



EDWARD M. KENNEDY ORAL HISTORY PROJECT

INTERVIEW WITH EDWARD M. KENNEDY

Interview 22

August 8, 2007

Hyannis Port, Massachusetts

Interviewer

James Sterling Young

In attendance:

Victoria Reggie Kennedy

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TRANSCRIPT

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Young: This is August 8, 2007, with Senator Kennedy.

Kennedy: This period of service in the United States Senate was a time of monumental progress, and I think it will historically be seen as such. And compared to other countries, other nations, other cultures and histories, it will stand in great significance. As I pointed out, we did something about health: Medicare and Medicaid. We did something on education: Title I programs for the most disadvantaged as well as higher education.

Most importantly, the key to all of this was knocking down walls of discrimination. They were there in many forms and in many shapes, and in this period, we spent a good deal of time attacking them, particularly in the area of civil rights and race, which was so key to all of this.

We're going to talk later about knocking down the walls of discrimination with regard to national origin and ethnicity as we did on immigration. But we also had an opportunity to knock down the walls of discrimination against women. This was an evolving process. When I was talking about this issue with Adam Clymer, I recalled very clearly during my first campaign going out to talk to a women's group and talking to my brother Jack [John F. Kennedy], who happened to be up at the apartment at 122 Bowdoin Street.

He wrote out for me three or four pages about the role of women in the Soviet Union. He had traveled to the Soviet Union, where so many of the men had been lost, and he remarked about how women in Soviet society were taking every important position and every responsibility and doing it with great skill. He still obviously differed with the system, but in his visits to the Soviet Union and in talking with representatives he noted that they had found women playing very important and significant roles. He suggested that it was something that was going to be forthcoming in the United States.

It made an impression on me, and I always remembered it. This whole movement in the country of knocking down the walls of discrimination really started over extensions of the 14th Amendment and the existing constitutional provisions that had been passed as a result of the Civil War and how they applied to women. That took a period of time in the early- and mid-'70s, before there was a recognition that the Court interpretation—even though the courts were interpreting some of these other areas dealing with civil rights positively, even though they were beginning to turn about this time—wasn't going to finally do what was going to be necessary to

free women to have full equality and recognize that there were Founding Mothers as well as Founding Fathers.

That was really the origin of the Equal Rights Amendment, which I welcomed the opportunity to sponsor and support. That effort continued for some time. But as that constitutional amendment was moving through—and it was going to face major dissension—there was also continued movement in our committee on what we called Title IX, which was developed as an extension of the Civil Rights Act.

Title VII knocked down walls of discrimination on employment. Title IX was to knock down the walls of discrimination against women in sports and also at universities, and that's its great significance today. There's no question it had a dramatic impact in terms of full equality for women in sports.

I worked in the Senate with others. Senator [Birch] Bayh was a lead figure on it, but I was active and involved and was very supportive. We were good friends and worked very closely in that area. Of course, we had the decision in the *Roe v. Wade* case in '73, a defining issue in terms of reproductive rights, and a major force in terms of the whole movement for equality that was moving ahead.

About this same time, my colleague Paul Tsongas introduced the first legislation to knock down walls of discrimination on the basis of employment for gays, and I was one of five co-sponsors of that attempt. It never got a hearing, never moved at all, but it was a place-marker in the movement. I would say, from my own personal evolution in terms of the full understanding of both of these areas, that the '80 campaign was where we first had strong, strong support from the gay and lesbian community and strong support from the women's community. They were very much involved in the campaigns in California and New York and otherwise. At the end of those campaigns, I was very much in their corner in terms of being a spokesperson and leader in the Senate, working with others to try to continue to make progress in these areas.

Young: Was that campaign a defining moment for you, other than—

Kennedy: I think it was. I think there was a marvelous—I believe his name was Forrest, in San Francisco, who was a terrific Kennedy supporter, happened to be gay, and was a uniformly highly regarded, respected worker. I can remember flying down to Southern California one time to have a meeting with some of the gay leaders down there. I had some staff people briefing me on gay issues, and I said, "Where is Forrest, the leading politician?" And then he came up and gave—I can't remember the exact briefing on it, but I said, "This is the real thing."

His first advice was, "You have to be comfortable talking about these issues. The community will understand if you're nervous about talking about them, if you're uncomfortable talking about them." At this time it was just meeting and shaking hands and being with them, and how they react, whether they shake hands or slap you on the shoulder. "The community will understand if you twinge, if you don't—" This was then. It's unbelievable now. Just in talking about it, I remember that this was the most important aspect of the briefing. It was very interesting.

We went to an event in Los Angeles, and there were about 26 cameras up there, because it was unusual to have one of the first major events. I supported change in the immigration law to permit gays to be able to bring their lovers in. The question was, “They’re prohibited now. Would you support it?”

Of course, I hadn’t been briefed; I didn’t know about it. I couldn’t believe it. All the cameras, the little bright lights went on, and I could feel this lump in my throat. I thought, *I can’t wait to see what I have to say on this one*. So I said, “Of course I am. We can’t have discrimination in immigration.” They all cheered, and it was all over. From that time on, they were all on my side. They thought, *This is the real thing*.

Really, from the ’80 period on, we had some major, major issues. The dramatic issues have been discrimination in employment, what they call the ENDA [Employment Non-Discrimination Act]. I offered that, and in the Senate, we failed by one vote. Dave Pryor was absent because of a death in the family, I think, and we lost by one vote.

Young: And [Albert Jr.] Gore.

Kennedy: Gore indicated that if it had been tied, he would have supported the passage. We haven’t had that back up again—and I’ll come back to this. There’s a decision about what the order for considering these various legislative issues ought to be. Discrimination in the workplace is a major issue, although the American public strongly believes that you should judge individuals in employment on the basis of qualifications and not on issues of their sexuality.

The second major issue was the hate crimes. This was a very powerful issue: we had seen hate crimes in this country, initially, obviously, against blacks, the lynching hate crimes. Those spread to Jews and to gays and now, in our time, Arabs since 9-11. The Matthew Shepard case is the outstanding example in this generation. We worked on this with Gordon Smith, a Republican from Oregon, and we plan to offer it when we get back on the Defense Authorization Bill. Interestingly, when I first thought about whether we ought to offer the Defense Authorization Bill, there were those on the Armed Services Committee who said no, we shouldn’t have it. That has nothing to do with defense authorization.

And I pointed out, this is a value system. Our people are fighting overseas for American values, and this is a form of terrorism. Hate crimes are a form of domestic terrorism. We’re fighting terrorism abroad, and this is terrorism here at home. We’re fighting for American values and to free our society from hatred in all of its forms, and it should be on there. There are arguments to be made against it, but I think that’s a powerful argument in favor of it.

Young: When did hate crimes become an important issue in your mind?

Kennedy: In the ’80s. We had hate crime legislation, but we had a number of instances of hate crimes that had taken place against blacks and gays. We even had some against women in one of the national parks. I remember the women campers [Julianne Williams and Laura “Lollie” Winans]. The southern poverty center, what is his name?

Young: Morris Dees.

Kennedy: Morris Dees. On the issues of hate crimes, he came up—he has the whole record of this. There’s hate crime legislation that was initially passed after Dr. [Martin Luther Jr.] King was lost. That was the first hate crime, but it was limited in jurisdiction. A hate crime had to be done in a federal jurisdiction and involve interstate commerce, and was limited to blacks. So it was a very restricted definition, and so many of these other crimes were taking place outside of it.

The question was whether you were going to fight hate crimes with one arm tied behind your back or with the full power of the federal government in terms of the FBI [Federal Bureau of Investigation]. The argument on the other side is, isn’t any murder a hate crime? And if that’s true, aren’t we federalizing all of this? So it had to be clarified, and we had procedures whereby local authorities would consult with the Justice Department. We wouldn’t give them a complete blank check, but we had ways of proceeding.

Young: Were there any incidents of hate crimes in Massachusetts?

Kennedy: I don’t know whether some of those in New Bedford with the Portuguese were hate crimes. I’m not really sure. These were all very moving cases. What we could see was the gradual increase in the numbers, and we could never understand whether those were actual increases or just better reporting. Some jurisdictions didn’t report, other jurisdictions did. The Matthew Shepard case was the dramatic case of recent times.

After Dr. King you had, obviously, the anti-lynching laws.

This is getting off the subject, but the church burnings increased dramatically during this period, the early ’90s. I worked with Lauch Faircloth, a very conservative Senator from North Carolina. We passed church burning legislation that brought the FBI into it, and almost overnight they stopped. They just didn’t want to fuss with the FBI, even though the FBI in a lot of the southern counties had been playing footsie with a lot of bad people. This was one that had a remarkable effect. Lauch Faircloth was looking for something to get himself reelected, and I wanted to do this and get it done, and we got this thing passed. He was still defeated. I think [John] Edwards defeated him. That was another type of expression of the hatred going on.

Young: What accounts for that surge in hate crimes?

Kennedy: Well, words and actions have results. I don’t think there’s any question that recently there was an enormous amount of hatred and poison built up in the wake of the immigration debate. I was talking with Lindsey Graham two or three days ago, and he said, “You can’t believe the mail I’m still getting at my house.” He said the degree of nastiness and hatred is very surprising. I think we get a good deal of it—not so much in this state, although there is stuff from this state as well.

To continue with the issues of discrimination against gays and lesbians, ENDA was one issue, hate crimes a second. We had the “don’t ask, don’t tell” policy in the first year of the [William J.] Clinton administration. But they made a major, major mistake because they had about 75 executive orders in place when they took over, and they eliminated or restructured all 75. Some dealt with labor and Davis-Bacon, the various working contracts. Others dealt with environmental issues. Their administration changed all 75 of them, and one of them led to “don’t

ask, don't tell." It was part of a whole series of actions they took that caused ripples in the water, besides just this issue.

What was startling about it is that there was absolutely no preparation for it whatsoever. None of the military leaders knew about it, none of the members of Congress knew about it. Nobody who had been supportive of gay rights knew about it. It landed like a ton of bricks and caused an incredible stir in Congress. We on the Armed Services Committee know that if you work with the military for a period of time, you understand the officers are going to do what they're told to do, and you can find out who are going to be the leaders and which ones you want. They're the easiest of all political problems to work through because they do what they're told, by and large. But no effort was made, and so there were a lot of them complaining, and it caused a real backlash.

We had the hearings in the Armed Services Committee, and I remember them very well. They went back into wartime, when they court-marshaled people for being gay. What they found out in Vietnam is when the fighting was the most severe, they had the fewest court marshals. At the Tet Offensive, the number went down, and in other battles in Vietnam, they went down.

In World War II, they all went down, and they found that there were no complaints about the performance under fire of any of these individuals, virtually none. You look back at the court marshals, and there are none that alleged that the three people, all who were gay, were leaving the field of battle. There were virtually none. But the numbers in the reports indicated that when there was the least amount of conflict and the least amount of tension in the military service, the numbers all went up.

It was completely inconsistent because the arguments: we have to have jointness, we have to have training, we have to have people with confidence in each other, people who trust each other. This is an action that will bring distrust, disharmony, conflict, and confusion, and you'll have a unit that will not be able to function in the line of fire. That was the argument, but all the statistics and figures showed it wasn't true. It was just dramatic, but it didn't make any difference.

I always admire Chuck Robb, who had a lot of military service. He stood up and said, "I've been in combat, I've been in Vietnam, and I know the truth of this, and this is not the problem." He stood up on it, and we had the vote in the Armed Services Committee. I think it was an executive order, and the committee disapproved it, but it was still an executive order, and I voted against the majority and filed minority reports on it.

One interesting story is that we had a hearing on this when the whole issue was coming to a head. President Clinton invited the members of the Armed Services Committee down to the White House to hear from each member. He wanted to hear himself, and the meeting went on for two and a half hours. It started at 6:00 and went 'til 8:30. [Mikhail] Baryshnikov was dancing at 8:15, and I was supposed to go with Vicki [Victoria Reggie Kennedy], and I could see the clock ticking. Finally we got out at 8:30, and I went over. She couldn't understand how a meeting with the President could last two and a half hours.

He went around the room, and different people spoke. The last person who spoke was Bob Byrd. He's a member of the Armed Services Committee. He doesn't come very much. He came on this particular occasion and talked at great length and with great passion about how he was a great supporter of the military; West Virginia is a great supporter of the military. He had grandsons who were thinking of going in, but if this went into effect, he was going to insist and do everything he could to make sure his grandsons didn't go into a military that had this rule, that permitted this kind of rule. There had to be an absolute, complete ban.

Then he talked about how Julius Caesar had been a sex slave when he was a young general, and when he escaped, he came back and got more divisions and went back and captured and killed the man who had made him a sex slave. And Marcus Aurelius was kept as a sex slave, and then finally he escaped and they had conflict.

Young: This was in the Roman Legions.

Kennedy: The Roman Legions.

Young: Superior officers.

Kennedy: Then he said the worst example of all was Tiberius. I had little notes. I know I have these notes someplace, because I wrote this down. I said, "This is too good, I have to write this down. Tiberius." I didn't want Byrd to catch me, which would be like being caught in school reading a book you shouldn't read with a false paper cover on it.

So I had Tiberius (I can remember Tiberius, because it was the name of a good restaurant in Washington). He had a story about Tiberius that just didn't stop. I'd never heard of the kinds of things that happened to this poor guy, and this went on and on, and now it's 8:20.

Finally, they'd given about five notes to President Clinton, and he said, "Well, Bob, I'm very glad to get your views, and I'm very glad to get the views of everybody else here. But Moses went up to the mountain and came back with Ten Commandments, and discriminating against gays wasn't one of them. I'll take it under consideration, but this is the end of the meeting." And he walked out, and everybody else walked out. As I went over to see Vicki, I said, "Just remember these names: Tiberius, Marcus Aurelius, Julius Caesar. I'll fill in the blanks later."

Young: And then you went to the ballet?

Kennedy: Then I went to Baryshnikov. This went into effect, it was challenged, and we participated in filing briefs in some of the legal cases. Now it's being re-challenged. We won't get to it, I don't think, before the 2008 election, primarily because of the order of different amendments that I think the community feels should be prioritized.

At the time, we were firing 1,100 gay servicemen—some translators—at a time we don't have Arabic translators. This illustrated the ridiculousness of this issue at this particular time. We're letting in people with general problems of moral turpitude. We've dropped the standards for recruitment, but we're still firing these individuals, and this is, I think, a powerful issue.

But we're now coming into the fall of '07 and the '08 election. What the community is most interested in is the hate crimes legislation, which we're going to put on the Defense [Appropriations Bill], and then we will do the "don't ask, don't tell."

Young: In the end, how would assess the effect of the "don't ask, don't tell"?

Kennedy: It's really varied: there are a lot of places where they're not dismissing people, while in other narrower areas they are dismissing. For a while, servicemen were testing it; they would provoke a situation to challenge it. There are a large number of units where they don't have any incidents at all because people aren't challenging it, nobody's looking for it, and they're just going ahead with the situation. We had that meeting at the White House on January 27, seven days after Clinton took office. I think it's fair to say it was probably the opening of the antagonism towards Clinton

Young: It was his most publicized, earliest action, and even today people are saying, "Why in the world did he pick that as the first thing?"

Kennedy: People couldn't understand it.

Young: Do you have any clue why that was?

Kennedy: When I saw all the other actions they took, there was somebody there who said, "Look, we have all these other things working against workers and so on. Let's knock all of that stuff out and stick this thing in there."

Young: So it wasn't established as a priority.

Kennedy: No, it wasn't.

Young: —which is how it came out in the press.

Kennedy: We had on this issue a major Supreme Court decision in Massachusetts, about eight months before the [John] Kerry election, where the Massachusetts courts, interpreting the Massachusetts Constitution, permitted gay marriage. The Chief Justice was Margie Marshall who, interestingly, was head of the students at one of the universities in South Africa who invited Bobby Kennedy to go there, which he did in the '60s. She married Tony Lewis, a very distinguished writer for the *New York Times*.

She drew on the part of the Massachusetts State Constitution, written by John Adams in 1780, that referred to the protections of rights and liberties. She issued a finding that permitted gay marriage in Massachusetts. Now that was against a background of what we call the DOMA [Defense of Marriage Act], that had been passed probably five years before—we're talking about the late 1990s—that said that a state did not have to recognize a gay marriage in another state. Bill Clinton signed that. I was one of, I think, 13 who voted against it.

Young: This was the Defense of Marriage Act. What was the motivation for it?

Kennedy: The act that triggered or stimulated it was individuals moving into states and communities to test whether they prevented them from getting married. We faced that in the United States Senate. You had, going back to that Connecticut case, *Griswold v. Connecticut*, about the use of birth control devices. So that was out, that was part of privacy, another issue for another time.

But in the '60s you had states decriminalizing homosexual acts: Illinois and Wisconsin, the first state to outlaw discrimination on the basis of sexual orientation. And then you had a Supreme Court decision in the '80s that denied gays and lesbians protections against discrimination, calling them special rights. This was always the issue.

Young: That was the *Bowers* case, which was overruled in a Texas case more recently, that involved privacy between consenting adults.

Kennedy: So you had this taking place in the states, and the Supreme Court making judgments about some of these actions. In 2004, same-sex marriages became legal in Massachusetts. I was the only public official who supported it, the only one. In Massachusetts, I'm the only one today who supports it.

Mrs. Kennedy: Barney.

Kennedy: Barney Frank, yes. Barney Frank supported it. I made the point in Massachusetts that this doesn't require the churches to do anything. This doesn't require the Catholic Church to marry somebody. They have a right, but it doesn't say to any Catholic Church, to any Protestant minister or Jewish rabbi, it doesn't say to any of them that they are required to perform a marriage. There's nothing in this that sanctions any member of the religious community to take any action, none. This ruling goes back to what is basically the contractual aspect of marriage. I found that although people differed with me on this, if you explained it, they were relieved. They felt, when this first came out, that it was going to require Catholic priests to marry and Protestants to marry. Once they understood, you could feel the air come out of it.

This issue is completely generational in terms of the politics, not the morality. You will find in Massachusetts and some other states, people over 40 strongly condemn this while people under 40 couldn't care less. That's not true about the death penalty, that's not true about most other issues. It's all across the borders with different age groups, different communities, different educational experiences, all that. Not on gay marriage; it's absolutely generational. I'm aware of this now, but I wasn't aware of this when we got involved in it.

Young: Is this generational divide true nationally?

Kennedy: Nationally, too. It's very interesting. There's no other issue like this, and so the politicians are trying to figure out where to land on it. Most of them have landed with both feet against it.

Young: On the safe side.

Kennedy: I don't think there's any question that this had a profound impact on John Kerry in the election. He had a different position than I had, but he was still asked about Massachusetts. He

comes from Massachusetts. This led to [George] McGovern, antiwar, permissiveness, and it all added to the aura of the state and tied to some of the other issues. You know, “He goes windsurfing—does he really understand me?” and the rest of that kind of thing. It added a dimension. Although not by me directly, I think Marshall was challenged by whether it would or wouldn’t [be detrimental], didn’t want it to be, but wanted to do what was right. That’s really the outcome.

Young: Do you want to break a minute?

Kennedy: Yes, why don’t we take a break?

[BREAK]

Kennedy: Just an additional point on the gay marriage decision in Massachusetts, the Margie Marshall decision. There wasn’t any question in 2004 when she issued the ruling that Republicans saw the opening this was going to provide for them. They were very active in getting the gay marriage issue on a number of state ballots in order to motivate evangelicals and the anti-gay community. They did that in a number of states and did it very successfully. I don’t think there’s any question it had an impact; we’re not prepared to go over this state by state to see how that would have altered or changed it, but there’s no question that the anti-gay group within the Republicans was very active and involved in exploiting the Massachusetts decision to the disadvantage of John Kerry.

Just a final point on the Equal Rights Amendment: this goes back to the early ’70s. I was reminded that Birch Bayh was the first one to introduce the Equal Rights Amendment. After he introduced it, I’ve been the one who has introduced it. Paul Tsongas introduced it, but I’ve been the one to introduce it for the last number of years in the 97th, 98th, 99th, 100th, 101st Congress. The Equal Rights Amendment also importantly dealt with the extraordinary discrimination against women in pay.

We had not only the issues of employment, health, and other aspects of life, but also in pay. Even though President Kennedy had signed the pay bill for equality of pay, it had been interpreted in the courts as not insisting on equal pay for equal work. Everyone believed the Equal Rights Amendment and the Title IX provisions that were added to the higher ed bill would help, but that has not been achieved in terms of the Equal Rights Amendment, although Title IX has obviously made an extraordinary difference.

On the point of President Clinton issuing the order on gays in the military, it’s my recollection that he made a statement and a decision during his Presidential campaign that he was going to permit gays in the military. After he got into office, or just prior to the time he actually was sworn in, he had asked Les Aspin to do a study to review this and make a recommendation. This created a terrific flap.

There had been a bad mishap: the killing of a gay person on a Navy ship, which got focus and attention through the fall of '92. So this issue had gotten some attention. It was during this period that the public was aware that the President intended to permit gays in the military, and there was a big brouhaha—hearings held in the Armed Services Committee, our meeting in the White House in January of that year, and the recognition by the President that he would be overridden by the Congress if he were to permit gays in the military.

The “don’t ask, don’t tell” policy was formulated and is in place at the present time. He basically backed down on the issue, and as we mentioned earlier, there was a lot of resentment against him for coming up with this policy. That tied into the fact that he had not served in the Vietnam War. So this contributed, in the early part of his Presidency, to a troubled time for him.

Young: And he said that, didn’t he?

Kennedy: He told Vicki and me in a conversation that he didn’t anticipate the ferocity of opposition he received. He really felt he didn’t have any alternative but to back down and change his position. A very important public policy related again to the whole discrimination against gays was the issue of AIDS [Acquired Immune Deficiency Syndrome], and how that was going to be handled.

My first real association with this and understanding of it, other than in a general way, was thanks to Mathilde Krim, who was the wife of Arthur Krim. Arthur Krim was a very successful Hollywood producer and Democrat. He was very close to President [Lyndon B.] Johnson, but was a very strong supporter of my brother Bob. It was always interesting because he was probably the most prominent of all the people from that period who supported President Kennedy.

Mathilde Krim was a foreigner by birth and just a brilliant, intelligent, caring person, a great partner for him. She got started very early in terms of the AIDS issue and asked me to come up to New York so she could give me a briefing, which I did, and which was enormously informative. She was incredibly helpful.

That was in 1983, just after the virus had been identified. She wanted our Health Committee [Committee on Health, Education, Labor, and Pensions] to do a good deal on this issue. I told her that we had a full health agenda, and I didn’t have personnel who understood the issue or had the time and all the rest. She said she would provide the personnel. She provided a fellow named Terry Beirn, who eventually died from AIDS, and Mike Iskowitz, who’s still around. She said she would pay them, and if I found that they were valuable and this was the issue, I ought to pick it up, but she would start it off. They were two superstars. They made an extraordinary contribution in terms of my understanding and in terms of the nation’s focus on AIDS.

The next thing I did was talk to Everett Koop, who had been pilloried as the Surgeon General for being very doctrinaire, but who was enormously courageous in recommending a preventive program. He talked about condoms and the public health issues. I also talked to Tony Fauci, who was a top researcher at NIH [National Institutes of Health].

When I first became aware of this, Mathilde had an organization called AmFAR [American Foundation for AIDS Research] that she had developed, which was a very important

organization. I knew of it, but I had not been as much aware of it, obviously, before I went up and talked with her about it. They were the principal organization dealing with all of this. She was very involved.

Right after '83, I started getting briefed. This issue looked like it was getting absolutely out of control. Dr. Fauci from NIH predicted that three to five million Americans would be HIV positive, and a million would die of AIDS. This was in '86, and by '87, two thirds of the public said it was a serious health threat. And the cultural issue: the right wing said it's God's punishment, and we had a lot of actions to isolate gay people in states. In '87 Koop tried to quiet the issue down.

In the '86 elections, the Democrats won the Senate, and I recaptured the Health Committee, and we started right off trying to get help and assistance in this area. But the kind of discrimination against gays during this period, and the vehemence and the vitriol directed towards them, was just extraordinary. The disease was obviously the result of gay sexual behavior, but it was also the result of the use of needles and of the blood supply being contaminated.

People who were hemophiliacs were getting AIDS and were suffering this extraordinary discrimination. In school, parents would be yelling at children not to play with other children. It was a very volatile, hate-filled moment, and although we were able to get additional funding for this in the '80s, it took until 1990 for us to actually pass legislation, the Ryan White Bill, which is the framework for helping to deal with the care and treatment of those who test HIV positive.

We had a series of amendments by [Jesse] Helms. I remember going up to his office and asking, "Do you have to offer all of them?" He said he'd still offer five or six. Nobody with AIDS could work in a salad bar, for example, and so everybody had to be tested who worked in a restaurant. We heard long passages from the Bible, the Old Testament, and things like that on the floor of the United States Senate. It's well worth going back and looking at that debate. I can't capture it here today, but it was just a mean, nasty time.

At this time, I had [Orrin] Hatch as a co-sponsor. Hatch stayed with us most of the time, and we all agreed that the bill that came out of the committee would be the bill that stayed. But the thing that held Hatch and that really permitted it to pass, with all due respect, was the fact that Ryan White was a hemophiliac who died of AIDS, and the Ricky Ray family had three sons with the disease, and they all got it from the blood supply. So there was a recognition that we had to do something. But these voices that had been out there in opposition to civil rights, out there in terms of anti-gay, out there in terms of AIDS, were all the same.

Young: You didn't talk very much about what you were trying to do about AIDS; that is, what this bill was about.

Kennedy: Basically, the legislation as I remember it had a research component that told the NIH that they had to give a priority to opportunities for this research. It also put a coordinator in the NIH to look at breakthroughs within the various agencies that might be related to AIDS. That was one thing, and the funding for it.

Secondly, it gave funding to communities with high incidents of HIV. So it targeted various communities to help with protection and caring for these people. One section of it worked with

the pharmaceutical industry to help them develop additional kinds of drugs. It has moved up into several billion dollars a year now. It started off with a couple of hundred million.

We had a formula that those communities where HIV was being detected as the key aspect of the formula, and then the caring. But that shifts the emphasis to areas like New York and San Francisco, older communities, where they have been able to develop the caring process and the support systems and the types of drugs to care for those people, and they're living longer and longer lives. The newer places aren't able to get the funds because of the formula, but recently we've seen the expansion of the formula to parts of the rural South and the rural Midwest and rural West.

So there's now a lot of tension, and we almost didn't get the Ryan White bill reauthorized the last time because of the fight for funding. The only way we got it is we used some of the CHIP [Children's Health Insurance Program] money from Texas that was not being used. They had three or four hundred million dollars that they were not going to use to look after children, which was going to come back into the Federal Government. So we recaptured that money. That's a resourceful staff that knows these bills. We recaptured that money, distributed it to the new areas, and the bill was passed. Otherwise, the money just would have gone to reduce the debt.

We came within a hair of having enormous conflict on the basis of formulas. That's another issue, but there's no question that this whole massive effort has had a very important impact. So much of that research is being used in Third World countries to benefit these children. Terry Blern died of AIDS. Mike Iskowitz is still alive, but they were two enormously creative, active, involved individuals who made an extraordinary difference.

Young: What was the coalition that came together? On the one hand, you had the evangelicals, Jesse Helms ("This is a sin and you have to isolate them; don't have anything to do with them, don't let them handle your food," all of it). The fear factor was in that. Who was on the other side?

Kennedy: The public health community. Koop was very strong. The hemophilia community: Mrs. Ryan White sat up in the gallery during this time; the bill was named after her son. That was enormously empathetic, sympathetic. We had families with hemophiliacs who were suffering. These kids were suffering. It was extraordinary to go to hearings with them.

Young: Do you have any stories of those hearings?

Kennedy: It was devastating how these kids were being isolated, couldn't go to school. They were being bullied and told they couldn't go. Parents were coming over and pulling children away from playing with children who were hemophiliacs. These families had to move to different communities because the children couldn't go, couldn't stay in these areas, couldn't survive because they had AIDS. Do you know the number of times they have to take blood because they're hemophiliacs? Hundreds of times. They consume an enormous amount of blood, and their fear was that they were going to be contaminated. We had a dangerous situation in terms of the blood supply.

As an interesting sidebar, I had a sickness in '85 or '86. I don't know whether they ever figured it out.

Mrs. Kennedy: Eating oysters or something; it was seafood.

Kennedy: My blood count went way down. I went out West with my children. I skied, and I was just getting weaker and weaker. I thought it was the flu. The doctors said they didn't know. Larry Horowitz said, "You'd better go back," so I came back and went to Georgetown, and my red blood count was down. I must have had four or five liters of blood, and they found at Georgetown that the blood was contaminated.

As a member of the Senate, I was scared to death to go in to have a test, even when they were all blind tests, because, my God, what the outcry would be. They found contamination in the Georgetown blood, so the fear was legitimate: you had the growing danger. It was a very nasty and dangerous time.

I always said I was very lucky that my blood was okay, needless to say. When I got that, I had no idea that this was—it was years afterwards when I knew that this thing was happening. I think Elizabeth Dole eventually took over the Red Cross. She got into this, but it was a major challenge. She had her hands full.

Young: Yes, because the Red Cross stockpiles so much blood.

Kennedy: Yes.

Young: Were there provisions? I'm sorry, I don't know.

Kennedy: There are prohibitions. There are people who can't give. My son Teddy [Edward M. Kennedy Jr.], who has had cancer, can never give blood. I can't.

Mrs. Kennedy: I'm a Red Cross blood donor, and I fill out those forms. I remember once when I pierced my ears, I had to wait some period of time. There are very detailed forms you fill out that ask questions like have you lived abroad. If you've been in England within six months of giving, because of mad cow disease issues, you can't. It's very specific and detailed.

Young: So there were increased regulations.

Kennedy: Yes.

Mrs. Kennedy: Very much.

Young: The Presidents didn't give you much support on this or come out front, or did they?

Kennedy: It was the [Ronald] Reagan period, and we didn't get support other than Koop and Fauci, the medical community. We didn't get any other support. But we didn't get a veto, which was good. I'll have to find out what that final vote was on that bill.

Young: On the Ryan White bill?

Kennedy: Yes. I don't remember what it was. Do you want to stop now?

Young: Yes.

[BREAK]

Kennedy: An issue President Kennedy had been very involved in after he arrived in Congress was home rule for the District of Columbia. I found out years later that he had been very involved in trying to create home rule for Guam. President Kennedy is a hero in Guam because he went through Guam during the Second World War and found out that they had passport restrictions; it was a possession of the United States. He tried to help get them a greater kind of home rule, greater representation, which I really didn't understand. He believed that the District of Columbia ought to have more representation and fought for that when he was in the Congress—and to some extent in the Senate.

One of the things he did when he was President was ask the members of his Cabinet to speak at public schools three times over the course of a year. He felt very strongly that the Federal Government had a very important responsibility to the people of the District of Columbia, and his administration was going to respond to that. My brother Bob was very involved in helping local schools and school districts get athletic facilities.

I can remember playing with Arthur Ashe, who then was the national champion, down in the inner city in Washington, raising funds for some projects there. He was very engaged and very involved. For the last 12 years, I've read with a second grader once a week at the Brent School in a program called "Everyone Wins."

Young: What do you do?

Kennedy: I read with her for about 50 minutes; we alternate reading pages. She'll read one page, and I'll read the next. I try to get books that are somewhat challenging so on each page there's one word she doesn't know. We write down the word she doesn't know, and then we look it up in the dictionary, and when I come back, I ask her about the words she didn't know.

We play little games about who's going to read the first page, the odds or evens. You throw out one finger or two fingers. I know exactly what she's going to throw out because if she says odd, she's going to throw out one finger, and if she says evens, two fingers. So whenever she says evens, I know she's going to throw out two fingers, so I throw out two, and so she wins all the time. She can't understand why. She's this cute little thing.

Another little game we play is rock, paper, scissors. The paper can wrap up the rock, but the scissors can't cut the rock. We play that to get started, and it keeps her lively and interested, and she's reading very well. I met with her mother after they finished up. She's in the second grade and is reading very well. She's taken all the tests, and she's right up at the top of her class and doing well.

Young: Is this one particular person you're responsible—

Kennedy: One person I read with each year. It's called the "Everyone Wins" program. Jim Jeffords got me interested years ago. [Thomas] Harkin and I are probably the last two Senators. We had probably 10 or 12 Senators, probably 25 House members, and a number of staff from the Capitol who did it. Tuesday at 12:00 always worked for me because the caucus was at a quarter of one, ten of one, and if you're going to a hearing, you can always make sure you're out of there by five of twelve. It was a time that worked for them and for me. They juggled it around a little bit to make it in the middle of the afternoon to make it possible for me. If they keep it like this, it's going to continue.

I'm in the Senate, and now we're in the midst of the civil rights issues and questions. One of the issues that had been languishing there for some time was voting rights for the District of Columbia. That had been an issue, I think, as long as the District of Columbia had been there. There are 870,000 people there with effectively no voting rights in the House and Senate. They do now for the Presidential election, but they don't for the House or Senate.

It was during this period, after 1976, after President [Jimmy] Carter was elected, and their administration made some recommendations dealing with the capital's problems. One of them was to give voting representation in the House and Senate to the District. So we had Judiciary Committee hearings about the constitutionality. What did the Founding Fathers want when the land was initially donated? Was the District intended? What are the various juridical issues surrounding the District and the people and all the rest of this? We eventually passed legislation, a Constitutional Amendment, to give the District of Columbia two seats in the United States Senate and a House seat. That passed in the Senate and passed in the House.

It was part of the whole civil rights issue because this was in the nation's capital, and we're talking about voting rights. We had the '65 Act. We're talking about public accommodations, fair housing. Fair housing is the other issue. The people in the District raised this and said, "Why aren't you doing something about this?"

So we had to do something about it, and eventually, that Constitutional Amendment got 18 votes. Eighteen states ratified it, but that was not enough. We needed 38 states, so under the procedures of a Constitutional Amendment, it died. Now we're looking at getting one voting delegate in the House, representing the District, no Senate, and adding a vote to Utah. That's the proposal now. I'm supporting it because I like to support what people want in the District, but it certainly seems to me we could do a lot better. I'm not sure this is the best time to do it, but the people in the community want it, and that's their desire.

Young: What was the source of the opposition in the states?

Kennedy: The opposition said, "Look, the District has representation. They have the Senators from Maryland representing them, because a chunk of that land was from Maryland." Others said, "No, they have the Senators from Virginia because part of that land is from Virginia. So they're better off than a lot of other places because they have four Senators representing them, from Virginia and from Maryland. We meet all the requirements, and the only part that isn't is the exact federal track, the House and Senate." Others said, "Let's carve out just the Capitol and the monuments."

Young: Did the fact of the large black population—

Kennedy: There's no question. The Republicans knew the Senators were going to be Democrats, and that was primarily the reason for it. It was very clear, even though, as I remember it, there were 13 states with smaller populations than the District of Columbia at that time. They're being taxed, and they're serving in the armed forces abroad. So they have the burdens of citizenship without the privileges or the guarantees. That was the overwhelming issue.

One other issue I think we ought to talk about that's related to this is the Fair Housing Act. In 1964, we did Public Accommodations. In 1965, we did the Voting Rights Act. Those carried with them enormous authority and power, and we also did Medicare and higher education. Discrimination in housing came in last, so to speak.

When we got to the issues on busing later on, people were thinking that we should have done more on housing, because where people reside indicates where their schools are. And if you have the red-lining of districts and discrimination in housing, one of the principal problems you'll end up with is the schools, let alone what the school boards are going to do. In '68, if you read back through the history of it, you'll see that not a lot of consideration was given. We passed a law, and everyone understands it was a very weak law.

Young: It was a very weak law, and it was defeated twice. In '68 it passed, but one wonders why so much opposition to it?

Kennedy: They exempted homeowners who rented part of their house to other families. You had what they call the—when you have the duplex and the three-story house. They had Ms. O'Leary's house. There was a word, but I can't remember now what that word was, that described the house that they exempted from the law. Are we going to say that if you own one level of the house, the second level, and you have family members, can you rent to other people who are neighbors? So the focus of this argument was all around very local kind of housing, which had a lot of appeal to people in a lot of different communities.

Young: I'm sure it was racial.

Kennedy: It was unquestionably racial.

Young: Because they might invite blacks.

Kennedy: This is the problem, this is the challenge, but they eventually passed it.

Young: So you got a weak act in '68.

Kennedy: It stayed out there. The issue was revisited in discussions when we got into desegregation of schools and the rest, but there wasn't any movement, any action on it. I think my brother Bob got into housing in '66, after being in the Senate, but he was unable to get anything through. He wasn't dealing directly with discrimination and housing but with housing for the needy and the middle class. He had some very interesting issues and questions that still have some merit.

The next time we came to it was in 1980. I had finished running and was back in the Senate. I discovered that Birch Bayh had a good housing act that he was very interested in getting passed. He tried very hard during the 1980s, but he was running himself, and he was unable to get it passed in the Senate. He was defeated that year. But we came back to the Senate that year, and I took the bill up, even though I wasn't on the Banking Committee; it wasn't directly in the jurisdiction of the committees I was on with Senator Byrd.

We pressed it in the rump session, after the election, and we had a cloture vote. We came within three or four votes of getting cloture on it, which we would have then passed. If it had passed, Carter would have signed it, and it would have been a major achievement. [Howard] Baker was the Majority Leader at that time, and he cold-shouldered it and really gave us very little help, very little assistance. He basically short changed us on it. I always remember going in and talking with him, and he just wasn't interested in being of any help, even though we were that close and had pretty good Republican support for it.

Young: Reagan had already, I understand, indicated that—

Kennedy: That he was going to veto if it came to him, so they weren't about to do it.

Young: The signal was already there.

Kennedy: So the bill and the effort were off the table for a number of years, until really 1987-88. At this time, there was evidence of discrimination in housing on the basis of disability. We were moving now toward the Americans with Disabilities Act, and there's evidence of discrimination on the basis of children. The children's movement had been moving ahead. I guess we hadn't passed the Family and Medical Leave Act, but there was a whole movement in terms of children and children's rights, and a movement for disability.

Interestingly, in 1988, we passed the Fair Housing Act prohibiting discrimination on the basis of race and children and disability; it was much more far-reaching than what we had looked at in 1980. It was interesting that the real estate industry didn't resist where we went.

Young: Really? That's surprising.

Kennedy: They had been so strongly against us the other time, but they didn't resist it this time, and we opened up the whole opportunity to a remarkable degree. That passed overwhelmingly. The significance and importance, again, is it's all tied into this whole period, steps going forward and steps going back. We have court decisions taking us back and some modest efforts moving us forward in the country, in the throes of this kind of exchange.

Young: How come Hatch walked out on that one?

Kennedy: I'm not really sure.

Young: Was it on the disabled part of it?

Kennedy: I think probably more on the children's part—

Young: [Arlen] Specter helped on that one, too.

Kennedy: He would have probably helped on that one.

Young: It was also in '87 when you first brought it up again. That's the year of the [Robert] Bork nomination.

Kennedy: In the wake of Bork.

Young: But the Democrats had also recaptured the Senate.

Kennedy: In '86. It was a more active time.

Young: Yes.

Kennedy: You can see when there's progress, or at least what I consider progress, being made. You tie it to the fact that we were struggling in the periods when the Republicans had not only the Presidency, but also control of the House and the Senate. Let's take a little break.

[BREAK]

Kennedy: We have talked in the last day or so about the series of cases that the courts moved towards in the '80s and '90s that really threatened, in a very important way, what we call the march towards progress. There have been a number of decisions since that time, but let me mention two that reflect, I think, the disintegration of reverence for the courts and reverence for the institution of the Justice Department. That's what we're basically talking about: the fact that we had, going back to the Fifth Circuit, distinguished individuals who were highly regarded and respected and were working through the protections and rights that have been guaranteed in the Constitutions. Now, there might have been some differences, but the country finally recognized those, and we are, as I think most all agree, a fairer, stronger, better nation because of it.

Then we saw the actions that were taken by Republican administrations to change the makeup of the courts, and we saw some of their attempts to diminish those rights and liberties, and efforts by Congress to resist those. We did that successfully.

Now what phase are we in? I'll just take a moment to talk about this phase because it's a different phase, and I think it's illustrated in 2007 by two very important decisions. One was the Georgia automobile licensing case in which career members of the civil rights division voted virtually unanimously that the decision by the Georgia legislature to require an identification card that could be used as a driver's license, and that could be obtained only in certain locations, and that voters would have to pay for, would be in effect a poll tax on the voters of Georgia. This was in spite of the fact that there were some provisions in the legislation that said that if the individuals could demonstrate financial hardship, there would be a program to help them.

The career attorneys in the Justice Department stated that this was illegal because it would re-establish a poll tax, and the ruling was virtually unanimous. But the political operatives in the Justice Department overrode that and stamped their approval on it, and sent it out as approved. That Georgia position was rejected by the Fourth Circuit.

In a similar case, Tom DeLay, who has been dismissed from his office in the Congress for irregularities, was very much involved in drafting a redistricting of Congressional districts in Texas. Again, the career officers in the civil rights division unanimously rejected that as violating the Equal Protection clause—and, I imagine, the one man, one vote, the *Baker v. Carr* decisions—and it was virtually unanimous. The political operatives said it was satisfactory, but the Supreme Court rejected it. The Supreme Court turned it down overwhelmingly.

Young: Turned down the—?

Kennedy: The Texas redistricting plan.

[BREAK]

Kennedy: I want to get this correct. There's no question that the career attorneys in the civil rights division of the Justice Department were overturned in the Georgia case and in the Texas case. It was the Eleventh Circuit, not the Fourth, that struck down the Georgia case. In Texas, the Supreme Court, in a 5-4 decision, upheld a good part of the redistricting but struck down one area dealing with the representation of Hispanics in the western part of the state, Congressman [Henry D.] Bonilla's district. The basic issue is the fact that it isn't the career jurists who are making the judgments. It's the political operatives in the Justice Department, and in some instances, it's the courts that are upholding.

I think, finally, as we leave this area, the one issue that still resonates in my ear—and I think the country's ear—is what happened in Florida in the Presidential campaign and *Gore v. Bush*. I think history, when the final chapter is written on the 5-4 Supreme Court decision, will find that the politics of the Supreme Court, rather than the legal issues, held sway, and I think that's going to be reflected in the final history as written. Clearly, in the Florida situation, unfortunately Jim Baker was a stronger figure than Warren Christopher in terms of the internal fighting and discussion of the Georgia case.

Young: Pause?

Kennedy: Yes.

Kennedy: As we wind up this section, we now have come full circle. As we mentioned, the noble aspirations and work of those extraordinary men of the Fifth Circuit opened up the pathway for progress for this country by interpreting the Constitution. The courts were the backbone of this whole march for progress, up to the example, I suppose, reflected in the Supreme Court decision in the *Gore v. Bush*. Today in the Justice Department politics has taken

over regarding judgments, decisions, and interpretations of law. The courts themselves have been so programmed that politics has emerged as the dominant force, rather than the true meaning of the Constitution, and that is something that this country is going to have to deal with.