



EDWARD M. KENNEDY ORAL HISTORY PROJECT

INTERVIEW WITH JUDY FEDER

July 5, 2007
Washington, D.C.

Interviewer

Janet Heininger

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TRANSCRIPT

INTERVIEW WITH JUDY FEDER

July 5, 2007

Heininger: This is an interview with Judy Feder on July 5, 2007. The interviewer is Jan Heininger. Before we get to the [Claude] Pepper Commission, there had been about 15 years of non-action on any kind of sweeping health care reform. Why, when [William] Clinton was in the process of coming into office, did this appear to be another moment of opportunity?

Feder: Most people attribute the emergence of health care on the political agenda to the special election that followed Senator [Henry John] Heinz' death in the plane accident. In that special election, in which Harris Wofford was elected to the Senate—Paul Begala was working that election. I don't know whether [James] Carville was. In that race, Wofford began to use health care as an issue. He had a line that I'm about to botch, but you can look for the quote, "If every criminal deserves a lawyer, doesn't every sick person deserve a doctor?" It was very successful, and people thought that it contributed to his victory. That spilled over into the next election campaign. Begala was part of that campaign, so it spilled over in his person.

What I think was happening at the time, and explains it, is the recession and people's concern about losing their jobs and losing their health insurance. So then, as now, the concern about health care. I think it's picking up a lot of economic insecurity. Different insecurities at different times, but I think that one was all about the recession, so it was quite big. Also when you look at it, I think it was going to be an issue in the campaign, but another thing that people forget is that it didn't become an issue in the campaign.

Clinton didn't talk about health care until he did a speech late September '92, right before the election. So it was not throughout the campaign, which of course was shorter then than now, but it didn't come through until the end. And then when the exit polls—my recollection is it was very high on the list.

Heininger: Let's back up to the Pepper Commission. Where was action in terms of the legislation?

Feder: There was no action at the time the Pepper Commission came about. What happened with the Pepper Commission is that Claude Pepper was actively supporting a piece of home care legislation. So we're talking in the late '80s—'87, '88. I don't remember whether he wanted home care and Medicare, but a major home care program. It was going nowhere, but the leadership essentially gave him a consolation prize and gave him this Bipartisan Commission on

Comprehensive Health and Long-Term Care, I think is its formal name. Once it was established—

Heininger: What was the name again?

Feder: I think it's the U.S. Bipartisan Commission on Comprehensive Health and Long-term Care, and I can check it for you, or it's probably just as easy for you to. If you ever wanted to look at the report, I do have it. There may not be too many, but I've got it. Once it was established, my read on it is that the leadership was concerned. They did not want to let Pepper have his own show. They wanted to control it. It was enacted in catastrophic [Medicare Catastrophic Coverage Act of 1988]. So it was enacted in '88. It was one of the only pieces of catastrophic to survive the repeal, and in fact, we were holding I think our first set of hearings simultaneously while the Senate was repealing the catastrophic legislation. That was interesting.

I think they passed it in the fall of '88. Pepper—I'm not sure when his health began to decline. I know by the time I was—he was there when I was hired, but then he disappeared and deteriorated rapidly. Once it was enacted, the leadership appointed members, and they were the health leaders of the House and Senate. I think it was two-thirds Dems, one-third Republican. There were three Presidential appointees, Republican. They were very involved in picking the executive director, and even though there weren't—Dave Durenberger likes to say only three people wanted the job and we hired two of them.

They were concerned that Pepper was going to go off and use it to rabble-rouse, which is what he probably would have done, so they exerted control. I think it emerged because there was nothing else happening. And then the Dems do something. They were active before the '92 election, but I really don't remember the details. Nothing was moving, but there was a legislative proposal.

Heininger: What was your role as executive director?

Feder: As Pepper deteriorated, we found a new chairman. That was interesting because there was a lot of vying for not being it, and a lot of concern that taking it on was a thankless task. There was debate in [Jay] Rockefeller's office but the Senator always was a strong believer that it was a good thing to do, and he was emerging as a leader of the Finance Committee. He was, at the time, doing the physician payment reform, so he was becoming Mr. Health Care, and this was another step in that. So defining what we were going to do, we did with them. We did hold hearings around the country, and Ed Howard—they hired both of us in that they made me executive director and they made Ed general counsel.

Heininger: Ed Howard?

Feder: Ed Howard. He was doing a lot of the hearings. We were partners in most of it, but that was his responsibility. Then I focused on building—our job was to come up with recommendations, so the question was how were we going to do that. We started with a series of seminars for the members on issues, bringing people in. Getting them familiar with each other,

getting them familiar with issues, and then brought forth options and deliberated and came up with answers and recommendations.

Heininger: What were the recommendations?

Feder: The recommendations were for a universal health care coverage. What we did was set up three options. That was the middle option. The first option was expand Medicaid. I don't remember whether there were any tax credits or it was just expand Medicaid. On the other side was probably single payer, and a plan that built-on employer coverage with a pay-or-play system was in the middle. We built on a commission that Stuart Altman had directed with Henry Simmons, a coalition. I've forgotten what they now call that national coalition for health care that they had done the year before.

We didn't talk about it so much, about building on Massachusetts. It's interesting that Massachusetts was the leader then on that, kind of a segue both times to a new round now. So that was the idea, we were building on the existing system. It was pay or play, which is different from what the Clinton administration did with the employer mandate, but not terribly different in terms of design.

Heininger: So along comes Clinton. You get the recession after. When did the recommendations actually come out for the commission?

Feder: I think in September, '90. We'd have to look, but I think that's right. And then there was stuff in the House. I don't remember if it was in the Senate, but I think [Richard] Gephardt was doing stuff before the election.

Wait a minute. I skipped something that's important. I got so focused on the health insurance that I forgot to mention the long term care. The health insurance recommendations were very contentious. We passed them by one vote. There was a White House effort that Tom Scully was calling around, getting people to not vote for the recommendations, but the Presidential appointees were with us two to one; two of the three were with us.

It was an ugly rollout.

Heininger: Where was Kennedy on this?

Feder: Supportive throughout.

Heininger: How active was he?

Feder: He was quite active. What I was thinking about when I said we ought to talk about it is he always showed up. It was always interesting when it was on the House side, since the Senate members have trouble finding the House, and we went back and forth. He was always the first one there. I don't know if you've heard this before, but he told me—I think it was his father, who always—you had to be there on time. He was always, always there, and he was always—I don't

remember specifics about it anymore. It's been too long, but I do remember that we kidded David [Nixon]. I worked with David on this in the Clinton administration.

David used to tell a joke that the Senator may have told about three candidates for a teaching job. I'm going to botch it, but the first one who goes in comes out and he's looking very woebegone, and they say, "What went wrong?" He said, "They asked, 'What would you teach about the earth, is it flat or round?' and I said I'd teach them it was round." They were horrified, and so one didn't get the job. So the next one goes in and he comes out looking woebegone and they say, "What did you do?" And he said, "I said I'd teach it flat." And then there was outrage about that. And the third guy goes, "I can teach it round, I can teach it flat, whatever you need." And it was that Kennedy was willing to go with any variant on this approach that would get the job done. I really do think that's been true of his history.

Heininger: Did you work closely with any of his staff?

Feder: With David.

Heininger: And what did David Nixon do in terms of dealing with the commission?

Feder: It's hard to remember now, and I think I blur the commission period and the Clinton period. I'm exaggerating, because now it's coming back to me in pieces that he would recommend. I've always found David focused like a laser on moving this issue forward and using effective language. With Dave, what comes to mind is his support, assistance, advice, whatever, in terms of language we were using in the report, on making the case.

Heininger: So he focused on helping on the drafting, making sure that the language was specific.

Feder: It was not about specifics, it's about tone and being positive and helping with arguments.

Heininger: How focused was Kennedy?

Feder: I don't remember spending time alone with him, but at the meetings he was fabulous; he was on. I don't remember which meeting it was, but I can remember as he was talking at one of the meetings—the meetings were private. We were not subject to FACA [Federal Advisory Committee Act], so they were private meetings. I remember experiencing that something would happen and he would slip from a normal talking voice to his oratory, and it was just dynamite. I remember he was all about making this happen, and not in any way concerned about his role, his prominence. It was really all about getting something positive out there accomplished.

Heininger: So this is the lead up to this becoming an issue in the campaign. First of all, what effect did the repeal of catastrophic have on debate over health care reform?

Feder: Oh, I don't know what you were asking, maybe because you know the answer. I mean it really did make it third railish. Catastrophic was very bad. They were very concerned about getting out in front. I still didn't finish the long term care story. See, isn't that terrible? We need

to remember that—so I told you, we barely passed the health care recommendations. We passed by considerable majority the long term care recommendations. Rockefeller has a piece, and I just pulled it out because I thought about using some of the rhetoric in a new long term care report. He had a piece in the *New England Journal* that talked about the recommendations.

Heininger: This was a [Max] Baucus piece?

Feder: No, Rockefeller. Rockefeller was chair of the commission. It was about how the long term care recommendations were easy because it was motherhood and apple pie. Who was not for this? The argument in that article is about—I'm trying to remember how we phrased it; that's what I was trying to pick up. That was non-established insurance industry. There is some, but not established on long term care. Almost everybody is without financial protection against the catastrophic, long term care expense, and made that kind of argument for why it was that long term care was more popular. I think it was really more a question of it wasn't going anywhere, therefore why not be in favor? It was an easy vote, whereas the health care stuff was more real and more—we had more experience and a more entrenched position.

Heininger: So moving to the campaign period. Clinton makes a speech in September of '92. How much of a debate had there been within the campaign staff itself over making health care an issue for him?

Feder: I wasn't staff. Atul Gawande was the staff.

Heininger: What's his last name?

Feder: Gawande, G-A-W-A-N-D-E. I was just looking in the *New Yorker*. His second book is just out. At the time, he was a third-year med student and had taken leave. He'd worked for Jim Cooper. I don't remember how he got involved in the campaign, but he was in Little Rock, and Bruce Fried, out of Anne Wexler's firm, pulled together a bunch of folks who served as advisors. I got very involved in August of '92. In August or September, probably September, I became the spokesperson for the campaign. I didn't leave Georgetown but they kept getting flak. It kept saying third year med student, Atul Gawande, or 28-year-old Atul Gawande or whatever, and so they used me.

I was not privy to debate in the campaign about where health care was. There was some contention around what the plan was, and I don't know if you want that, but we provided advice to Atul and actually sent up a memo at one point, and it was this pay-or-play model. We sent it to Little Rock. We once sent a memo saying is this where they wanted to be? Because this was not—it was old, not new, Democrat in style. So did they want something else? We alerted them to it and Bruce Reed said stay where you are.

Then Ira Magaziner got involved in the summer, and this is all written up, widely documented, that Ira was adamant about—we were getting a pay-or-play, getting accused of hiking taxes and opposition. He attacked a bunch of us. I remember Chris [Jennings] and me being there, and we were talking about something he wanted to do. I think I said that sounded highly disruptive, and

Ira said, “That’s what’s the matter with people; you never want to disrupt anything.” And I said, “Excuse me, I haven’t done a damn thing.” So Chris stepped in and took the blame.

Then it switched. My recollection is we didn’t switch much, but we switched it from a pay-or-play, which was being interpreted as a new payroll tax, to an employer mandate. I don’t remember if that happened after the speech, but that’s where there was some contention.

Heininger: So who was advising Clinton on it?

Feder: Ira was.

Heininger: OK. So at this point Ira gets brought in in the summer of ’92.

Feder: Ira probably was there in some way throughout, but that’s when he met with us, with the advisers. It was formally a bringing together of folks. I vaguely recall it being in August. Then he did the big speech at the end of September, and Ken Thorpe and I went and briefed him in Michigan, right before it.

Heininger: Did you get a sense as to what degree of commitment Clinton had to health care reform at this point? And where it fit in the hierarchy?

Feder: I don’t remember having that sense. This all then merges into the transition, and so I probably had much more a sense of it from the transition. It was very much a part of his concern about the economy. In his words, “grow the economy,” and that you couldn’t do it without controlling health care costs. When he talked about health care, he tended to talk—there was an economic summit during the transition—he very much focused on health care as a share of GDP [Gross Domestic Product]. He focused on the costs more than the coverage, even though the two were very much related.

I don’t remember how much of the language that I remember was his language, but it was that health care is a problem for everybody’s budget—federal budget, state and local budgets, family budgets. He perceived getting a handle on costs as critical to regaining economic security at all levels, and coverage was in part a means to that end.

Heininger: So he came at it not from the Kennedy—this is a right that people should have. This is really as a result of the poor economic conditions and the insecurity that the recession had created.

Feder: It was that people were struggling, that health care was part of it, that health care is a huge part of the federal budget, a huge part of the business budget—it’s everybody’s budget. So it really came out of his—it’s Carville, “It’s the economy, stupid,” but independent of the campaign, I think it really came out of Clinton’s awareness that health care was a big piece of the federal spending that needed to get under control, and that if you only did federal spending, then you were shifting costs rather than controlling costs. So having everybody in was a way to control costs, do so fairly, and provide security for everybody in the process. It’s funny to me

that given what's happened in terms of language and security since 9/11, that it was called the Health Security Act.

Heininger: Do you have any sense as to whether there was contact with Kennedy during the campaign on health care?

Feder: You mean during the Presidential? I don't know. I remember working with staff. I have a recollection of briefing staff, I think, around this. When it became an employer mandate, we did some shifts at the end, when Ira got involved—August, September, and maybe it was October. I don't remember. There was something about his plan changing, and I remember spending time with staff. David would have been involved in that, but I don't really remember it, and I don't know what was happening, what role the Senator was playing.

Heininger: OK. Then you became part of the transition team.

Feder: Yes.

Heininger: Tell me about that.

Feder: Clinton established four, I don't remember what they were called, task forces? Probably not. Four things for the transition, and health was one. They pulled health out of domestic policy. So health, domestic policy, economic policy, and national security. Sandy Berger was national security. Bob Reich was economic policy. Al From was domestic, and I was health.

Heininger: Had you had much interaction with Clinton up until this point?

Feder: No. I briefed him. I think the only contact I had was that briefing prior to the speech.

Heininger: So what did you work on in terms of the transition?

Feder: Our charge was to develop the plan, and so we set up committees on various aspects of the plan, but we were supposed to stay with the proposal that had emerged at the end of the campaign.

Heininger: Which was for employer mandates?

Feder: Employer mandates. It was very much what became the Health Security Act. We didn't move much from it. The details of it got spelled out. We were in the process of writing something up and so were essentially, I guess, in the process of drafting something. In the process would be the right way to put it. We had an outline. So we were busy with the groups.

We were the face of the incoming administration, so there was a lot of attention to what we were thinking about, what we might be doing, but there was also—I've forgotten what the assignment was in the transition. We had to come up with something related to the budget, how what we were proposing would affect the budget. So we wrote something up of that nature, and that became quite controversial.

The focus then was not on us. It became increasingly apparent that we were placeholders. We had a visit to Little Rock, but I had forgotten and was reminded at some point that I really had to push to get us included. It was the economic team that was meeting in Little Rock, and we were discussing health care, and I had to push to get us invited. It was after that meeting that it became apparent that Ira was taking over and that what we were presenting was to show the costs associated with a health insurance proposal. Ira was adamant that you could do it without spending any new money or raising any taxes. That was the view that prevailed, and there we were.

Heininger: OK, so go through that again.

Feder: The economic team was looking at the implications of health insurance on the budget. Actually I'm remembering another point. I remember Larry Summers being adamant that we not lowball the cost of the health insurance plan. We came in with a memo that then probably leaked; I don't remember details of that. It talked about different ways to put the plan forward, but was strong about its costs. That was not what Ira was about. It was about how savings could be had in the system and there wouldn't need to be taxes, and that was the point of view that prevailed as we went forward.

Heininger: Did that make any sense?

Feder: What I believe strongly is that the proposal that we put forward did achieve the goal. The task was to get everybody covered while saving money, and the President initially wanted to save, wanted actually to reduce public expenditures, and although that was not achievable in the near term, the CBO [Congressional Budget Office] estimates did say that under the Clinton proposal, the nation will be spending less by, I don't remember the year—2000. So it was achievable.

We designed a plan that achieved that objective, and on paper it worked fine and was very tight cost control. There are arguments—I'm not certain what the numbers show, but the managed care revolution came after the failure of health reform, which was only partly about managed care or managing care. It was in large part about employers or their insurance plans actually negotiating discounts with providers so that they really became active in limiting what they were spending, similar to what the public sector did, so that we really did have a dramatic slowdown in health care costs.

The way it was funded was substantial subsidizing of small employers and of families, and major expansion of low-income coverage. It financed it out of a savings largely in Medicaid, because in the legislation, savings in Medicare were going to long term care and prescription drugs.

Heininger: This was in the eventual plan that came out of the transition plan or Ira's plan?

Feder: In the real plan. The transition plan, we didn't really ever finish it. So in the real plan, it was Medicaid savings that you could redirect. Savings in the baseline you could redirect to the new subsidies. Technically it worked. It slowed the growth. If you look subsequently, there is

some evidence that it could have worked. My political story on it was that either people didn't believe us or it scared the hell out of them. So either way it was not politically persuasive.

Heininger: So the transition team is working on a plan. It becomes clear to you that Ira Magaziner was going to be taking over.

Feder: Right.

Heininger: When was the decision made to jump what you all were doing and for this task force to be developed?

Feder: I actually think that we were placeholders all the way along. I don't know how much weight was put on what we were doing from the very beginning. As long as we were getting good press and keeping things on track, nobody was paying any attention to us. I'm not privy to the deliberations, but as long as we were keeping things on track, they weren't paying any attention, and it was fine. I haven't asked, but somewhere in late November it was clear that Ira was going to take over, that this is where they were going to go. It became really clear after that December meeting.

[BREAK]

Heininger: So it becomes clear that Ira Magaziner is going to take over. At this point during the transition was there any discussion with Kennedy? Do you have a sense that Clinton had any discussions with Kennedy?

Feder: I don't know. I don't remember.

Heininger: OK. So when does Ira actually take over?

Feder: He takes over I think officially when Clinton takes office. I don't think we were officially finished until he did.

[BREAK]

Heininger: So Ira takes over when Clinton comes into office.

Feder: Right.

Heininger: If you already had something that was relatively along the way for drafting, why the decision to go with this big task force?

Feder: It was as if we didn't exist, and so the placeholder feeling about this is that's what I think is the reality of it. Starting from scratch is what Ira had in mind, and we were irrelevant and old-fashioned and whatever. Actually I'm not privy to any of that decision making. My memory or my own interpretation of it is that there was a desire, a belief, that they could look totally new, and they were going to invite all kinds of—no more policy making behind closed doors.

It's ironic, because it was an open process that was closed to the press, and therefore the task force got shut down because they were not consistent with FACA. So it just got completely turned on its head, and to this day people will say that the reason the Clinton plan failed was because it was made in secret and didn't have the advice of doctors and whatever, which is absurd. It was all there; it was just the way it was handled. I think it was naiveté in the way what was construed as innovative and likely to win lots of points in terms of an open, new kind of—a not-old Washington process became an embarrassment.

Heininger: How was that staffed?

Feder: Officially, the task force was the Cabinet officials, and Hillary [Rodham Clinton] in charge. I can't remember if Ira was on it, may have been on it, Carol Rasco. I can't remember if I was on it or not. Donna Shalala picked me up and Ken Thorpe up. She picked up essentially the transition team expertise, and that was not in any way contrary to what Ira wanted. I think Ira was quite supportive of having us involved. We were Ira's staff, along with some OMB [Office of Management and Budget] folks, and then when we brought people in for the task force, there was a small subset of those people who became quite critical and stayed most of the time. Ken and I managed a lot of it, but that plus the people that Ira brought in, and then OMB some, but OMB's role increased once it had to get scored.

Heininger: Now this was widely viewed as a big—

Feder: And by this time remember, I'm a principal Deputy Assistant Secretary. Ken is a Deputy Assistant Secretary. So there's essentially just HHS [Health and Human Services], going back and forth between the White House and HHS, and though reporting to the Secretary, we were serving as Ira's staff.

Heininger: What was Hillary's role?

Feder: Hillary was involved. We mostly dealt with Ira. I dealt with Hillary some, and there are differences of opinion about how actively involved she was. Ira met with her regularly. Her father died somewhere in the course of the spring, and she had lesser involvement. I've forgotten how long it went on, but the first several months, the groups—they were called clusters of the task force, dealing with different aspects of the plan. We were meeting close to 24 hours a day. I mean better than 12. There are stories of the meeting at 2:00 A.M. in the Indian Treaty Room, all kinds of Hill staff. I'm sure David was at all of those meetings.

David was very different from lots of other Hill staff in that he stayed on top of this all the time. He was everywhere. He was involved in everything. So we were meeting all these hours of the day. We met with the President and the Vice President and the Cabinet. Ira would bring all the leaders of the clusters in to meet with the President. It wasn't a formal meeting of the task force. There was attention taken so that we were not violating whatever was going on with the lawsuit, but there were meetings where they presented and spent hours with the President. This was all going on in this first few months before the 500 went home, and then the small group drafted the bill.

Heininger: All right. Was this a new comprehensive look from a different vantage point? Was that possible?

Feder: The guidelines remained the same from the campaign forward. It never shifted. There was never a departure. There was never a reconsideration of direction in which to go. It was built on the employer system. It was managed care within a budget, competition within a budget always. It was consistent with what we'd done early in the transition, but the guidelines we laid out in the plan right before he got elected, that was it.

Heininger: Do you have any sense that there were discussions between Clinton and Kennedy on this?

Feder: I don't know. I know there was a lot of discussion with Gephardt and [George] Mitchell. You will remember that [Daniel] Rostenkowski was having some difficulty. I know that Hillary—that there was a lot of discussion with the leaders in the House and the Senate as to how to move this forward. Now Kennedy, as chair of the Health Committee, was—I don't remember whether he was the first one to come out with a bill. The strategy ultimately became every committee would come out with a new bill. There was some discussion of coming together in a special committee. They didn't do that. Then there were all the issues of timing. Should it be the budget or NAFTA [North American Free Trade Agreement] first? There was the budget, there was NAFTA, and we kept getting pushed back. There was a desire that you will relate to, to get rolled into the budget, and [Robert] Byrd was having none of it.

Heininger: On reconciliation?

Feder: Yes.

Heininger: How long does it take for the task force process to wend its way forward and make it to a set of recommendations?

Feder: My recollection is by the end of spring we sent the 500 people home. I don't remember whether we kept calling it the task force or whatever, but then I guess we spent the summer drafting the plan. That, in many respects, was completely separate from the task force. It was doing it, in many ways, from scratch. We came out with our legislation draft, I think right before Labor Day. I think that's when we held a health care U, where we briefed all the members on going home to support over Labor Day what they had never seen before.

In the talk I gave to health care U, they were divided in groups and I was in one of the groups presenting the bill. I know I did an example of it for everybody the day before. Is there any way to do this? Because everybody would do it their own way. I've never had such a rapt audience. They were hanging on every word because they were desperate to know what it was they were supposed to say. So making it clear and manageable to them is what the challenge was, because they then had to go out and defend it.

Heininger: Who were the key people doing the drafting?

Feder: Who was in charge of the drafting? There were lots of changes in terms of who was in charge. I don't remember them all. Greg Lawler was involved, Jack Lew. I would say Larry Levitt and Gary Claxton were doing the bulk of the work. It's hard for me to remember who was spending most of the time, with Ed Grossman doing the drafting.

Heininger: He was the House Legislative Counsel?

Feder: That's right, and we're talking about the drafting of our bill. Go ahead.

Heininger: What input did Kennedy have, through I assume staff at this point?

Feder: If it really matters to you, I can tell you who to ask. I think that we drafted largely on our own. What then happened was that every—as I said, every committee did a different bill. Staff level, David was involved in all the—I can remember a time I said, “How did you get in here?” He just rolled his eyes and looked at me because he was in all the internal meetings, and I don't think any other staff was.

A lot of what we were doing was driven by cost estimates because we had to come in at no cost. Instead of Thorpe handling it, Len Nichols, who was at OMB, was handling it, and there was a lot of amusing rivalry there. David was always there watching. But legislative language—I don't know that there was much consultation with anybody.

Heininger: But how about in the shaping of the concepts?

Feder: A lot of that was happening through those internal discussions that would emerge alongside looking at the money, and David was definitely involved. I think David spent a lot of time with Ira. Have you already talked to David? Does he talk like this? Actually David in his way and I in mine, we each attached ourselves to have maximum inputs.

Heininger: So at this point we get to the fall. The bill is released. Now the action shifts to the Hill. How does the Kennedy staff get this privileged position that nobody else seems to have?

Feder: I think it's pure and simple personal navigation. He just made himself valuable and essential, and that was my experience. Again, I told you I can't remember the details of it, but it was similar in the Pepper Commission. Like the story that David tells about Kennedy, in teaching it flat and teaching it round, David attaches himself to whatever effort is going, or did

attach himself to the effort and made sure that he was doing the best he could to make it go the way he thought was useful, and that he knew where it was going.

Heininger: Are you assuming this was at Kennedy's direction?

Feder: I think that they played, as actors, complemented each other. I think it's the same role.

Heininger: So action shifts up onto the Hill. What's the response on the Hill when the bill is released?

Feder: My description of health care U is that it's kind of a shock that they have 1,400 pages and they don't know what to do with them. I don't remember specifics. I know that they were challenged. I don't remember which committees went first. I mostly remember the House side. Hillary was testifying everywhere and at first it was fairly positive.

The hearings—I remember best Ways and Means. Hillary went first and then Donna went, and then it was my turn, and it was not fun. I mean it was fun but it was hard because they were all over us. You couldn't easily tell the Republicans from the Dems in terms of their desire to have at you. It's true of Energy and Commerce too. And then there would be Senator [Daniel Patrick] Moynihan. I don't remember testifying. I don't know that I did before Kennedy, but that could be. I could just be wrong. Maybe I remember the painful ones.

Heininger: Why did you get that reaction from Ways and Means? Because they'd been left out of the process?

Feder: That's a good question and I don't know the answer.

Heininger: Had they been left out or had they absented themselves?

Feder: Ira's argument would be that they had absented themselves. That they were there, that their reps were there, and David demonstrates that that was possible, but that, as we've said, was special. Andie King and Chris [Christine] Williams were regularly consulted at the leadership level. Ira invited all the staff to come to all the task force stuff, and I think that the staff were very—and the members. I mean certainly the members wouldn't have been there. The staff were protective of their jurisdiction, as you can hear in most of my experience with the staff level.

In my view, based on my experience as a political scientist, there's a difference between consulting, where you really are dealing with members and developing strategy together and getting them on board, and inviting their staff to come to your meetings. So I don't think there was ever a real consultation with members on any of it, and that angered both staff and members.

Heininger: Was there substantial disagreement with the approach that—

Feder: In Ways and Means there was.

Heininger: I mean on the substance, was there substantial disagreement?

Feder: Yes. At Ways and Means there was. I don't remember the particulars, but they came up with a very different bill. At Energy and Commerce, there was a lot of concern about—and I can remember being asked over and over again about the co-pays we were charging low-income people. I do remember that the Ways and Means bill was much more Medicare-like. I don't remember every bill. On the Senate side, what a transformation to have Moynihan supporting Hillary's Senate bid, and then the love feast that came thereafter, mainly because he was not supportive at all, *au contraire*. And there was lots of thought that it was a shame that they'd made Lloyd Bentsen Secretary of the Treasury instead of keeping him in Finance.

Heininger: Why wasn't he supportive?

Feder: I think that that's a bigger story about his interaction with the Clintons. It may have had something to do with welfare reform being second and health first. I really don't know, but it was very hostile. In terms of approach and style, there was discussion about whether—a lot of talk about how the White House should have done an outline and left it to the Hill.

Heininger: What other issues were higher on the President's priority list?

Feder: The budget. The early budget came first, to have it which was it, heavy lifting. There was a tax hike in it. It won by one vote. So the budget came first, and health wasn't in it, which was, as I told you, an issue. Then there was the issue about whether it should be health care or NAFTA, and NAFTA came first. So the clock kept moving back.

The President I think got—I've forgotten exactly when, but at some point he really was uncomfortable with the plan when they began talking to him. Every time he went near the Governors it got hairy. There was a whole period when we heard, "Why do we have to have 100 percent universal, 95 percent would be just fine." I think that he was disengaged. What I find extraordinary about the process is that it was remarkably devoid of political guidance and was largely a policy process in which a proposal was developed that worked on paper but they hadn't begun to work the politics. And given what good politicians both Clintons are, that is a little odd.

Heininger: Why do you think that was the case?

Feder: I really don't know.

Heininger: Did Ira Magaziner not have a sense of politics?

Feder: No, and I think he would tell you that. On the Hill they got bad breaks. I mean Rostenkowski, that problem with the post office put him out of commission. Whatever was going on with Moynihan. [John] Dingell couldn't get a bill out of his committee because [James] Slattery was running for Governor, I think, so you couldn't get a majority out of that committee. What's so interesting for us to remember is how dysfunctional—we couldn't get a majority from our majority, which I actually think will be different if we win this time.

Heininger: All right. So the bill comes up. All the committees start drafting their own bills. Do you remember what the Labor Committee and Kennedy did?

Feder: I don't remember, but weren't they the first ones to come out with a bill? Then I think it's again, testimony to he's going to make this happen, he's going to deliver. Larry Levitt and Gary Claxton were involved, in my recollection, in every drafting phase. They wrote that bill over and over. That was a major strategy issue, and it was clear to go to Kennedy first, so he must have been engaged in that. Chris did the Senate. Jack Lew did the House.

Heininger: This is Chris Jennings?

Feder: Yes.

Heininger: So it was clear to go to Kennedy first. Did he come up with a bill that was substantially similar to the President?

Feder: It's hard for me to remember. In broad outline, probably so. I do remember Ways and Means sticking out as much more publicly oriented than the others.

Heininger: How involved was Kennedy once it gets to the Hill?

Feder: This is where I lose it, Jan, because I wasn't involved in strategy. That's not quite right. Mitchell's office was managing it, and that's what I knew best. So I was involved with Mitchell and his staff.

Heininger: Who on the staff?

Feder: [John] Hilley.

Heininger: Would you say this was unusual for it to go through the leadership rather than the committees?

Feder: It was my first involvement really, so I can't say that, but it does seem so. It was hugely leadership driven in both bodies. Excuse me—leadership was the primary contact. That did not mean that the committees didn't play their own roles. And as I said to you, Chris did the Senate. It was Jack who did the House.

Heininger: Did Finance actually come out with a bill? Do you remember?

Feder: I think so. I remember it was around the 4th of July.

Heininger: Was there an effort to sell this to moderate Republicans?

Feder: My recollection is that we never got near any Republicans. I don't know what conversations were had with [John] Chafee, but I think that a lot of what's been said since is that there was real pressure on the Republicans not to deal with us. I don't know how strong our

efforts were to deal with them. There was some kind of bipartisan group active late, trying to come up with something.

Heininger: Why did it all fall apart?

Feder: Well, my big belief about it is that there are several reasons. Allen Schick has a nice piece on all the pieces of it. I think in the administration it was handled as a policy issue, not a political issue. It never was integrated in the overall administration strategy, and health care got isolated early on, kept getting pushed back. I don't think it was handled well with the Congress from an early stage. So whatever people were thinking as a strategy to get it through, I don't think that we had an effective majority in the Congress or a way to build one.

In terms of political support, I think there was a belief that the fear generated by the recession was not as much of a mandate for action as one would have hoped. One has to remember that 85 percent of us have coverage, while 15 percent of us don't. Those people are disproportionately lower income and disproportionately don't vote, don't lobby, and don't make campaign contributions.

I think it's very easy for those of us who have coverage—when we're worried about it, we want very much to hold on to what we have, and so we are very easily scared into believing that reform will make us worse off, not better off. So a status quo becomes preferable to change, and the opposition—the powerful interest groups—are able to exploit that fear fairly easily and make it safe for members of Congress to vote against change.

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

Feder: I think they were very powerful. I think that the research has been done—they were more powerful in terms of generating a tremendous amount of what we call in a campaign “earned media” or free press. It became a story in and of itself. Then there was an active campaign going on to make it essentially safe for key members of Congress to oppose reform, and that was a big part of the fear strategy. So to me it's not that public opinion was driving it or that ads drove public opinion and public opinion went against. To the end, I think they liked the elements of the plan but felt negative about the plan. I really think what was going on was public opinion largely has to be permissive, and public opinion was negative enough that it was safe to oppose. Opposing reform was in large part a partisan movement. They were not giving Clinton this victory.

Heininger: What would have happened if it had been introduced earlier?

Feder: I disagree with some on this. I think Chris and others think if we'd done it fast, we'd have done it, because there certainly was momentum. I think it would have blown up, although we'd have had a better chance. There are a lot of things we could have done better, but I think that the fundamental challenges of it would have been there whenever we confronted them. So I don't know if it was doable.

When people said where was the exit strategy, why didn't we fall back to something? If you took apart the cost containment, you had no way to fund it. You had to do taxes, and that's not what the President was about. So whether there was a way to have done this in a different form—it could have emerged differently. If it were rolling in a positive way, it could have been that some of those trades would have been made, but the President was already getting flak, or the Dems were, for the tax hike. So what would have happened after that, I don't know.

Heininger: If you have to assess Kennedy's role throughout this whole thing, what would you say that it was?

Feder: He was all support but he didn't have the horses, and there was too much contention both in the Senate and the House. We didn't have the votes for anything.

Heininger: Was he shunted aside by the leadership, do you think?

Feder: I don't know. I've never heard that said.

Heininger: OK, two other quick ones. Two other things that Kennedy did in this subsequent time period, on [Nancy] Kassebaum-Kennedy insurance portability and also CHIP [Children's Health Insurance Program]. Can you talk just a little bit about those two?

Feder: Yes. Kassebaum-Kennedy. What I think was fairly amazing about that, and this is again a demonstration of my story that he will make it happen—of my argument. I think that the notion that they were able—I wasn't very involved in it—to take a stand on a strategy to minimize risk selection, that adverse selection, which is a fairly technical concept, became a cause célèbre was very impressive to me, and I think that was important. Although that was hardly major in terms of having an impact, I think it was a good thing.

On SCHIP [State Children's Health Insurance Program], for my taste, Kennedy was too ready to compromise. He put block grants on the table, and I think that's unfortunate, and it's still playing out. Although SCHIP became very popular, there was a concern that the block grant was going to undermine Medicaid, and I think we should have gotten a Medicaid approach in that. I don't know what would have happened if he hadn't shifted ground on that, and I'm not sure how much—I mean Medicaid's been undermined for a variety of reasons. No, I think you can argue that the concepts of SCHIP have now invaded Medicaid with less than comprehensive coverage guarantees now, in the basic program, and more of a trying to shift it toward private insurance concept, which leaves people less well protected.

We've lost ground on the entitlements, but I don't know that it was SCHIP's fault. I think there's always a challenge, an issue about whether you want to get something done and whether what you're getting done is worth the form it's getting done in. I think he and I make some different choices there.

Heininger: OK. Any other comments?

Feder: No.

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