was that we would not permit taxpayer money to be used in any way to support segregation, in whatever the form or shape that it would be. This was in complete conflict with that decision.

**Young:** That was in 1984, the *Grove City* case. That same year, you tried first the Civil Rights Restoration Act. Failed. In 1985, you tried it again. In 1987, you tried again, but that was the Bork year. Then in 1998, you tried still again, and you won. That's an extraordinary event. Reagan vetoed it, and the Senate overrode the veto. That tells you something about how much energy and time it took, but it's still an amazing story. Reagan was in his second term then.

**Kennedy:** It was a very long, time-consuming effort, because it was a complex case. We won't get into it, but it talks about subdivisions. Those who were supporting *Grove City* talked about subdivisions and how far, if the money was to go to some subdivision—say it was a fire department. Does this mean that a local fire department in a little local community is going to have to have rules and regulations so that they're not going to discriminate?

They took it to an unbelievable end to demonstrate what they were trying to do, and this created a real climate of uncertainty and fear among supporters, because they said, "My God, this will

affect our water department, our fire department, all the departments of the state. We're going to have to have measuring devices each place along the way."

So there was very clever opposition to it, and it was a very long and complicated struggle. This was going on at the same time—'83 — when we had completed the Dr. King holiday. I was the principal supporter of it, and it was a bitter, bitter debate with the southerners, Jesse Helms and Jim Eastland, and even though the votes were overwhelming, there was a nasty floor debate and discussion.

**Young:** Do you want to talk a little bit about that, because that was a really virulent, outright—

**Kennedy:** Dr. King, of course, had died in '68, and it took us all the way until '83 to get into a situation where we could move this as a holiday. We had talked about it during that time, but for one reason or another the time wasn't right. We decided we would move ahead on it, and the arguments were very controversial.

Why are we having another national holiday? There are many national heroes we don't have holidays for. The business community was strongly against it. They said we were going to lose X billions of dollars with another holiday. There was the question of whether this was the best way to honor his life, because people would just take a holiday and wouldn't focus on it. There were a thousand different arguments at the time, but it came together at the very end, and it passed.

**Young:** Jesse Helms was the ultra against this, wasn't he?

**Kennedy:** Yes. It was a very nasty debate, with a lot of very vicious attacks on Dr. King. But we went on, and the next year was the speech at the United Nations, in the spring of that year, about apartheid in South Africa. All of us know about the stains of apartheid: the cruelty, the exploitation, the viciousness, the brutality of it all, the killings that took place, the murders. It had been emerging, but it was emerging more and more as a matter of international importance. I spoke at the United Nations, and I made a very strong speech about that issue. Then at the end of that year, Archbishop [Desmond] Tutu and [Allan] Boesak came to visit me in my Washington office and invited me to come to South Africa in November of that year.

**Young:** That was 1984, I believe.

**Kennedy:** Nineteen eighty-four. I was reluctant to go down there. Bob had gone down there in 1966-'67 and had an incredibly powerful visit. He gave some wonderful talks and speeches; he had such credibility emerging from his battles on civil rights issues here in the United States. He was warmly received by the heroes of the antiapartheid movement and very significantly condemned by the supporters of apartheid. He had a great impact in South Africa and handled it, typically, very well.

**Young:** You were reluctant to go?

**Kennedy:** At that time, I was interested. There had been violence—what they call the Soweto riots—where people had been brutally killed. They estimated there were ten people killed, then 100 people killed, and then 1,000 people killed. Ronald Reagan was asked about it, and he said the government forces were protecting themselves. He wouldn't condemn the violence.

**Young:** And this was an internal matter?

**Kennedy:** Yes. So this had made an impression on me. I made a tentative decision to go. Afterwards, when Tutu got the Nobel Prize and called me, he said he still wanted me to go.

**Young:** I don't want to elaborate on your story, but Bishop Tutu talked about that meeting you referred to. He and Boesak were explaining the realities of the situation to you, among other things, and Tutu says you said, "What can I do to help?" It was not something to indicate any reluctance on your part. That was a very powerful moment for Bishop Tutu, when you asked what you could do to help. So you were ready.

**Kennedy:** Yes.

**Young:** You were saying you were reluctant to go after Bobby and all, so I wanted to—

**Kennedy:** Sure.

**Young:** You were ready, weren't you?

**Kennedy:** I was ready to help. We spelled this out up at the United Nations. I didn't quite know where it would be best to do this, and that was really the reluctance. Once Tutu said this is important—not that he needed more credibility or authority—but it just seemed to me that if he thinks it's important, it's important.

**Young:** And the government of the United States was not about to apply sanctions.

**Kennedy:** No, no.

**Young:** Or even make a strong statement.

**Kennedy:** No. We were engaged in "constructive engagement" on it, but it was not effective.

**Young:** That was a sham, wasn't it?

**Kennedy:** That was a sham. A lot of heroes at that—Randall Robinson was around, and he was great. Wayne Fredericks, who had been an advisor on African issues and was in the State Department and also in the foundations, was a friend. He had kept me up to date on what was happening in Africa. So we were prepared to go.

**Young:** It was the antiapartheid resolution that—

**Kennedy:** We had it in the Senate at that time. We had an antiapartheid resolution that carried.

**Young:** Over Reagan's objection, veto.

**Kennedy:** I thought he vetoed the later ones, the antiapartheid.

**Young:** Yes, the later ones.

**Kennedy:** The ones [Lowell] Weicker and I put together. That was after we went there. We traveled there in '85. In '84, I had also been very much involved in the recodification of the Criminal Code. We had 86 hours of markups. No committee spends even a few hours on markups these days on anything. We had 86 hours of markups, and we gave the assurance to any member of the committees that if we got to conference, and if any single member of that conference wanted to sink that conference report, it would not go forward. I gave that assurance to every member of our conference, and no one played the card.

**Young:** Talk a little bit about what you were trying to do.

**Kennedy:** Well, on my staff is a wonderful person, Ken Feinberg, who was from Massachusetts and had been a prosecutor in the Southern District courts in New York. When he came, we asked him to help in the Judiciary, and he had some different items that we had to deal with. One was bail reform, which we passed; we got in bail reform. One concerned violent juvenile offenders, how we were going to treat them fairly. Eventually we had the sentencing guidelines and commissions that came down later, a recommendation of another judge in New York, Jack Weinstein of the Eastern District, and the recodification of the Criminal Code.

The Criminal Code—we'll move beyond this now—had so many different terms of indictment. It had “knowingly,” “willingly,” “lasciviously”—these definitions—and people didn't know where they went or what all these words meant. A captain can marry people on a boat. It had all these anachronistic things—and Ken wanted, and the authorities wanted, to reduce these to make the Criminal Code fair and more just. I thought that was worthwhile. But we didn't get it done.

This was the first attempt in 200 years, and it will take another 200 years before someone else will take it on, because it is so complex and so thankless and so difficult. In the House, Father [Robert] Drinan, a colorful, interesting person, took it on, but he couldn't finish it up. We tried to work out different provisions of it, but we ran out of time.

So in '85 we travel to South Africa; we're back in South Africa, and have an incredible trip. I don't know if we want to go through it. There were certain parts of it that were particularly memorable. One was meeting Winnie Mandela. At this time, she was in good standing. She had been isolated and kept in a rather barren part of South Africa. We went by to see her in the place where she was living, a very small, simple little house. I went in to talk with her, and her first words were, “How can you bring up children without a father?”

She was very empathetic, very sympathetic, very appealing. I was rather startled later on when I read all the stories about her, but she was certainly a very dramatic personality at that time, before she got involved in a lot of these other activities. I think I've told the story about one of the rallies where they weren't going to let me speak.

**Young:** I don't think you put it on tape. You told me about it, but it's not on tape.

**Kennedy:** It was in Cape Town. There were several thousand people at the Cape Town rally. I was supposed to speak, and Allan Boesak was introducing me. There were some ANC [African National Congress] people in the crowd, a group of [Mangosuthu] Buthelezi people who weren't sympathetic to my trip down there. They were only probably 100 people, and they were clustered in the center of the crowd.

After Boesak introduced me and I got up to speak, they all stood up and started to chant, so I couldn't speak. Boesak said, "Let me handle this." And I said, "No, no. I know how to handle demonstrators. I'll deal with this."

But he said, "No, you can't. You don't know how to deal with it here." Then they had this enormously interesting and profoundly impressive dance, which Boesak started and led. He started chanting the names of the heroes of the antiapartheid movement and the heroes of Soweto, the names of the people at Sharpsville, I guess, where they had the killings years before.

He started, and the crowd started to repeat them, and they all got up and started to chant and move and dance. It was sort of a dance, a kind of shuffle. In the beginning, maybe a thousand people picked it up and started to do this and go around, but this created a climate and atmosphere where their voices and the noise overrode everything else that was happening. And then he stopped and said, "Now we'll hear from Senator Kennedy."

Up get the hundred again, and they start to chant louder. So he starts in again, with more intensity, and then he did it a third time and a fourth time and a fifth time. You could feel this incredible—they had danced themselves into a rage. And by this time, you had 5,000 people, and the whole stadium was shaking, and when they stopped, they all reached over to this crowd of 100, and I thought they were going to tear them limb from limb, and they thought so, too. They shut up and didn't say a word. Boesak said, "Now Senator Kennedy will speak," and they just kept quiet.

**Young:** Were you able to speak?

**Kennedy:** I was able to speak. It was a speech that was so inappropriate: "When I flew over the mountains, coming into beautiful Cape Town and the blue of the ocean coming up, I was beginning to think—"

I thought, *I can't believe I have to give this talk after this dramatic moment.*

**Young:** Was this upon your arrival?

**Kennedy:** No, it was the third or fourth day. I was just looking through the schedule. When we got to Cape Town, we traveled a bit. I had visited [Nelson] Mandela before and had a series of meetings and visited Soweto. We didn't get to the Mundi Cathedral because we had been threatened at the end that there was going to be violence. And I thought, *Should we risk this violence?* I didn't want to go, although I think Tutu wanted me to. I would do most of the things he wanted, but I just wasn't sure this was the way to do it.

That's why I think, in some respects, it might be interesting to go back and make that speech in that church now, while Mandela and Tutu are still alive. It would be a wonderful trip. I brought the children. Kara and Teddy came with me on that trip. They had traveled with me to Ethiopia.

**Young:** You had been to Ethiopia and Sudan before you went—

**Kennedy:** Before that, and then I came back to the United States. I didn't want the trips mixed up. I came back for about a week in preparation. I didn't want it to look like we had two things on our agenda. The children went to a resort for a week and then met me in South Africa.

**Young:** Maybe at a later time, we can discuss some of your trips with family.

**Kennedy:** We went outside the prison. We didn't get to Robben Island, for one reason or another. Mandela was in, I think, Pollsmoor Prison.

**Young:** Yes.

**Kennedy:** We had a press conference outside that was subject to being disrupted and things like that. The government provided transportation for the demonstrators. They had our schedule. We'd get on a plane and fly to someplace, get out, and there were our demonstrators. The government had flown them in on a plane. Wherever we went, we had demonstrators.

**Young:** You had a police escort, too, when you went out to Soweto, and they discouraged you.

**Kennedy:** The point coming back—this enormously moving, dramatic point. We met these incredible miners and looked into the mines where they worked, just horrific conditions. Soweto was a positively devastating kind of life for these people: the separations of the family, separations of the women from the men. It was really barbaric.

The question came up then about the sanctions, and virtually every one of them said, "We have suffered so long, go ahead and put the sanctions on. We don't mind suffering so our children won't." Every one of them said that—the miners, the leaders of the miners, all the people who were going to be hurt most by it. All the government officials said, "You don't want it. The sanctions won't bother us; they will bother the people you're trying to represent, the miners."

This was an example where the sanctions worked dramatically. Eighteen months after those sanctions were put in, Mandela was out of jail. Eighteen months. Pik Botha, the foreign minister at that time, just effectively threw in the towel, because of what was happening to their economy because the sanctions had been put on by the Europeans. Margaret Thatcher was strongly against it, but the Europeans had put it on, the Swedes. Other countries had put it on, so when the United States entered, it was really effective. Sanctions don't work unless everybody's going to be on board. If everybody was on board on this, they were going to work, and they worked in South Africa. It's an incredible story.

When we got back, I remember appearing at the Foreign Relations Committee with Weicker. He hadn't gone, but he had been very active and involved before, and I worked easily with him and made the presentation on this. Then we had a long, long battle. The House acted independently and had a very strong bill dealing with Krugerrands and investments, and with a number of trade issues. Theirs was stronger and tougher and probably wouldn't have passed, and we were having difficulty at that time, even with [Richard] Lugar and Nancy Kassebaum.

I had dinners at my home with a number of people. There was Malcolm Fraser, an Australian who had been very involved in apartheid, and I sat them next to each other. We had some very prominent African leaders. We had a series of different meetings and dinners, particularly with

Lugar and Kassebaum. Towards the end of the session, I went over and spoke at the black caucus and told them where we were going, and that we really had strong legislation, although not as strong as theirs.

Ron Dellums was a big figure, and Mickey Leland, who had been a close personal friend, but he was for a tougher bill. I had had personal relationship with Ron Dellums for a long time; he actually ran for President. I'm not sure whether he ran in 1980. After he saw that we weren't going to make it, he didn't want to let up. Ron Dellums is a gifted orator; he's trained, I think, as a clergyman. He's a very big man, powerful in terms of thought and expression—and smart.

They supported our proposal, and President Reagan indicated he would veto it. Reagan had put out an executive order to undermine us previously, to take the wind out of the sails on this thing, which was what you would consider an unfriendly act. Then he vetoed it, and we overrode the veto, which was a big deal.

**Young:** [Robert] Dole was with you on the first vote, but he didn't vote to override, I think.

**Kennedy:** Yes.

**Young:** Was this bipartisan?

**Kennedy:** Yes, bipartisan. We were still not in control. We got control over the Senate later in the year. That was a big battle in '86. Rehnquist was up for Chief Justice at the time, and I led the fight against him. I think we got 30 votes one time, 33 the next time. We had also traveled down to Chile. We were working on the restoration of democracy in Chile and the Soviet Union on arms control. So it was a busy year.

[BREAK]

**Kennedy:** Just to give some focus to the alteration and change in the courts, because we've come around to talking about the importance of the courts, *Brown vs. Board of Education*, the Fifth Circuit. What we now see, as we're moving on into the late '60s, with all the alterations and changes that take place, a whole schedule, a whole program, a whole strategy to alter and change the courts. There was always the thought that Ed Meese had written this out; there was some information that he was the grand architect of the plan to make the courts more sympathetic to the conservative philosophy.

There's no question that they made this effort and have been and are successful. The first one was Judge Haynsworth. There's an interesting irony, a little tidbit on this. When I was in law school, in the moot court competition, I was in the finals with my friend and roommate, John Tunney. We argued the *Durham* case about mental health, the "right from wrong case," whether you have to have the capacity to know right from wrong. Do you just make a judgment if you can tell right and wrong, or do you have to have the capacity to tell right and wrong before you

can be convicted? [Judge David] Bazelon said that prosecutors have to demonstrate that you had the ability to tell in order to be—

Haynsworth cast the deciding vote in favor of John Tunney and me, and we won the moot court. My brothers were down there to see it, and it was a big day. I still have the pictures. Now we have Haynsworth up for the Court and coming before the Judiciary Committee, where Tunney and I are. So we were somewhat empathetic to him. He got himself caught in a very—not insignificant but not significant—jam about purchasing shares of stock in a company about which his court was making some judgments that could have an impact on their price.

**Young:** Conflict of interest situation.

**Kennedy:** Yes. He went back to the courts and had a very distinguished career. He was a very honorable individual but got himself in a jam. Then we followed that with Carswell, who made all kinds of racist statements prior to the time he came up, denied it, and then got before the committee and was a poor witness. He was pummeled, and he was defeated. And then came Rehnquist. Rehnquist was appointed in 1971 by Nixon. He had been very close to Nixon in Arizona.

**Young:** He had been a Republican activist, I think.

**Kennedy:** A Republican, very activist. He had gone to Stanford Law School, was number one in his class, and he had clerked for, I think, [Robert H.] Jackson. Jackson served on the Court when they decided *Brown v. Board of Education*. During their consideration, they had a memo that said that separate but equal was the way the Court had to go because of precedent. The question was, who drafted the memo? There was strong indication that it had been Rehnquist, which he denied. Justice [Hugo] Black's secretary, whom he lived with for a long time and eventually married, was 90 years old and living in Maryland. She said she remembered very clearly that Justice Black told her that Rehnquist was the person who wrote that.

**Young:** And it was his beliefs. It wasn't written as an expression of Jackson's views; it was Rehnquist's views.

**Kennedy:** The person who found it was Joe Rauh. The Lawyers Committee for Civil Rights heard about it, and they wanted to call her up to testify. I spoke to her on the phone; I didn't go out to visit. She said "Look, if you call me up it will kill me. I'm 91 years old. I'll be asked about my relationship with him. We eventually got married, and we had this thing which was very special, but this will absolutely kill me. I just can't go; I'd come apart."

She talked to a couple of the other people on the committee, but we never could move on that. It was troublesome. We knew he wasn't telling the truth. We had eyewitness testimony that in Arizona Rehnquist would see lines of Hispanics and working poor waiting to vote, and he'd walk down those lines with the Constitution and say, "Can you read this Constitution? Why are you here?" An eyewitness says that as they saw him talking they'd see people bailing out and walking away. There were eyewitnesses to this kind of thing, and there was no question he had been involved in it. So I led the fight, we got 30 votes.



**Young:** Excuse me just a minute. That was a question then, not of his competence as a lawyer, but of his ideology.

**Kennedy:** Of his ideology.

**Young:** He was very smart.

**Kennedy:** Oh, he's very smart; he was number one in his class. Sandra Day O'Connor was behind him by about three years, but they were very good friends. Reagan appointed Sandra Day O'Connor because Rehnquist obviously recommended her. He thought that she would be right in the same line as he was, which she wasn't, but they were very close. When Sandra was leaving, she went in and talked to Rehnquist because they thought he was leaving, too. They had been very close on the Court.

**Young:** So Rehnquist's appointment was the first evidence of an ideological component of these decisions, as Carswell and Haynsworth weren't.

**Kennedy:** An ideological effort to reverse and change. You can go through the different appointments, but let's take the ones we have and what the courts have said. We have Rehnquist, we have [Samuel] Alito, we have Roberts, and we have [Clarence] Thomas.

**Young:** And Bork. Thomas, Roberts, and Alito are the next—all of whom had worked within the Executive.

**Kennedy:** I think [Antonin] Scalia was after Bork, or did he come before?

**Mrs. Kennedy:** I think after Bork.

**Kennedy:** President Reagan appointed O'Connor. That was the first Supreme Court nominee President Reagan had. We have all of these nominees; I don't know whether we want to bother taking them in order.

We had Scalia, who came up after Bork, and everybody had been through that battle and didn't want to have to deal with all of this hard questioning again. He got in and out in about, I think, just under an hour. Mario Cuomo called me and said, "Don't worry about Scalia; he's going to be okay. He's effectively one of us." He also called Joe Biden and others. So he went right on through.

What I'd rather do is take the framework. We can get into the battles on the individual Justices, but the basic point is with Rehnquist and then Scalia and Alito and Roberts, all of these people had worked in the Justice Department. We had started the discussion about the *Grove City* case, and the architect of *Grove City* in the Department of Justice was Roberts. That came out during the confirmation hearing.

But if you go back again, the 1982 Voting Rights Act was the first major civil rights bill we had. It was introduced in 1981, and in 1982 under Reagan, William French Smith came up and testified at the Judiciary Committee that they wanted an extension of the existing Voting Rights Act that had been altered and changed in a dramatic way two years before by what they call the

*Mobile* case. It effectively interpreted voting rights—when it was fashioned and shaped and legislated—to have an intent test rather than an effect test. The obvious important difference is that if you have an intent test, every time you have a case, you’re going to have to demonstrate what the intention of the writers of a particular statute intended rather than what the effect of that statute is. So that’s very dramatic and very important.

**Young:** Discriminatory intent.

**Kennedy:** You would have to demonstrate discriminatory intent. What they called the effects test had been in effect up until the *Mobile* case, and we had seen very dramatic and important progress made since the time of the passage of the Voting Rights Act in 1965. You have hundreds and thousands of elected officials in the South, who were able to be elected as a result of the Voting Rights Act.

Senator [Charles] Mathias and I started to have the extension of the Voting Rights Act, 1982, but with the effects test, the language that had been used the whole time the Voting Rights Act had been in place, with the exception of the previous two years, when the *Mobile* case had basically paralyzed things. We’re not going to, but if you go back and look at the Justice Department after that case, they were basically paralyzed in bringing voting rights cases.

Who was the architect of the administration’s determination to stay strong with the position of the *Mobile* case? Roberts. This was year 2000; he’s now the current Chief Justice. He was the principal architect of that, and we were able to get only 33 co-sponsors of the right, correct Voting Rights Act. We were not even able to get up to 50. It looked for a very substantial period of time like we weren’t going to get it extended, and this was going to end the whole Voting Rights Act.

We had a Republican Senate, but the House worked on it, and they were able to get the effects test in. When they passed it, we were able to get a monumental shift to get the Senate to be willing to accept it. At the very end, Bob Dole came on and offered a little correcting amendment, a little sticker that permitted some of the other Republicans to come on. He got a big story in the *New York Times Magazine* section and all the rest of it, but what he did was virtually meaningless. The House had really done it.

What all this indicates is that we see now the people who have been in the political operation of the Republican machine. We have Rehnquist in—worked in the Justice Department. Roberts worked in the Justice Department. Alito had worked in the Justice Department. Scalia had worked in the Justice Department. Thomas had worked on the EEOC [Equal Opportunity Employment Commission] as a Republican nominee and therefore had strong ties to the Republicans. And President Reagan nominated Justice O’Connor, who was very close to Rehnquist. Although she didn’t work in the Justice Department, she had been a Republican and very close to the Rehnquists socially, politically, and ideologically.

**Young:** That’s going back to [Barry] Goldwater, I think.

**Kennedy:** Yes. The people who had been the architects of the voting rights case, which denied full opportunity for voting for blacks, were people who had been in there and said you could discriminate at universities and other institutions as long as the money went in the front door,

where they didn't discriminate. You eventually had the *Ward's Cove* case that prevented discrimination against workers on the basis of what they call a business necessity, which effectively undermined the provisions of employment discrimination. That, together with voting rights discrimination and educational discrimination, what we call this whole march for progress, this whole movement that had started in the early 1960s, was in the process of a massive reversal by people who knew that the way to do it was working through the Justice Department, working through political ideology, on a step-by-step basis, as the NAACP lawyers did leading to *Brown v. Board of Education*. There was a buildup to that case, a whole series of cases that finally brought *Brown v. Board of Education*, the monumental backbone of the whole movement of knocking down walls of discrimination.

This group was preparing the groundwork for a similar kind of reversal, but fortunately we were able to bring a halt to much of it by overriding the *Grove City* and the *Ward's Cove* cases. It was a very difficult, complex, emotional climate, where we had the virtual opposition of the administration, and where we had the vetoes, in *Grove City* and *Ward's Cove*—certainly in the *Ward's Cove* case—that had to be overridden, and where we had the veto on the apartheid issue, all in 1984.

So this is the '70s, the '80s, coming into the '90s, where we had this massive effort, not only to control the Supreme Court by the people they were putting in there, but also working on the cases in ways that, as I mentioned earlier, matched the march of progress in the cases of civil rights. This is, I think, a concerted strategy. The President did veto *Grove City* in 1988.

**Young:** Yes, he did, and you passed it over his veto.

**Kennedy:** So you had it not only in domestic, but you also had it in the foreign policy, the overriding issue of civil rights of the time, which was the antiapartheid. You had both of those going on at the same time, and to a large extent, I believe that even President [George H. W.] Bush continued that march.

**Young:** Well, he vetoed the quota bill, as they called it.

**Kennedy:** The employment discrimination.

**Young:** The Civil Rights Act of 1990.

**Kennedy:** Those things were going on. George Bush vetoed *Ward's Cove*, we overrode it, and Reagan vetoed *Grove City*, and we overrode it. So we had the Presidents using the ultimate power to stop the reversal of this.

**Young:** It's a big change in the weather.

**Kennedy:** And now we're back to the end of this period. Other things have happened. Boston resumed control over its schools in 1989, and we worked on the Americans with Disabilities Act. In 1991, my daughter got married, and I lost my brother in-law, Steve Smith, who had been like a brother to me. So we had a very volatile legislative period and a very volatile Senate and issue time, volatile in terms of the country. And in personal terms it was demanding as well.

**Young:** It looks in retrospect as though in this same period you have the communications revolution, and you have a great deal of activism. Now, going on the Internet, a lot more conservative activist groups are in play, groups specializing in litigation, and the religious right is becoming much more active.

**Kennedy:** You have all of that, but the other thing you have, even with these harsh judgments that we mentioned, we're still making progress. We had, in '65, made progress in knocking down walls of discrimination in immigration, for example. Taylor Branch, Dr. King's biographer, indicated that he thought this was a major achievement in terms of civil rights. We had Title IX addressing discrimination against women during the '70s, even when we were facing these other things. Many of us were still trying to take this ball further on down the field, so to speak.

The real breakthrough was the Americans with Disabilities Act, which ultimately President Bush I opted in favor of. So we had taken the momentum from that early period of time to knock down those walls of discrimination on the basis of race and applied it to religion and ethnicity and national origin. We applied it, in a very important way, to women's issues. Even though the Equal Rights Amendment hadn't passed, still, on Title IX we made some very important progress, and we also made it with regard to individuals with disabilities.

Even in the midst of this, we had made progress in terms of eliminating discrimination in housing, which we mentioned, and which we're going to come back to. We had the efforts of those on the other side, the Reagan allies, using the techniques successfully used by the civil rights advocates, but using them to try to turn back the clock. That was done through litigation and by stacking the courts.

**Young:** And the veto.

**Kennedy:** And the vetoes. So we had that tension all through this period.

**Young:** You had that going against, but you did have significant progress on the legislative side, as you've just mentioned, in housing and language minorities and all of that. So there's a cross current here, it seems to me, that you're caught up in, where it's still possible to achieve some things legislatively, advances in the march for progress, while you're also fighting against the adverse wind in the courts and in the executive.

**Kennedy:** We mentioned earlier the tripod that our family had been interested in: religion and family and patriotism, these positive forces. We also talked a little bit about how Reagan used these, but in very different ways than those of us who believed in them in the early '60s expected.

To the extent that there's any vibration of the Reagan legacy, patriotism now is torture and wiretapping and Guantanamo. If you're not for that, you're not patriotic, you're not for the war. I think religion has been used to argue that the poor are basically bad and lazy. The poor are lazy. If people are poor, they have themselves to blame. It's not any other circumstance; it's because they're lazy.

I think on religion, if you're poor, you're basically bad, and you get this whole attempt to legislate religious truth, and resorting to religion for political purposes, as in the case of a woman's right to choose. There's a religious dictate on that or a religious dictate on gay issues. There's a religious teaching on it, and so we return to religion and family.

They've turned family values on their head. The total number of children living in poverty has increased by two million because of cutbacks in the food programs for children, the resistance to paid leave, paid sick leave. They're against all this—the mentally ill. You know, we emptied them from the institutions, but we've never created community programs to try to help them. There's very little sense of the religious teaching of Matthew about feeding the hungry and giving a cup to the thirsty, or clothing the naked and welcoming the stranger and visiting the poor or the imprisoned.

That really has been turned on its head, as we know it. This has also been tied into a message of greed and all about me and myself, rather than the common view about us as a community, as a society. I mean the Mayflower Compact, equal justice under law. Life, liberty, and the pursuit of happiness is the guarantee that you're going to have the opportunity for education and at least health so you can pursue happiness, the general welfare that's in the Constitution.

[Abraham] Lincoln spoke of government of the people, for the people, by the people—we're in this basically together. Those are words that bring people together, not divide them. But what we have is the politics of division, the division of me, it's not us. It's an ownership society, it's [Newton] Gingrich. What's happening is a real threat to the core meaning of what it is to be an American.

**Young:** Well, after Bush I, of course, you have the [William J.] Clinton years, but then you have Gingrich carrying forward. Would you see it as that? Carrying forward this turning things on their head, and they got to be in charge of the House.

**Kennedy:** That is also anti-government, but with the anti-government goes the anti-sense of community. It's all just me. We can do whatever we want, make what money we want. It's all me, it's all about myself, and I have no real—

If you read the Gingrich revolution, the commitments are all about the individual, myself, and against the government. There's nothing about the common humanity, nothing about the common good in this. This country was founded on the basis of the common good and Judeo-Christian ideals.

**Young:** But if you're tracing the Reagan/Bush phenomenon, how would you trace its line of descent up to the present day? It would be in the Republican Party to stay where Reagan put it, it's carried forward by Gingrich, and now brought back by [George W.] Bush again?

**Kennedy:** Well, it's a combination. We're hopeful. We saw the beginnings of rejection of the government of fear last November. This was the government of fear. We've gone through 9/11, and the powerful, powerful force that we saw at that time was the government of fear and darkness rather than an appeal to the more hopeful and optimistic.

And we have seen the government of fear reiterated in the last weeks in the wiretapping in the Congress and how Congress is responding to it. But what you had was the anti-government period of Reagan, as we mentioned earlier, an appeal at a time when the government has descended, as a result of a lot of the activities of Presidents—emotional loss, being lied to, and the attempts to turn back the clock. What were the most emotional issues at the time? The war at that time, the Vietnam War, and also the issues of civil rights.

On the outside, they say their administration is against permissiveness, and yet it is the permissive society in terms of the exploitation of the environment. The exploitation for personal profit is mainstream in this country, and what is being lost is the common spirit.

[BREAK]

**Kennedy:** A point just made a few moments ago was the strategy of Republicans to work the Supreme Court in a way to override the march of progress, particularly in the areas of race, but in other areas as well. When you look at people on the Court at the present time, you realize how entwined they have been over a period of years with the Republican strategy. Alito had been an assistant U.S. Attorney from '77 to '81, an assistant to the Solicitor General, and assistant AG [Attorney General]. He had been on the Third Circuit. That's a 10-year period during the Reagan administration.

Scalia had been in the OLC [Office of Legal Counsel] for a number of years before being on the D.C. Circuit, and Roberts clerked for Rehnquist. He had been an assistant AG in the Justice Department in '81, when he worked on the Voting Rights Act. He was White House counsel from '82 to '86, the Reagan period, deputy solicitor from '89 to '93, and then on the D.C. Court in 2003 before the Supreme Court in 2005.

Justice Thomas was in the EEOC from '82 to '90, when they did very little. Roberts thinks that it should be abolished. So the EEOC is doing nothing, and we had Brad Reynolds, who had been before our committee, who was going to be the assistant Attorney General for civil rights, whom we were actually able to defeat on the basis of all his efforts to undermine the law. We had a meeting of our Judiciary Committee and were able to defeat his nomination. It was a constant battle during this period on the issues relating primarily to discrimination.

I thought we might talk briefly about the Americans with Disabilities Act. It was an Act of enormous achievement and accomplishment and consequence. It had been a long time coming. It passed in 1990, but prior to that time, there had been small pieces of progress regarding people with disabilities and education for children with disabilities. I had worked on those, but the primary work around those had been Lowell Weicker of Connecticut. He had just been a giant. He had been on our Education Committee, and he was also on the Appropriations Committee, so we got some legislation passed. He always made sure there were some resources in this. He is the real figure behind the original Americans with Disabilities Act.

I can remember going over and getting briefed by Lowell. This is probably a year or two before he left the Senate. He wanted me to co-sponsor the legislation. He wanted to retrofit every railroad car, every tramway car, every stairs, every elevator, every everything. The cost of this thing, even for a big spender, was out of sight, and I could see it wasn't going anyplace. But he was so committed and so strong on it. Then that summer, the last year he was in the Senate (he was defeated that fall), we had an opportunity to work with him and others to get this into more reasonable shape.

The real question was whether we were going to be able, in the term of the last George Bush, to get him to move. I asked to go down to see his Chief of Staff, John Sununu. It was in the late summer, and he was decent to see me, but he was very abrupt and to the point. He said, "Look, we're not going to support any social legislation. We're not going to consider any such legislation during the sessions of Congress."

He was not about to do anything. He had just made up his mind, and that was where he was going, what was going to happen. But Bush walked by where we were, and I asked if I could go in and see him. He said fine. I went in. I had a relationship, not a close one, but I knew him. And I said why I was down here, and he said, "Well, that's of some interest to me, and I'll talk to John further about it. But I don't know whether we're going to be able to do anything, given the program and the schedule."

We came out, and John said, "Look, I told you we're not going to do it." Then we started a whole series of different kinds of interactions with Sununu, with people he knew who were close to him and would support it, people close to Bush who would support it, if they would sit down and talk. I can give you in great detail the series of different kinds of actions and activities we had to get them to begin to say, "Okay, we'll sit down and take a look at it."

I went down to see Sununu some weeks later; this was when we sat in his office and he said, "Now I want to ask you about this legislation. It's going to look after the handicapped and the disabled. It's going to look after people in wheelchairs. What is this going to mean in New Hampshire at the Sunapee Ski Resort? Somebody comes up in a wheelchair and wants to be able to go to the top of the mountain. What are we going to have to do? Are we going to have to retrofit every chair?" I said, "No, no we're not going to have to do that." He said, "What are we going to have to do?"

I said, "We're going to have to make reasonable accommodation." He said, "Well, what's reasonable—every tenth, every hundredth?" I said, "We make the decision based on how many people in wheelchairs want to go, what the cost is. It's going to have to be reasonable. It's not precise; we can't do that."

Then he said, "What about Keene, New Hampshire? There's a wonderful bookstore there. Say a blind woman walks into the bookstore. What if it's not street level? Say the person is blind but also has bad legs. How many steps are we going to have to put up?" I said, "This is going to be a reasonable number." He said, "Well, how many? Seven steps, three steps?" I said, "I don't know, I don't know."

He said, “You don’t know this; you don’t know the wheelchair? A blind person walks in, and there’s only one employee. Does that person have to leave the cash register and go to help someone with a book?” I said, “I imagine they would.” He said, “How long will they have to stay with that person? There are other people who want to come in and pay; the cash is not guarded. Let’s say it’s an old store in Keene, and it’s not locked. How long are they going to have to stay?” I said, “They’re going to have to stay a reasonable amount of time.” He said, “Well, here’s another example of reasonable accommodation. We can’t get into these things.”

It looked like we were going to have a difficult time getting them to move.

Then there was some other rather significant shift. I’ll have to fill you in on what moved this and changed this mood. We had a lengthy meeting with the disability movement, where they were asked to name the most important things. They said, I think, there were five major important things. One, we want to be able to travel. We can’t be locked in our houses; we have to be able to move. Transportation is key.

Secondly, we want access to gymnasiums and buildings, because we all have children, and we want to see them perform. Third, we have to have access to medical care. We have to be able to get to see our doctor. Fourth, we have to be able to get food. And fifth, they named one other, but they were all real. So that whole bill was changed and reshaped to just those five kinds of things, and then suddenly the White House got some interest in it, and we eventually got this part worked out.

**Young:** Was Boyden Gray a thorn?

**Kennedy:** Boyden Gray was opposed to it all. [REDACTED]

[REDACTED] I’ll give you one sidebar since you mentioned Boyden Gray. He was strongly opposed to this legislation, did everything he could to undercut it. Why? Just because. I don’t know. I went down with some Republican to get a briefing on Thomas at the White House, and Boyden Gray gave us a sheet and a half. And I said, “Well, this isn’t a briefing. I want to talk to the FBI [Federal Bureau of Investigation].”

And he lifted his hands and pointed like this. He said, “Do you know what that is?” I said, “No, what’s that?” He said, “That’s the corner office. When you get to the corner office, then you can talk to our FBI.” So I said, “This meeting is finished.” Boyden Gray, I’ll never forget that. I think I told you that story before.

**Mrs. Kennedy:** Yes, you did.

**Kennedy:** Boyden Gray [REDACTED] was against the Americans with Disabilities Act.

One other thing we’ve left out that’s interesting, just to come back to Rehnquist. There were those stories about his taking various kinds of drugs and the difficulties they had with the Capitol doctor. Eastland appointed me and Paul Laxalt to look into it, and we went through the whole thing. We never published anything while I worked with Laxalt, and nothing ever leaked, and I have never talked about it. I haven’t talked to Vicki about it. There were enough stories that were



out. People had enough of an idea about what was going on, and it didn't need anything else from me.

We came back and talked to the committee. They knew I was against Rehnquist, but I wasn't going to sink him on this one, even though there were some real matters of concern. That is just a sidebar. Laxalt has always been rather decent, and it was always on the basis of that. He said, "You played that thing absolutely straight and never tried to take any—Others would have leaked something on it"—not that I had much to do. I'd see him occasionally playing tennis or something like that.

One of the final meetings we had on disability—now that it was all worked out, and the Republicans wanted to get their stamp on it—was with Dole up in his leadership office. [Thomas] Harkin was there, and he had a very good person whose name was Bobby Silverstein. He was very involved in the shaping of it and very smart. He's still around. It was going to be managed by Harkin, and that was fine with me. I was going to be around a lot, but he wanted to do it. Even though I did most of the meetings down at the White House, he still was involved, and he's a close friend.

So we go to the meeting, and Sununu's in there. This is a story that's gotten out. Bobby Silverstein corrected something in the document and said, "That isn't the language, Mr. Sununu; that isn't what the language says, the language says this." Sununu said, "We don't need staff in here to tell us what the language says." I said, "Well, if that's the rule, then you're going to excuse yourself, too, because we're not going to have people yelling at people."

He just went silent like this, and gave me a nice warm smile, as you can imagine. No, he gave me a cold stare. So it came out and—

**Young:** You didn't fire Carolyn Osolinik, either.

**Kennedy:** No.

**Young:** Wasn't that another request?

**Kennedy:** Oh, yes. He said the way to get this thing done is to fire Carolyn Osolinik, and I called her and told her she was doing a good job. She was very good. You've interviewed with her, and you'll have this in chapter and verse.

**Young:** I thought they didn't want Harkin to get credit.

**Kennedy:** Because he was up for election, I guess. Nonetheless, he was the floor manager. On one of the amendments, we had Jesse Helms up, and we had one day to debate. I'm convinced that if this had gone on longer it would never have passed. One of the things Helms did, he said, "My brother owns a motel in North Carolina, and if there's a cross-dresser bringing children into it, and he's clearly going to molest them, can my brother keep them out or does Americans with Disabilities bar him from discriminating?" I said, "It doesn't any more, Mr. Helms; it doesn't any more."

Then Helms went in and got the encyclopedia of psychiatric illnesses, all sex related, and he was filing an amendment to exclude them from recovering in a lawsuit. He was going to read them off, which would have taken an hour, and it was just going to be bad. This thing was just going to be bad. This fellow [William L.] Roper, who was in the White House, was in the room outside, and I said, “It is going to finish us off if he does this.”

He said, “Will you take a third?” and I said yes. So he went in to Helms and said, “They’ll take a third,” and we just took a third. But then they never read them off and the Helms amendment passed. You see, it’s the curing, whether people get cured of mental illnesses. This is the big challenge. Can they be cured of some of these things? And so you can’t discriminate. Pedophiles—can they be cured or can’t they get cured? Once they’re a pedophile, are they always a pedophile and they can always be discriminated against? You have all of these kinds of differences.

For example, they treat homosexuals differently from bisexuals or transsexuals. They’re treated differently in these definitions. Some disorders you can recover from, some you can’t. You’d be amazed if you go through that kind of thing. I haven’t gone through it since the time it came up, but Helms could tie you up in knots about it. If it’s treatable and manageable and curable, then you can’t discriminate if somebody’s been there before. Well, there are all kinds of activities that curl your hair that bother people that you said you’re going to permit.

**Young:** How did it happen that you got it done so quickly? Only one day, you said.

**Kennedy:** One day.

**Young:** How did you get to that point?

**Kennedy:** We just didn’t want to have a lot of questions. At that time, Republicans had signed on. Helms didn’t have much of an idea about what was in it. We had always talked just about the kinds of things you would expect in terms of people with disabilities. They didn’t really have a full awareness of what the hotspots were in this kind of legislation.

It’s a great lesson about not leaving things around the floor of the United States Senate. We’ve seen it recently in the Immigration Bill. If we got it on the first time, I think we could have gotten it by. But by the time it came out the second time, people knew too much. You knew just where to try and get the hotspots. But there, whatever the circumstance—and I don’t know what was right before or afterward—we had a window, and we had the Republicans. The President now was for it, Dole was for it, Democrats were for it.

**Young:** And you sat down and hammered out your differences.

**Kennedy:** Before we got to the floor, it was all set. Once we had this meeting where we redefined it, changed the penalties, and redefined it into these five categories rather than it being all-encompassing. That was the key meeting. I think you’ll see from the staff people that that was the point.

**Young:** The big issue was the cost.

**Kennedy:** This altered and changed very dramatically.

**Young:** And [Richard] Thornburgh was part of this.

**Kennedy:** Yes, but he was never very—

**Young:** He wasn't?

**Kennedy:** No. Mrs. [Ginny J.] Thornburgh is very involved in special needs. They have set an exemplary program up in Pennsylvania, and she's on Jean's [Kennedy Smith] committee for the very special arts and is a wonderful person. She might have called, but the heavy staffers were Carolyn, and Bobby Silverstein, who can tell you who was on that.

The point just breaking was the Republicans. When Bob Dole left the Senate, the things he talked about were the Americans with Disabilities Act and the food programs he worked with [Ernest F.] Hollings and Robert Kennedy on, that he took great satisfaction from. They were resistant and reluctant to go in, but the things President Bush cares about are the programs of Americans with Disabilities.

Doesn't this remind you of what Ronald Reagan was saying in his speech, quoting Franklin Roosevelt and John Kennedy and playing "Happy Days Are Here Again"? It reaffirms the fact that we have the fundamental issues, but we haven't always been at our best when we've been trying to advance the cause.

[BREAK]

**Kennedy:** One little afterthought about the ADA. We had the signing ceremony at the White House—enormous crowds, several hundred people. Lowell Weicker had been invited, but then later dis-invited. We had people who had been very much involved—Patricia Wright, who had been a champion, an advocate and leader for the forces on disability. She was given a very bad seat. I was given a very bad seat. My son Teddy, who had been working with the groups on disability in both Connecticut and Massachusetts, had worked with Governor [Michael] Dukakis, who actually got more disabled people employed than in any other state in the country during that time—he was given a bad seat. So all three of us went to the back and sat together with the people who had lobbied for the bill and listened to it across the green.

One of the most interesting evenings in the Senate involved the ADA, and that was a night when we were in the process of marking it up. There was objection to marking up the legislation; this is before we had the meeting in Dole's office. We finally got the clearance to move ahead. So I called and said, "We'll meet after the session is out." There's a Senate rule that no committee can meet after two hours in the Senate, and they exercise that rule. So we couldn't mark it up. But then once the Senate goes out, you can meet again.

So we started meeting at 9:00, going through it, and generally what happens is people get tired and leave. But we kept moving along, and finally, Strom Thurmond, who was on our committee, brought out a book. We had finished most of the amendments, and he started to read. He said, "I plan to read and read and read and read."

We got hold of Pat Wright, and she got hold of a whole host of the disabled, and they got their wheelchairs, and they came up to that committee room. And at 2:00 in the morning, you couldn't get into the committee room for the cameras that started coming in from all the networks. The cameras came in, and suddenly we had two cameras, suddenly we had three cameras, five cameras, seven cameras, nine cameras, and boom! Strom Thurmond stopped reading, and we passed the bill out.

**Mrs. Kennedy:** It was a filibuster of a markup?

**Kennedy:** A filibuster of a markup. The disabled community were so effective in getting people to come in there, and knew how to get hold of the press people and knew how to get hold of the writers. It was on all the networks about the markup, such an unusual circumstance. It was the real power of the movement. It was time to take action; it was the power of the movement. That was the only time I've seen that work, but it did work, and it should have.

**Young:** There wasn't anything else about the signing ceremony?

**Kennedy:** The signing ceremony, nothing else. The President spoke.

**Young:** Did you get a pen?

**Kennedy:** No, no. We weren't even in hearing range. They had probably five or six hundred and we were in the back rows of one of the sections. But it was important, and we wanted to be there. I thought it was such a small thing not to include the people who had really worked it.