



EDWARD M. KENNEDY ORAL HISTORY PROJECT

INTERVIEW 23 WITH EDWARD M. KENNEDY

October 8-9, 2007
Hyannis Port, Massachusetts

Interviewer

James Sterling Young

Also in attendance

Victoria Reggie Kennedy

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TRANSCRIPT

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Young: This is October 8, an interview with Senator Kennedy at the Cape. Vicki Kennedy is in attendance. In today's session, we're going to talk about immigration and immigration policy in the United States.

Kennedy: In starting off talking about immigration policy, I'd like go back to the beginnings of my own life and the forces that raised this issue for me. I'm not sure that in the earliest years I understood the power of those forces, but they became more and more evident as my life went on. And as I look back over this issue at this time, they're really very considerable.

As I have mentioned in other interviews, my grandfather, [John F.] "Honey" Fitzgerald of Boston, was a very important influence in my early life when I was at the Fessenden School in the '40s. I usually went in and visited with him on Sundays for lunch. Before we'd go into the dining room, we'd go into the kitchen and he'd meet all the people working there. He had a feel and a sense for working people, for the laborers.

Then we'd go out for a walk, and he would talk about a number of things. He would talk about the early history, about the *USS Constitution* that he saved, and he'd talk about the different streets of Boston and explain that they were not straight because they followed cow paths. He was just a fount of information, and during these talks he would mention the signs in buildings and behind windows saying, "No Irish need apply."

We would go down to the piers, and he would talk about how his family came to America from Ireland in the 1840s. Eight of my great-grandparents had come during that period, and he'd point out the pier, and then the golden steps that went into East Boston where they went out and sought jobs. He'd talk about the different groups that came. Some groups came first and got the jobs, and when a second group came, they would want the jobs, and they would try and establish themselves to get the jobs. And if they got the jobs, more often than not they would be in a different political party than the first ones who had the jobs. For example, up in Lowell and a number of other towns, the Polish were apt to be Republican and the Irish were Democrats.

He talked about the ethnic politics of the time. He told the story about when he was elected Mayor of Boston and he appointed an Italian to be the Fire Commissioner. Outside his home in Boston there was a big rally with people with signs saying, "Appoint one of your own, Honey Fitz. Appoint one of your own," meaning appoint an Irishman, not an Italian.

So the ethnic makeup of the community became something that was relevant to me. I remember my mother [Rose Fitzgerald Kennedy] forming what they called the Ace of Clubs group, which did charitable work, and reading work, and social work, and they were all Catholic. They were not permitted or invited to be a part of the rest of the community because they were Irish. The Brahmins were the ones who were running the show.

I have a picture in the house in Washington that I've had from the earliest days of the laying of the water main in East Boston. It shows all the immigrants digging and down in the trench. The people outside, the Brahmins, are giving them instructions. This was on Meridian Street, where my father [Joseph P. Kennedy] was actually born.

Young: Did you paint that picture?

Kennedy: No, no. It's a primitive picture I bought.

Young: I noticed that. You showed it to me once.

Kennedy: Yes. It's not one of great value, but it was Meridian Street, where my father was born, and they were digging the pipeline.

Young: And there's the Yankee foreman.

Kennedy: Grandpa told me about his trips abroad, and he said that when he'd come back, in the North End he'd get such a welcome that all the cobblestones would come up and say, "Welcome home, Honey Fitz. Welcome home."

I'd say, "How could they be doing that, because it looks all Italian now?" And he said, "Well, that's what happened. The Irish moved out, and the Italians moved in." Then he'd talk about the discrimination against the Italians and against the other groups, the Polish. As a politician, he depended upon developing an association with and support from working people, and the working people were primarily Italians. There was a group of Polish, a significant Lithuanian group, and other ethnic groups, but in Boston they were primarily Irish, Italian, Polish, Greek, and some Portuguese. They all, like the Irish, were in various tight knit communities.

President [John F.] Kennedy came back from visiting Ireland in 1962. He had gone to Wexford, where the Kennedys were from, and my mother said, "Why didn't you go where Grandpa was from?" And my brother said, "I could never tell where Grandpa was from because each time he campaigned in different communities in Boston, he'd pretend he was from that community: Kerry, Sligo, or Limerick or wherever it might be."

They were tight-knit communities, Irish and Italian and the other groups. Then my grandfather told us that the Irish couldn't get jobs because they were not welcome, and the other groups couldn't get jobs, and the other people couldn't get their families joined together because of the immigration laws.

I was somewhat interested in this, but not enormously interested in it. It became more and more alive as I got older. It made an impression on me. Also, Grandpa told the stories—and I've told this before—about how he used to go and watch the people row over in Cambridge. They'd be

the sons of the Yankees, and he would go up and say hello to the Cabots or the Lowells, or whoever might be on the bank at that time. It was an atmosphere and a stratosphere of separation for these groups.

It was clear to me at the time that the laws in existence basically prohibited certain groups from coming into the United States and impeded the reunification of families, particularly the Southern Europeans. The Greeks couldn't reunify with their families. The Italians were probably the most notoriously prohibited, some Portuguese—those were the major groups. So this was a factor and something that was very much on his mind.

Young: I think the impediments to families being together is an aspect of the early immigration laws that has not been very much noticed. You're saying that you became aware of that from your grandfather very early on, before immigration policy in itself became a public issue once you got in office.

Kennedy: Well, yes. I didn't know the details about reunification of family provisions, the order of priorities, the different sections of the immigration laws. But what was very clear to me was that some groups were excluded and other groups were permitted. What was also very evident was that there was real tension between the various groups in terms of getting jobs and getting homes. It reflected at the ballot. Italians voted for Italians and Irish voted for Irish, and it was reflected in those ethnic communities.

I've told the other stories about Grandpa feeling very strongly about getting out in the world and learning. He was a good student at Boston Latin School. He was admitted to Harvard Medical School but had to drop out because of the needs of his family. He was bright, resourceful, and energetic. He traveled, and he welcomed the travel, and he learned from his travels. He learned about other cultures, of the incredible Italian culture when he traveled to Italy, and about the culture of France and other European countries.

He brought back a lot of the ideas: the ideas of having a zoo for Boston, the Franklin Park Zoo, and the bandstand and the Christmas tree. He read books and had an expanding mind, and he saw the value of different cultures' traditions, and he also saw the injustice of the discrimination and hostility in the United States to individuals coming from those different traditions. And it was reflected in his own view. As a member of Congress in 1896, he was opposed to the hostility and discrimination, and he had a face-off with [Henry] Cabot Lodge about the people who were going to come into the United States.

Young: The literacy test was part of it?

Kennedy: The literacy test was one thing he had to oppose. He also had a dust-up with Cabot Lodge about the types of people who were coming in. So this was real in his mind, and he was very active and very involved. When he had the dust-up with Cabot Lodge, he went to see President [Grover] Cleveland about it. I'm not sure how much progress he made, but this was in the '20s when there was a good deal of both racial and ethnic tension. At the turn of the century, there was what they called the "yellow peril" in the west.

The [William] Dillingham Commission was established and made recommendations about the types of America we should be in the '20s, and affirmed that we wanted to retain restrictions and

maintain a closed-door policy. The Founding Fathers, as we all know, had a very open-door policy, and were welcoming. And obviously the Statue of Liberty and those marvelous quotes from [Emma] Lazarus are about welcoming the poorest of the poor into the United States. That was a different tradition than we saw both in the '20s and then expressed most dramatically in the 1950s in the [Patrick] McCarran-[Francis] Walter immigration law that established quotas based on place of birth and put restrictions on the place of birth.

There were other restrictions prior to that in other immigration bills, but these were probably the most notorious. They restricted the numbers of immigrants to just a small fraction of what the numbers had been before the real flow of immigrants began. I think the Portuguese got maybe four or five hundred. The Greeks got three or four hundred, the Italians maybe a thousand, and the Irish had thirty thousand. The Scandinavian countries were virtually unlimited. So it was very targeted.

The conversations that my Grandpa had with my brother Jack at that time obviously had a very important influence on him, because one of the first books he wrote was *Nation of Immigrants*, which is very well done, and talks about prejudice and discrimination against immigrants. It was published in the 1950s and outlined an alternative immigration policy that advocated knocking down the walls of discrimination and emphasized family reunification, special skills, and refugees. It's interesting that those themes keep coming back up, in the [Theodore] Hesburgh Commission and the [Barbara] Jordan Commission later on.

Young: I think another thing in that book was what immigration contributes to the country. It wasn't just over the barriers that were put up. That was a pro-immigrant and pro-immigration policy, that we needed these people.

Kennedy: He pointed out that whether you're talking about the church or music or the arts or culture or politics, children of immigrants have made an extraordinary contribution over the history of the country. Back at the time of Bunker Hill, more O'Briens died than anybody else. There were Irish immigrants during that period, even before the Revolution. Grandpa always had these little tidbits and stories.

The point we're trying to review is that we had a sense about discrimination against the Irish, discrimination against ethnic groups, and that there were laws that perpetuated it. There was this sense from Grandpa about the unfairness and injustice of those laws, and he could see them up front in Boston and could see, as he traveled, the increasing offense it gave in terms of our country being truly a Democratic country. That was something that was evident in my early life. I still have one of those window signs from Grandpa's time in the house in Washington, "No Irish need apply."

There are lessons from my observations about my brother's experience in the Senate and about how he worked with other people, and that comes back to how I've worked on immigration. I always try to work in a very strong bipartisan way. This morning I was thinking about the indicators that contributed to that viewpoint, and it was the observation I had about my brother Jack working with [Leverett] Saltonstall.

They had a New England Senate group, and my brother was very involved in that when he was first elected to the Senate. His maiden speech was on how to develop Massachusetts and the New England economy. He worked with Senator Saltonstall rather closely, and he by nature and disposition was rather a positive politician in terms of looking for opportunities to move ahead and make progress. He worked with other Senators, and it was a different kind of tradition than the harsh politics where you can't get ahead unless you push someone else down. He understood that people could move together and have a positive outcome—even if others made progress, even if your adversaries made progress, there could be a positive outcome. That was a lesson, certainly eventually in Northern Ireland, but it was a lesson he brought to the Senate, an important lesson.

I remember, right after I won the Senate seat, getting a card from Eddie McCormack, who I ran against in a very hotly contested primary. I beat him. It was a very tough primary. So I had just gotten into the Senate, and I got this card about Eddie McCormack returning to law. I remember bringing that down and showing it to my brother, and I said, "You know that Eddie McCormack. I'll never forget how tough and mean he was to me."

My brother just laughed and said, "I'll tell you what you do. For the rest of time you're in the Senate, just at election time, have a successful fundraiser, and then call Eddie McCormack and ask him if he'll do a fundraiser for you, and leak how much you expect from him. Then, when he has that fundraiser, raises that money for you, when you pick up all the checks and walk out, you can smile. That will be the best way to get back at Eddie McCormack." He was thinking in those terms rather than going after someone with spikes and knees and the rest.

Now we arrive in the Senate. I was elected to the Senate, and President Kennedy had been interested in immigration and wrote that book, as I pointed out, and had been involved in it in a tangential way when he was in the Senate. And when Bobby [Kennedy] was Attorney General, he was involved. They made a presentation about that time, '63, before the Judiciary Committee. So it was going to be an issue.

It was obviously a civil rights issue, and although the civil rights issues as we think of them are rooted in a different tradition, when you look at this, the basic fundamental elements of hostility and bigotry and prejudice and discrimination were evidenced in terms of the ethnic politics of Massachusetts and most of the industrial states. So you had the elements of the civil rights movement and also the elements of discrimination and bigotry that existed in immigration and in immigration policy. We saw what had happened here in the United States during World War II, with the Japanese internment. This is all very much a part of the evolution of our democratic liberties.

When I arrived in the Senate, I was appointed to the Judiciary Committee and the Labor Committee. We're all appointed to what they call two "A committees." The Judiciary Committee was chaired by Jim Eastland and he asked me, as the only new member on that Judiciary Committee, to think about what subcommittees I wanted. He said for me to come to see him the first part of the following week. So I thought long and hard and talked to different friends about the committees.

The subcommittee I was very much interested in was the immigration subcommittee, which was a rather sleepy subcommittee, but it seemed to me that this offered an opportunity to be even more involved and engaged in the immigration issue. Its focus was immigration and refugees. It was the least desirable of the subcommittees because of both the subject matter generally and it had the smallest budget. I think it had a budget of \$100,000 or so. You got only one staffer if you took that assignment. If you got one of the other committees, like administrative practice or another one, if you got to be chairman of it, you got additional kinds of resources. We didn't have many staff people at that time, so there was always a lot of jockeying around to see who could try to get ahead in that field.

Young: Could you talk a little bit about why you wanted to be on such an unprestigious committee, such a sleepy committee, not just in terms of yours and your brothers' and your family's interest in immigration, but did you have something in mind by doing that? Did you believe you could really make a difference?

Kennedy: Well, this was an issue I was interested in and I knew I could be involved in, and there was a real absence of much leadership in the Senate on it. I knew that my brothers were going to address this issue, so it seemed to me a great opportunity, an opening, in terms of having some impact on public policy issues.

In any event, I went down to see Eastland one Tuesday morning or so in the middle of the week. He said come down at 10 o'clock. I went down to see him. He was in his office, sitting in a big chair. He pulled a chair up right next to the edge of a big table, pressed a buzzer, and in came his aide, Courtney Pace, who had been there a long, long time. He sort of barked at him. I didn't hear what he said, but the next thing I know, out comes a white napkin, a coarse white napkin that he puts down, and two of those tin trays of ice, the old ice trays with a metal clamp that you pulled in order to free up the ice. He put those down, and then he put down a bottle of bourbon and a bottle of scotch.

He said, "Now Ted, I've been thinking about what subcommittees you might want. I bet you want the immigration subcommittee." I said, "How did you know that, Mr. Chairman?" "Well," he said, "you have a lot of Italians up there, a lot of Italians, a lot of immigrants." So I said, "Well, that's very interesting. Do you think there's some opportunity for me to get on that immigration subcommittee?"

Then he reached over and picked up the bottle of Chivas, picked up about five cubes of ice and put it in there, and he poured until all the ice was covered, and it was still absolutely amber. Half the glass was amber, and he said, "If you drink that drink down, you're going to find yourself on that immigration committee."

I said, "Thank you very much, sir." I drank that down, and he said, "I think you might like to go on civil rights. Don't you Kennedys care about that?" I said, "That's right; that's true," and he said, "Well, you drink that down"—and he poured again—"and you're on the civil rights committee."

So I said, "Thank you very much." Then he said, "I suppose you want to be on the constitutional rights, because the Kennedys care about the Constitution." I said, "That's right." So he said,

“Here it is” —and poured again—and down that went. I sort of sat there for a few minutes and he called his aide and said, “I just told Senator Kennedy he’s on immigration, civil rights, and constitutional rights. Thank you very much for your visit.”

I sort of bounced into the walls on the way back to my office, and I got back there about 10:30, 11 o’clock, and there was a room of 40 people waiting to see me. Their Senator, who had been down there for three and a half weeks, was bouncing off the walls in the Russell Office Building. That’s how I got on the immigration subcommittee.

Young: How did Eastland know you wanted those?

Kennedy: I think he probably had a pretty good sense that this was an area I was interested in. I was never aware that my brother was involved. He wanted to stay out of it because if I didn’t get on the committees I wanted, it would look bad for him. Eastland was pretty shrewd.

Young: So you had obviously given some thought—you may not remember all this, but you had made up your mind by ’63 that those were what you wanted. I think it’s very interesting that that was your choice.

Kennedy: Those were the areas I was interested in and wanted to work on.

Young: Immigration came first, didn’t it? That was your first?

Kennedy: Immigration was the first one, and I became chairman of that committee rapidly, I think within a year. It was a small committee, but I became the chairman of it, and I was on the other committees. This is where the action was. Legislation had been introduced, sent to the Congress by my brothers.

Young: In July of ’63 he submitted an immigration bill. And I think [Philip A.] Hart and [Emanuel] Celler drafted it. Did you have a hand in the drafting of that? You were brand new.

Kennedy: Probably not. When you’re in the Senate, you have one legislative assistant, one administrative assistant. So unless your legislative assistant knew an awful lot about the subject matter, they are just basically worked out through the administration. I think more likely than not it was drafted by the Justice Department, and they got people to draft different sections of the bill and put people on it. It’s somewhat different now, but that was certainly the way it was done.

Young: So, the bill went nowhere.

Kennedy: No. The bill didn’t go any place at all. That was July ’63. In the latter part of ’63, I lost my brother. Then the major effort on civil rights came up in ’64, which was [Lyndon] Johnson, which got all the focus and attention in ’64 and took an incredible amount of time and energy. Then until we got that conference in June or July of ’64, and then I had my plane crash and was in the hospital for seven months. But when I was in the hospital, I worked on immigration. I read a lot about immigration. People came in and talked to me about immigration. I used to have, particularly the last three months I was in the hospital, hour-long seminars.

Young: Johnson, I believe in his State of the Union in early '65, came out very strongly for a policy change, immigration reform, and he picked up the bill, the Hart-Celler bill idea that your brother had inspired. There's an account of a meeting he called at the White House at that time. It was a snowy day in January of '65, just before or just after the State of the Union, in which he—you were there. Do I have this right? Were you back in the Senate?

Kennedy: Yes.

Young: You were there, a lot of Congressmen were there, and various immigration groups were there. This was written up in the *New York Times*. Johnson said, "This is something we're going to do and we're behind on it and we're going to get it done." That's when immigration reform really got pretty high on the agenda, and you got very much involved in it. It was your first putting together of a coalition in the Senate, wasn't it?

Kennedy: That's right, yes. It was my first major piece of legislation, both in terms of shaping it and conducting the hearings on it, and getting it through the committee, and getting it to the floor, and effectively floor managing it. Johnson said that he wanted public accommodations in the Civil Rights Act. He had three or four major issues that my brother had been interested in, and he included this one, which was the green light and got the priority, got the notice from the leadership that the House was going to do the hearings and we were too.

Young: You gave a fairly full account of what the opposition was and the way you went about this; it was a very workmanlike job. Do you have any personal recollections?

Kennedy: The real issue at the time, which has resonated over the years, is the element of the discrimination that already exists in this country. And the second thing is the Immigration bill itself. But the important thing was the issue of illegal immigration, and how people tied immigration with illegal immigration, and mixed those up. It was very important that if you were going to get an immigration bill, they had to be separated. You were going to have an immigration bill that was going to deal with the parts that were unfair and unjust. And you're also going to be busy with the illegal aspects of it.

People were very strongly against immigration because they think only of illegal immigration, but you have to separate those two issues and have people understand that you're serious about addressing the illegal immigration issues. Then they'll listen to you about fixing the legal immigration issues. That was one of the very important points, and it's still the key aspect today. The last bills [I worked on] were defeated because of all the focus on the illegal immigration issues. When that becomes paramount, you lose the argument in terms of trying to do something about having a responsible legal immigration policy.

The second part, which was very evident to me, is the role of the economy: if the economy's going to be shaky, even if you're able to separate the legal from the illegal immigration issues, you're going to have a lot of difficulty because you're talking about the dangers of individuals replacing either your jobs or taking your home, threatening your existence, and there's always fear of the unknown. If the economy is expanding and growing it is different—but you remember, in the early '60s it was flat.

Young: Yes.

Kennedy: President Kennedy had put in to cut taxes, but the time when we began to hit the issue in '65, the economy began to grow. So we saw the difference in terms of the atmosphere and the climate, the willingness of people to try to deal with the issue, because it was an expanding and growing economy. What you have at another time, at the current time, is enormous uncertainty in terms of the middle class, and that's reflected in apprehension about what's going to happen on the other side.

Young: It seems in retrospect, comparatively, that it was easy to put together a coalition that would make this major reform in immigration policy. The fly in the ointment was what you had to give to get the national origins quota system out and to strengthen family reunification. The opponents came up with the idea of a cap on Western Hemisphere immigration. You fought that and did not win that, in '65, but you kept at it. That had to do with Mexican immigration.

Kennedy: Mexican and the West Indies.

Young: And maybe Cuba.

Kennedy: That came up towards the end of the debate. They put the limitation, although there hadn't been a limitation before that time.

Young: That's right.

Kennedy: So you would have had people coming from these areas—other regions, in any event. They appointed a Western Hemisphere Commission, and the only way we could override the limitations was if the commission made a recommendation that was adopted. Then they would lift the—

Young: Right. And you were on that commission.

Kennedy: Yes, but we knew they weren't going to let that thing go. It was interesting. Bobby recommended to me that we ought to let it go, that we shouldn't pass the '65 Act. He recommended that we let the thing slip. He said, "It will be a bigger deal next year. If you get a focus on it, it will be a bigger deal next year. You'll win it next year, but you can't win it now."

I said, "I think we ought to try and take it now," which we ended up doing. I remember talking with him about the Western Hemisphere restrictions on the bill—it wasn't a big cloud because there was so much interest in abolishing the national origin quota and the Asian Pacific Triangle.

Young: There was a lot of local interest.

Kennedy: An enormous amount. It was a big deal.

Young: That was the focus there. In a sense that's the start of what became the big illegal problem, crossing the border, because there was pretty free passage across the border until a cap of 120,000 from the Western Hemisphere was instituted. That meant that if there was a draw of jobs over here, they would cross illegally.

Kennedy: It did, but you had that magnet effect happening. It was as much a product of the times as it was the legislation. It's the movement of people, and you see the movements and migration now in other parts of the world. The border was virtually open, even though, if you look back at the time, in the legislation, we doubled or tripled the border security. But it still didn't make much of a difference.

Although you have to remember that one of the elements of immigration evident during this period was the Bracero Program. This was, outside of slavery, the most heinous policy the government has supported and tolerated. It first permitted significant numbers—hundreds of thousands—of agriculture workers to come in and work in California and the western states under subhuman conditions, and the program paid the workers through the banks back in Mexico. A good many of them never got paid, and it exploited these individuals in the most intolerable way. This was an issue that was bubbling up as well during that period. Actually, the Bracero Program was ended just about—

Young: Sixty-four.

Kennedy: —this time as well, although the elements of it continued, exploitation of these workers. But the rest of the program itself stopped. When the program itself stopped, more people began to flow in here. When they had the Bracero Program, the total numbers were moderated, but my own sense is that the explosion of these numbers is related to the conditions in Mexico. The dramatic expansion of their population, dramatic expansion of the American economy, demand, our move west and south, and the failure of Mexico to try to develop any kind of program to deal with these individuals.

Young: I'm glad you're mentioning this, because when the big immigration reform of '65 came out—and there's been a lot written about it and what happened by almost everybody—very few people made any mention of the Western Hemisphere cap or the Mexican problem, which was not solved by that immigration reform. In fact, from their point of view, it was like putting a national origins quota on, though it set a Western Hemisphere quota. While you're taking away all the others, you're putting a cap across the border. It does seem to me today that problem has just returned and returned and returned until it's the dominant issue.

Kennedy: I think Bracero ended as a program, but these extraordinary conditions still remained. We went down to Texas and did some hearings in the summer of '67. We talked about the Texas Rangers being the enforcers of this program and how they still exploited migrant workers in the fields.

This is something my brother Bobby picked up in '66 with César Chávez, and was very much involved in, in terms of economic justice. After the Bracero program ended, all the workers who were still left here had to fend for themselves. They continued to be exploited, although there weren't as many moving back and forth. We were helping them get organized and exercise their rights. There was extraordinary conflict between the growers and the workers.

I compare the hostility between them to the situation three days ago when I was in a meeting in Dianne Feinstein's office with four of the principal growers, the head of the Growers Association and Arturo Rodriguez, who is head of the United Farm Workers union. They were

all sitting together and going over names in the United States Senate, for a bill that both of them are supporting. It will bring the workers good wages, health benefits, housing, and will permit them to organize but guarantee a workforce for the growers.

This is an incredible transition in terms of atmosphere and climate—what they call the AgJOBS Bill, which we may or may not get passed. It's an incredible legacy from that period, which has eventually turned out to be somewhat more hopeful out of necessity, because now, with the increased border security and patrols on the southwest border, it's slowed down, in a very important way, the movement of people from Mexico to work in agribusiness. So now a lot of the growers are actually moving to Mexico and buying land down there where they don't have the hiring problems, and it's having a very significant impact on the growers in California.

Young: I think I can follow the transition here, from when you get into the '80s. You and Hart and [Jacob] Javits were working together on this in the Senate, and you were successful with the compromise you struck on Western Hemisphere migration principle.

But you got the other things. In 1980, you did the Refugee Bill. I don't know whether you remember that, but it took the refugee problem out of the standard immigration policy and made a separate system of it. Do you have anything to say about that?

Kennedy: Well, yes. The problems with refugees, the most notable one, the Vietnamese refugees, were increasing. But also, there were other kinds of refugees from the Middle East. There had been turmoil in the mid-'70s. Even in Lebanon and Africa.

Young: Eastern Europe also.

Kennedy: They were still coming from Eastern Europe. In Eastern Europe in '56 there was the Hungarian Revolution. The Hesburgh Commission was initially set up to look at refugees from Communist countries, and then we took it and moved to look into refugees generally. In the '70s we had the refugees from Bangladesh. Bangladesh got independence, and they had ten million refugees. As I mentioned, the real challenge was what we were going to do with refugees from Southeast Asia. It was very clear. We were willing to take some refugees, but we had no clear policy about how we were going to treat them. We basically took recommendations from the Hesburgh Commission.

Young: The Hesburgh Commission recommended that, but before they submitted their report, we got a refugee bill.

Kennedy: We had a refugee bill that had to respect and use the definition of refugees that was accepted internationally.

Young: Yes.

Kennedy: There were different phases. We had the migrant health bill in the early '70s, and that was really a result of hearings I had done down in Florida and in other places. We found out that these migrant worker women had four times the number of stillborn deaths because of all the pesticides and herbicides and insecticides they were inhaling. The health conditions, particularly of women and children, were just abhorrent, and we passed migrant health legislation.

So we had different bits and pieces of legislation all during this period, and then we had the refugee bill. I went over and walked along the border between India and Bangladesh in a couple of days. I saw all these small Indian villages accepting the Bengalis, although the villagers were terribly poor. They accepted all these refugees. We shaped a refugee bill under President [Gerald] Ford, in '76 or so, '77, about Vietnamese refugees.

We eventually took about eight or nine hundred thousand Vietnamese. The first people who got on the boat had been down in a place they called Vung Tau in Vietnam, where the people who had done contracting with Americans all came from. They left there and got out very early, but we didn't take in the people who had really worked with the Americans, a situation like we have at the present time with the translators in Iraq. We didn't take in those individuals, but we didn't have large bloodbaths. There was some personal recrimination in the communities, but they never had big bloodbaths in Vietnam.

A lot of the people who had been very loyal to the United States went to re-education camps for five, maybe seven or eight years. So after we took these seven or eight hundred thousand refugees, we got tired of taking them, and we cut back on Vietnamese refugees at a time when many of these people who had been loyal to us were just getting out of prison. We had a lot of trouble getting some of those people who really deserved to be taken in, because they had risked everything for Americans and American lives.

We were interested in a lot of these ancillary kinds of issues in terms of refugees. We were also interested in a number from South Africa, and what was happening with apartheid. This was becoming an increasing issue and problem, which eventually resulted in my going down there. But that's another issue for another time. The '80 Act was a good act.

Young: It was a breakthrough. It was the first time we had a policy.

Kennedy: A humane policy. It was very good.

Young: And it separated refugees from issues of immigration policy. Otherwise, you would have had a much, much more—

Kennedy: It was interesting because we obviously had differences with [Jimmy] Carter on a lot of issues, but on human rights he did well. You have to give the President his due and credit for that. A lot of it was the fact that he had Cy [Cyrus] Vance, who was very interested in human rights, and a very active State Department that was very involved in human rights issues. I think during that period we got probably support from the Justice Department down there as well. This was the end, you know, before the '80 election.

Young: Homelessness surged among these international people during this period, because of both violence and disruption, and this is the almost purely humanitarian, not the economic consequence. I think that this aspect has not been sufficiently noticed. It was a real triumph, I felt, in 1980 to do that.

Kennedy: We would take in probably 70,000 to 80,000 refugees every year in the United States. It's incredible. The last years since 9-11, we're down to about 40,000 because of all the difficulty in the processing. We have taken groups of refugees—it's amazing. We've gotten

them settled, and it's like no other country. Even with the numbers cut back, we're still far, far, far ahead, and most of that goes back to that '80 Act.

Young: Getting back to immigration, we could move ahead.

Kennedy: There were several parts of my maiden speech in the Senate in 1964, which was on civil rights. The last part of it deals with the Civil Rights Act itself and why that ought to be supported, and relates to the circumstances we had in Massachusetts. But the earlier part talks a good deal about the issues of assimilation in the state, and how 40% of the population in Massachusetts was not native born—the largest percent of any state in the country—and about how a Catholic, in 1780, couldn't vote in Massachusetts, and how a Jew couldn't get a place to stay in the Berkshires. And the blacks were locked into their own education system because of the failure in housing.

It talks about some of the ethnic conditions that existed in the state at that time and the fact that Massachusetts moved ahead in working through those circumstances, for the most part—not all, but for the most part—and became a better, fairer place. And using that as an example of assimilation, it could do it as well with regard to Negroes (as they were referred to then; referred now to as blacks) because we've had lessons from our experience in immigration.

The second major part was the reliance on bringing the people of faith to enlighten public policy. There were moral issues that were related to this whole issue and question, and here, just as men and women of faith can inform and enlighten in terms of public policy—the morality of war and peace and poverty and the death penalty—they can enlighten with regard to discrimination and bigotry and prejudice. That's the enlightened aspect of religion: bringing a moral perspective to public policy issues, as distinguished from the interference of religion in terms of personal morality, which is what we've seen today.

I think the fact of Cardinal [Richard] Cushing speaking about immigration and immigration reform, leaders of the Episcopal Church speaking about it, the Jewish community speaking about it as well, gave this debate a moral tone about how we're going to treat each other and that we're all God's children, so to speak. That same kind of tone was what we tried to do in the more recent immigration, not as successfully as previously—we can come back to why when we talk about that period.

This was a very important aspect, the importance of this issue in relationship to the fundamental values of our country and what "American" stands for in terms of valuing individuals—paraphrasing Dr. [Martin Luther] King—valuing them for the content of their character and not the color of their skin. And I think that this is an important factor in terms of the general immigration issue historically that too frequently is missed.

Young: Yes. And that was there from the beginning. The Catholic Conference of Bishops in '65 was a major voice for immigration—and the National Council of Churches and Jewish organizations as well. Then you have on the other side the Daughters of the American Revolution, the patriotic societies, the American Legion and so on. Behind the coalition for reform is this moral—doing what's right and doing what's best for the country.

Kennedy: Why don't we take a break?

[BREAK]

Kennedy: So, here we are in '65. We had had the strong support within the administration. We had been working hard; '64 had been a big year in terms of the Civil Rights Act. And 1965 was the big year for the Voting Rights Act. I was Chairman of the Refugee Committee, conducting the hearings, putting together the strategy, and working with our colleagues on the Judiciary Committee. We were also reaching out to the House side, where Cellar and [Peter] Rodino were the principal figures.

On the floor, I was also very involved in two other issues. One was the 18-year-old vote, and the other was the poll tax. We had had an extensive controversy in terms of the poll tax, which eventually went to a vote, and we ended up getting beaten by, I think 52 or 53 to 47. I always remember Gene McCarthy and [Rupert] Vance Hartke voting against it; we should have gotten their votes. The poll tax eventually worked its way out, through a different route and a Constitutional amendment.

The other was the 18-year-old vote, and this was really an expansion of the involvement, the participation in voting following what was happening in the civil rights movement: one person, one vote, the *Baker v. Carr* decisions, and the feeling that since 18 year olds were fighting in Vietnam, they ought to have the right to vote. We had a controversy on that one as well, and eventually a Constitutional amendment was necessary for consistency between the federal law and the state law on 18 year olds. We got a [court?] holding about the Congress having the power to lower the voting age in federal elections to 18, but not in state elections, and obviously to have them consistent we had to pass a Constitutional amendment, which we did immediately. So this was going on at the time we were developing support for immigration reform legislation.

When we got to the floor on the immigration reform bill, as I mentioned earlier, the one big stumbling block was the group of southerner and westerner Senators who wanted to get more control of immigration through a limitation of the Western Hemisphere flow. That delayed the bill a few days, and for a short period of time it made its passage somewhat uncertain. Eventually we were able to get an agreement taking this amendment, which put a limitation on the Western Hemisphere flow.

We'd have the support and eventually vote on the immigration bill, which in effect knocked out the national origins quota and the Asian Pacific triangle, which were the two most discriminatory aspects of the law, and the most egregious part of our immigration policies. We were able to get it passed by a vote that was very similar to the final votes on the civil rights bill, somewhere around 73 or 74 to 18. They had a signing ceremony at the Statue of Liberty, but for one reason or other, I missed that occasion.

Young: Of those three—the 18-year-old vote, the poll tax, and immigration—as you look back on it, which of those was the most far-reaching?

Kennedy: I think the immigration bill, because of the really egregious aspects of the immigration law that was so discriminatory in its form and substance and shape. The poll tax was too, to some extent, but they both were rooted in denying people participation in the democratic process. These were all important measures, but obviously the immigration issue was at the heart, and my first major legislative undertaking and success. I guess the 18-year-old vote was probably later on, as I remember it now. It went back to 1970.

Young: But it was a child of the '60s. That was civil rights.

[BREAK]

Young: We're talking about the problems in the current century, today, and we start out with President [George W.] Bush and Vicente Fox pledging to work together to solve the Mexican immigration problem or the illegal immigration problem, and that seems to be going well, right up until the moment of 9-11. And then immigration drops off the radar. Then, in 2004, you start talking with [John] McCain, and it looks like there are possibilities for a bipartisan effort to address the perceived problems about immigration, so called illegal immigration. Do you want to talk about your conversations with McCain and why you thought it was a promising moment?

Kennedy: McCain from Arizona, a border state, had started working on some immigration legislation, and had mentioned in casual conversations to me—I think probably in 2004, that maybe we could find a way of working together. I believe some time in late 2004 we sat down and had our staffs sit down to go over some general concepts. It seemed like there was a real possibility. We had some important differences, particularly with regard to workers' rights, avoiding worker exploitation, and some other provisions, but nonetheless we were able to work at the staff level and work very well with him on the McCain-Kennedy legislation, which we eventually introduced, and which eventually, in one form or another, got to the floor.

It recognized what I considered to be the most important feature, the fact that we have 12 million people here, and that that number is growing constantly, and that they are living in fear, fear of deportation, fear of prosecution, fear in terms of their own future. He was very interested in a temporary worker program, and business was interested, and the Chamber of Commerce was interested in a temporary worker program. I was concerned about workers' rights. Workers rights meant not only the prevailing wage issues and protection from exploitation, but the most important was that the workers would be able to move toward earned citizenship.

They could either be petitioned by their employer, or they could become permanent residents through self-petitioning. We had a similar kind of feature in what they call the H-1B program, which are the high-tech workers. There were all kinds of issues. Should families be able to come with temporary workers? What were the annual numbers going to be? How long were they going to be able to work here? What would be the working conditions? There were a lot of very complex and difficult issues to be worked through.

In any event, we worked through most of them. The feature that was most important in this whole effort was that we had a very strong nucleus of Republicans and a very strong nucleus of Democrats. We met every morning and at least once more during the course of the day, when we had this legislation up before the committee. With the Republicans, we had McCain, who cared about this issue and was knowledgeable about it, and we had [Melquiades] Martinez, from Florida, who also understood the issue and had a good deal of emotion involved in the issue, as a former refugee.

We had Lindsey Graham, who was learning about it and glad to learn about it. He got sort of a kick out of being part of the whole process. We had [Charles] Hagel, who had some background. He had his own legislation and was interested in the subject matter. He had worked with Senator [Thomas] Daschle previously on some legislation. [Samuel] Brownback, a new person, was brought on by McCain, but was concerned about the exploitation of workers and the human and divided family aspects of immigration. Then there was [Arlen] Specter, who was on the Judiciary Committee and had some interest from a long time in the past. We went through a series of meetings ourselves. That was on the first bill, and we were able to get it passed in the Senate.

In 2007, the second time we dealt with immigration, we had a group that included McCain, but he was running for President, so he was not around very much. We had Martinez, but by that year he was the Chairman of the Republican National Committee, so he couldn't involve himself as much as he wanted to earlier. We had Hagel, who was in the process of leaving the Senate, and who had lost a good deal of interest in immigration. We had Brownback, who was running for President and switched his position, and we had Lindsey Graham, who was up for reelection and who stayed the course pretty well. They were replaced by other Republicans. And we had Specter, but he's hot and cold on this issue and unable to deliver.

They were replaced by [Jon] Kyl, who was strongly against any kind of immigration reform in the first 2006 bill, and who we had to deal with in the second bill in 2007. He was knowledgeable and was forceful, and had the White House on his side. So this is the genesis of the dramatic shift between the first bill and the second bill, the strength of the team.

As to Democrats, the 2007 group was basically me and [Kenneth] Salazar, who was terrific all the way through. [Robert] Menendez was part of the team in the beginning but then fell off because of the point system and the fact that we had included provisions to end "chain migration." He did not really feel strongly about it. [Richard] Durbin, who was most interested in the DREAM [Development, Relief, and Education for Alien Minors] Act, his own proposal, was somewhat interested in the total bill, but not nearly as strong as he was certainly in the first 2006 efforts, until the very end of the second 2007 effort. We had Barack [Obama], who was somewhat interested in it the first effort in 2006 and then was not around the second time because he was also running for President.

So the basic architecture of all this really fell to Salazar and me on the Democratic side, and a very weak Republican team. On the Republican side, even though Kyl was with us on this compromise, he was unable to bring anyone with him and was backed by the White House—[Michael] Chertoff and [Carlos] Gutierrez—who sat in all the meetings, and Joel Kaplan, who was also a staffer.

They would bring a raft of lawyers from either the White House or the Justice Department who supported their positions on the bill we were drafting. [John] Cornyn was very troublesome and sat through many, many of the meetings in support of Kyl and continued to pull him away from the bill. So the dynamics of what had been a very strong effort the first time in 2006 had shifted and changed dramatically and significantly, and it was a most important shift. Plus we had effectively lost the high ground, the high ground being that in the first bill we were addressing national security concerns, because we were looking at the great numbers of people coming into this country, the four, five, six hundred thousand coming in, and we couldn't have a border that was open like that in a time when we had national security concerns.

We were also addressing the relationship with Mexico, and we were addressing the moral issue, how we were going to treat each other. You had the Catholic Cardinal [Roger Michael] Mahoney, who was very involved in both the first and the second efforts, but primarily the first. We were addressing the fact that even those who were coming here on a temporary basis were going to be treated fairly and were going to have an opportunity to obtain citizenship. That quieted Labor, whose support we didn't have the second time, so we had a very tough time in 2007.

Young: Labor pulled away?

Kennedy: Labor was strongly against the 2007 bill, with the exception of a couple of unions. In 2006 there was the series of mistakes in the management of the legislation as a result of the leadership, in working the bill on the floor. Before the 2006 bill came to the floor, it had gone through a Judiciary Committee markup, and [William] Frist had indicated that he was going to call up his own bill, which was a very bad bill. It didn't have the components for dealing with 12 million people, and was basically a Chamber of Commerce bill.

With the first bill we went through the Judiciary Committee for markup, and Specter introduced his substitute, which in effect included a great many of the bad provisions in the House legislation. The House legislation had in it what they call Title II, a lot of provisions denying rights and protections to immigrant workers that had initially been developed by [Newton] Gingrich years before, and had been part of a right-wing bank of ideas about how to shortchange or undermine refugee rights and liberties. So Specter introduced his proposal that had the essentials of the McCain-Kennedy bill, but put in a lot of the bad provisions. Specter indicated that he'd be willing to take many of those out between the time it got out of committee to the time we got to the floor.

Young: Many of the bad things?

Kennedy: Many of the bad things, what they call the Title II provisions, which are the notorious provisions eliminating discretion of judges and providing for deportations without appeal, holding people for a long period of time without sharing evidence—a lot of very harsh provisions. I talked to the head of the American Bar Association, and they said they'd be glad to review these provisions with Specter, and Specter said he'd sit down with the head of the Bar Association. It was never done. Specter never did any of that. He basically just stiffed us.

We had a long markup, the last day starting at 9 o'clock in the morning and ending at 6 o'clock at night, and I thought at 4:30 or 5 o'clock, *We're never going to end the markup*. We were supposed to have a cloture vote on the Frist bill in the middle of the week, unless we got something out of our committee, and then finally late, late in the day, [Jeffrey] Sessions let the bill come out of committee and it got put on the floor.

In the markup, we were able to make some very small changes in the particularly harsh language we had inherited from the House bill written by [James] Sensenbrenner. The other provisions of the bill stayed in there. Then we had a series of different floor amendments, but the harshest amendments, the meanest amendments, were the ones offered by [John] Ensign and Sessions. They said that if an immigrant was on his way to becoming a citizen, fulfilling all the requirements—which is that they demonstrate a work record, pay their taxes, are willing to pay the fines, are learning English—they would become a citizen over a long period of time. At that time I think it was 12 years to become a citizen, under that bill. Even then they would never be able to get the earned income tax credit for their children, which was a purely punitive and discriminatory provision.

People who got out of prison for rape or for armed robbery or for murder or whatever would be able to get earned income tax for their children, but immigrants couldn't. They were going to take away the savings of immigrants if they had paid into Social Security, effectively take away all of their savings so that they couldn't be used in terms of any retirement program. It was a series of absolutely punitive, mean-spirited, and basically racist amendments that passed the Senate.

I've said at other times that the three issues that bring out the worst in terms of the functions of the Senate are civil rights, the debates on gay rights, and immigration. All one has to do is go back and look at the first debates on Ryan White, and the amendments that Jesse Helms put in, and the mean spiritedness of that debate. Immigration starts out as reasonably sanitized, and then—as we have seen recently, in 2006 and 2007—basically deteriorates into racist amendments and racism on the floor of the Senate. It's been dressed a different way, but I've said that it's the same music we heard in the early '60s with different words. It's blatant and flagrant, and it's basically from the same states that elected Senators who were the last to accept the progress we made with the civil rights bills.

Now in the Senate, under the leadership of [Harry] Reid, we had a sense that bills have to be completed within a certain period of time. This is a newer phenomenon of modern times. When we had the civil rights bills in '64, it was weeks or months before we finally got to conclusions on them. Even before President Bush, we had about a six- or seven-week debate on the Elementary and Secondary Education Bill. We've been weeks on different proposals. We had the '76 tax bill. There are six different sections, and we took six weeks to conclude.

After about five days, Harry Reid wants to conclude the floor debate, and there is building—among some of the Republicans and even some Democrats—increasing anxiety about this bill, and the number of amendments. There wasn't an agreement on the number of amendments. We were hearing different numbers, and Harry Reid was saying that these numbers of Republican amendments were 20, and that he couldn't go ahead with floor debate. I'd hear from the

Republicans who were working with us that they could bring it down to maybe six or eight amendments, and that we ought to go ahead with votes.

We had a situation where, as we were moving through some of these amendments, we were getting some amendments that were particularly bad, as I've just outlined here. They had a fence amendment, to put a big fence along the border. Chertoff had briefed all of us and said there are areas where there ought to be fencing, but there are other areas that are a waste of time and money and energy to fence. But they had a long, long fence, and I think we had only 16 or 18 people who voted against that amendment.

You could see increasingly on the floor of the Senate, the increasing apprehension and fear: what have we got ourselves into? We saw that in our Democratic caucus with a number of Senators wondering why we were considering this immigration bill. We ought to be doing energy or some other kinds of things.

I remember very clearly that two of the really excellent statements and speeches in support of the immigration bill were [Joseph] Lieberman and [Joseph] Biden on the first bill in 2006. Then on the second bill, a year later, Salazar made a floor speech that was just breathtaking. He talked about immigration, how his family has lived here for 400 years, within a 250-mile radius. They lived down in New Mexico, and it was part of Spain and Mexico, and then they moved up to Colorado, eight generations ago. He talked about how his family has been looking at the mountains and the rivers and the streams for eight generations, and he asked why he shouldn't be able to be valued on his own.

It had a really dramatic impact in terms of the Democratic caucus. It just quieted things down. This was on the '07 bill. He was just a giant. His statement was about English and the English language, whether it's going to be a national language or whether we ought to have it as a unifying language. You have these individuals like [James] Inhofe, who were interested in undermining the bill, stressing and emphasizing that English will be the national language. Salazar would get everyone talking, and the Inhofe amendment carried about 65-35 [actual vote was 64-33]. Then we had an amendment by Salazar saying that English should be a unifying language, and that carried about 52- or 53-35 [actual vote was 58-39]. So they both passed and it softened the impact, but it was just the power of his own history.

There was an amendment about permitting local police to pick up suspected troublemakers if they had reason to believe the people they were picking up may have committed a crime. This was rather interesting. Just at that moment, I was standing down in the well, where the floor manager stands, and a page came running up to Menendez and said, "Senator Martinez, here's a note for you. Call your office." And Menendez said, "We all look alike, don't we?" He took the note and went back and gave a rip-roaring speech. He gave a talk and just said, "We all look alike, don't we?" It was what it's all about, just to illustrate the point. The poor page didn't know. Someone said, "It's that fellow out there on the floor."

But as I mentioned, there was an amazing amount of emotion and feeling and passion out there, exhibited by both the people who were for the bill and the people who were against it. You read through those discussions and debates, and you just see that. As a result, you have these global politics. You have the global politics now, as we're coming into elections, into '07. We had it

coming into '06 as well, with the Democrats saying, "Why are we doing immigration?" This was [Charles] Schumer and Reid, and to some extent Durbin.

They said, "If we do immigration, our people are going to have a lot of tough votes, a lot of hard votes that they're going to have a tough time explaining. It will make them more vulnerable, particularly if we're going to try to win. We're going to end up in conference. We'll probably get snookered"—and they use the word snookered over there—"if we get a conference, and we'll end up with a bad bill, and then we'll be stuck with it."

This was the first point: "Let's not have a bill come out, and then not get cloture on the Frist bill and blame the Republicans, and pick up the pieces with the Hispanics. That's what it's there for." I said, "It's because the Hispanics are much smarter than you think. If you think Hispanics are going to buy into that and not see through it, we don't understand politics. They're going to see through this thing, and they're not going to understand." When finally we have a Democratic majority, Hispanics are not going to understand why we're not trying to get immigration reform passed. They're not going to understand it. Maybe you can explain it. Maybe these fellows can tell Reid, and maybe he can explain it, but I'm not going to be able to explain it. And that was the dichotomy.

Young: Within the Democrats.

Kennedy: The Democrats. This is the failure of leadership to say, "We have to start, and this is it. I say we have to go to the wall. If we don't make it, we're going to have done our best; it's going to be the right thing to have done; it's going to be the right thing from a political point of view. Sure, there are going to be some tough votes, but that's what we get paid for here." But they were tentative, constantly tentative. We want to do this enough so that we can get the Hispanic votes, but not enough so that we get our people caught in it.

Young: So it was really gaming the whole issue.

Kennedy: Gaming the whole issue. It was the principal tentativeness that undermined the whole legislative process. It started with the leaders, with Reid and Schumer. I don't think Durbin was a very big part of it. Even Schumer, in the Democratic caucus, before we passed the bill in '06, was saying we were going to have a tough time with the Republicans.

Finally, at the end of last year, 2007, Reid manufactured a cloture vote on the bill. We just took the bill up on the Thursday. No votes Friday, no votes Monday, and he was going to have a cloture vote on Tuesday, thinking that we have the Republicans and Democrats together and everybody's going to stay together. Some of the Republican Senators we needed said we have to be able to vote on a half a dozen of these things, no matter how they come out.

Young: Amendments.

Kennedy: Amendments. And then we can support the bill, but we have to have an opportunity to vote for half a dozen of these amendments, which is the way life goes in the Senate. And if you're not going to give them the opportunity to vote, then they're not going to vote for cloture. So when Reid talked to me on Tuesday and said, "We're going to have the cloture vote," even

though I said, “Well, Harry, we haven’t voted on Friday, we haven’t voted on Monday. How can you have the cloture vote on Tuesday now?” “Well,” he said, “I filed the tree.”

I said, “You can’t. We’re going to lose this vote, that’s the end of it.” He said, “Well, I’ll give you until Wednesday.” And he set the vote for Wednesday, got the consent on it, but the atmosphere had been polluted.

Then he tried to get the cloture vote over for Thursday and the Republicans said no. So there was a preliminary cloture vote and we lost badly. But the idea was that we might be able to pick up their support if we have more votes on amendments. On Wednesday evening, we had 16 or 18 votes; we stayed in until midnight, and that in Senate terms is when our people basically give up. They said, “We’ll have six votes at 6 o’clock, and we’ll divide the three hours evenly between now and six.”

When they do that, when they don’t take their two hours on one amendment, it means they’ve given up, and I have to control the time. When they said we’ll vote five votes, three hours divided on it, it means they’re not serious. And that happened at 6 o’clock, and we had, what? six votes? Then at midnight we had six more votes, and our people were off in their hideaways drinking wine. They had basically given up. You had to drive it on Thursday and Friday, probably, to keep the Senate in there, but we would have passed that bill. We would have passed the bill.

What happened is, on that Thursday afternoon, Reid went over and forced the Republicans and said, “We have to be entitled to our votes, too.” We had to let them vote. If you want to get the bill passed in the Senate, it’s about letting them vote on their amendments. You’re going to have to cover your own people with some votes on their amendments, but you don’t have to have one-for-one votes. And if you’re insisting, as Reid did, “We have to have one-for-one,” you’re putting yourselves in an impossible position. You’re setting yourself up for failure. And then he went over in the afternoon and just antagonized Sessions and two or three others, so we went five hours without any voting, and it was done, finished.

Young: Was it his insistence on cloture vote that was hostile?

Kennedy: He was stopping the Senate. Whatever the atmosphere of the Senate, he was stopping the Senate from voting, to try and suggest to the public that the Republicans were basically stopping the Senate, and it was their fault that we were not considering amendments, when we had it all moving along the night before. Any serious student of the Senate would say that this was moving, and I believe, quite frankly, we would have gotten the bill passed.

We would have had 15 more votes on Friday and ten more on Saturday, and it would have been done. But he went out to manufacture a situation to antagonize Republicans, to try to blame them, so there’d be a blame game going on, and stop consideration of the bill. Then what happened is, everyone agreed to have one more vote on Friday, and I knew it was all over. People who had been with us left us, and we ended up with something like a 41-50 vote. We lost.

Young: You came that close.

Kennedy: If we had continued the bill on the floor of the Senate, I'm convinced we would have passed it.

Young: So behind all the gaming, the party was not unified about doing it.

Kennedy: They weren't serious. The leadership was not serious about doing it. It's very controversial and comes back to the controversy.

Young: Were the Republicans playing the same game, the blame game?

Kennedy: They were, yes.

Young: Was it Frist and [Mitch] McConnell?

Kennedy: Yes, but we opened ourselves up. Each side was trying to blame the other, and Reid got blamed the first time he pulled it down. That's why he came and brought the bill back again to the floor in 2007. So he got some credit for bringing the bill back up, but there's no question in my mind that that was the opportunity that was missed. In this second round on the floor, Reid let [Byron] Dorgan get a vote on an amendment.

The Dorgan amendment that Labor wanted was to cut back the temporary worker program, and they knew that if we eliminated the temporary worker program, Kyl was going to get off the bill. So they reduced the temporary worker annual numbers from 400,000 to 200,000. I told Kyl that that was going to happen before we got in there, and it did, because it had happened on the previous bill in 2006.

Then Dorgan tried to eliminate the temporary worker program with the idea that that would sink the bill. He lost by one vote the first time, and then he got another opportunity to offer. He went over and got some of the Republicans who were against the bill and said, "Look, if you stick with us, we're going to sink the bill," and he won it by one vote the next time. But clearly the leadership gave him the green light to do that, because there were other Senators who hadn't had an opportunity to offer their amendments. That happened on the 2007 deal.

The point I'm basically underlining is the dichotomy that existed in the Democratic leadership. That was very real, and I think it probably cost us the opportunity to get the bill passed. Perhaps not, but I think it did.

Young: Well, when you have a bipartisan effort and initiative, and then you turn it into a partisan game, it's not an issue that can be handled in a partisan way, is it? From the very beginning, bipartisanship is required.

Kennedy: We're mixing a lot of different elements here. You had Mitch McConnell, who is the Republican leader, sitting down with Harry Reid and me, talking about how to reach an agreement on this proposal. Mitch McConnell was sitting in our meeting and nodding and nodding, and leaving, and having absolutely no intention of doing anything but sinking the bill. He sat through that meeting and didn't talk. That was the way he operated.

But you had Harry Reid, who shifted from not caring about this bill to thinking it was an ordinary bill and speeding it up on the floor. If you can't speed it up, pull it. Then he found all the emotion that went into this bill, and so he had to bring it back to the floor again. Then we eventually finished it, and he's glad that it's finished, but we have to come back and revisit it. He announced, in 2007, that this was going to be one of the leadership bills, and he announced that he was going to bring it to the floor just before the summer break. He announced that.

He was never really interested in it until the very end, and at the very end it was too late. The Senate is a chemical place. There's a lot of emotion, there's feeling, there's a timeliness in how the Senate works, and if you lose the rhythm and lose the balance, you lose in a tough and difficult fight, and that's what was lost at the time. You can go back and look at this string here and that string there, but that's what was lost.

The Democratic leadership bears a big part of the responsibility for it. The basic concept is that with the exception of the provision in the legislation that dealt with the safety and security of the 12 million people, it was a Republican bill, and the challenge was for me to hold all the Democrats, and for Kyl—with a Republican bill—to bring enough Republicans to get the cloture. That was the overall basic strategy.

We held three quarters of the Democrats, but the Republicans couldn't deliver anyone besides Kyl. Their leadership didn't, Mitch McConnell didn't. Trent Lott was pretty good on this issue. I'd say that McCain was very courageous all the way through and never hesitated on his support, and took a real pasting and dropped enormously in terms of the Presidential campaign. Lindsey Graham dropped in terms of his reelection. He's been sputtering to try to come back by offering amendments on the fence and all the rest of it. Brownback has left the issue.

One of the interesting little sidebars is the tension between Cornyn, who's from Texas, and John McCain. In the first bill in 2006, Cornyn worked out with me an amendment on temporary workers. But then as soon as he went back to Texas, he disowned it. He offered an amendment on the floor on the first bill, where McCain was around. McCain was very good on the floor debating, and Hagel was terrific when he was there. Hagel rarely spoke in the Senate, but he was good when he did on this issue. Cornyn came up to me and McCain and said he was going to offer this amendment, and McCain said, "That's a bullshit amendment," and I was rather surprised to hear him use that word. He said, "And we don't want any more of your bullshit amendments. You're going to sink the Republican Party. You're going to antagonize all the Hispanics, and your amendments are all bullshit."

Then they both turned red, but Cornyn went back. I couldn't believe that Cornyn would take all that, but he did. So that was that. I think Cornyn offered one more, that I think was defeated.

On the 2007 bill, we had the final meeting before we had the announcement on a Thursday morning. The Wednesday evening we had—

Mrs. Kennedy: You mean before it came up to the floor.

Kennedy: Before it came to the floor.

Mrs. Kennedy: Before the thing they called the “grand compromise.” I think that’s important to do when you’re planning to—

Kennedy: We reached an agreement, what they called a “grand compromise,” and people interpreted more into it than was agreed to, although I stayed with the agreement all the way through. But we were still working out particular amendments to the compromise, and you could see that the window for introducing the bill and bring it to the floor was shrinking because of the time on the calendar. We had other bills coming up for floor consideration, and we had to get this compromise finished. We thought we were going to wind it up on a Wednesday night, and it didn’t get wound up. So we said, “We’ll meet on Thursday morning over in the Rules Committee room.” I was over there, and I think Cornyn showed up. But nobody else showed up.

Young: “We” being the committee?

Kennedy: I’m talking about the principals, our team of Republicans and team of Democrats working on the compromise. I heard there was going to be a floor vote at 10:30, 11 o’clock, and people had gone over there to vote. We come to the meeting, and I could see, if we didn’t get this compromise settled, it wasn’t going to happen. So there was a vote, and I said, “Why don’t we go back to the Vice President’s room and we’ll sit down and see?”

Into the Vice President’s room now comes [Patrick] Leahy; I hadn’t seen him the whole time. Leahy says, “I thought they took my amendment on farmers, but I don’t see it. How are my farmers going to be treated under this bill? We have small farms and we have large farms and we have medium-sized farms, and our farms are different from the farms in Wisconsin. There are some sheepherder problems, too. I’m not going to agree to anything until I have a good chance to go through this. I’m going to go through this over the weekend; I’m going to just take my time to go through it.” I said, “Well, I think this thing has been handled.” He said, “No, I’m not going to be rushed; I’m not going to be stampeded.” So up he gets and walks out.

And in comes McCain and there’s Cornyn, and Chertoff is in there, Specter’s there, I’m there, and some of the staff are in there. Cornyn says, “I have three or four amendments I want to offer on this,” and McCain just explodes and says, “John, we’re not going to listen to any more of your bullshit amendments.” Cornyn says, “Wait a minute, John. I’ve been part of this whole process, and I’ve been waiting and waiting. I was there last night, and I didn’t get a chance to offer mine.” “Well,” McCain says, “we’re tired, we’re finished, we’re wound up. You’re not going to be getting any more.” And then Cornyn says, “Look, John, I’ve been working on this while you’ve been out campaigning in the national.”

And McCain snaps back and says, “I was working on this before you ever got to the Senate, and we’re sick and tired of you.” Boom! Up gets Cornyn, out he goes, and then we say, “Are there any more amendments? No more amendments? Close it down, and we’ll have the press conference at 2 o’clock.” We had the press conference announcing the compromise at 2 o’clock. Kyl came to it, which meant Cornyn could go screw himself. He attended the meeting; that’s all we needed. McCain came and I came, and that’s all we needed to announce the compromise. That’s what you had going into it. That’s why it’s going to take another 45 years for someone else to get this thing passed.

Young: So that's the personal chemistry that comes into it.

Kennedy: We had the negotiation meetings. We had ten or eleven meetings every week in 2007 over in [Richard] Cheney's room. It's on the second floor of the Dirksen building, and whoever wanted to come could come talk to our group. If somebody knew somebody who had an amendment, they could come over and talk about it. So people would come over and talk about their amendments; we'd sit around and talk about them.

The Wednesday night before this, Cornyn still had four amendments, and little Esther [Olavarria] said, "Every one of them is bad, just bad." I said, "Esther, you know what we're going to do? We're going to take two of his amendments, whichever two he wants. We're going to take them, and we're going to say, 'The other two we're not going to negotiate if he wants us to take two.'" He said fine. So we put two of the bad ones in the compromise, they negotiated, and that's when he came around with another one the next day. Poor Esther was in tears when I said, "You're going to take these two amendments or this thing isn't going to happen."

That was the problem at the end with Kyl: he didn't know when to finalize a deal. Because he had the family issue with Menendez that we could have worked out that would have permitted some of the families in the backlog to obtain their green cards, and it didn't make any difference. Kyl had said yes, but not unless he did better on the temporary worker issue. I said, "We'll take care of you on the temporary worker, Jon. You have to stay with this thing. We have to stay in here, and I give you assurance that the bill won't come out of here without a temporary worker program in it." Otherwise he would have walked as soon as the temporary worker program was gone. I said, "Stay in there. We'll give you assurance that we won't have a bill unless it has a temporary worker program."

If Kyl was going to have a temporary worker, Menendez was going to have to get something. If only Menendez had stayed in that coalition and had been able to make a deal. He had made several speeches against the compromise because of the changes to family immigration, and that bothered Democrats. They were concerned about the family point system and the change we made in family priorities that was cockamamie. That's something you probably have to do globally. But the way we did it was not a terribly efficient way of doing it.

Young: So by this point, time was against you. The window was shrinking. Is that right?

Kennedy: That's it. It was shrinking. The legislation was very close, whether you accept it or not. I remember meeting with Frank Sharry—a very good fellow at the National Immigration Forum and a good friend and very knowledgeable, very tough—and Cecilia Munoz, who was terrific with this issue. She said, "I want you to know that out there in this city there are 500 mimeograph machines all ready to say 'Kennedy sold us out.'" That's when I said to them, "Well, make sure they spell Salazar right."

Then they laughed and said, "All right, we'll give you one more crack at it." But the bill was right at the border, in terms of my own support. I thought if we had gotten this thing passed through with the House, eventually it would have increased the power of the President, and we would have been able to say, "Look, this is what we need at the very end. He's going to sign it, and it's going to be a big deal for him, but we need to get these points." When you're going that

far and you're that close to the end, I think we probably could have gotten parts of the bill fixed. There would be too much for the President not to risk trying. He would have seen that thing enacted.

You could say, "No he won't, he'll screw you." It was going to be as big for him, getting rapped—he got rapped more for not getting this through. I got rapped too, but he got a pretty good rap for being ineffective. I think if you'd done something on the family aspect of the bill. And the other part was if we had passed this bill, you elect a Democratic President, you have the 12 million people in place, 12 million people who are safe and secure. In this bill was also the AgJOBS bill, which would have covered 800,000 to 900,000 workers. You had the DREAM Act in there, and I think we could have been able to work out compromises on the other particularly harsh provisions, the Title II provisions. We're going to have to restore democracy in any case, with regard to a lot of civil liberties issues.

I think the last part on this whole feature, this issue about safety for the people, was so well illustrated by a raid in New Bedford in March. ICE [Immigration and Customs Enforcement] raided a factory down there, 360 people who were working on a defense contract, making some materials for the military. They went in and pulled probably 300 or so people out of the plant and separated these families. The biggest percent of the workers arrested were women. A lot of them had children at home, children in school, small children. Some of them were single moms, living in apartments with the children, and the mothers were being taken and shipped out to detention centers, and the children were coming home to no mother. No mother to pick them up at school, no mother to pick them up at daycare.

This was one of the most barbaric actions I've ever seen in this country regarding people. I think outside property and certainly slavery, the most barbaric that I've personally witnessed.

Young: You went up there?

Kennedy: I went up there on the following Sunday. I went down in a basement of a church, pulled up a chair and sat down and listened. I heard the most extraordinary stories: a father with two children saying the children haven't slept all week, and their mother is in a Dartmouth prison just a few miles from here. Could I take them over so the children can see their mother? I'll go in the prison. Let them see their mother and let the mother come out, and I'll come back, just so they can sleep. This is happening here. It was just the most extraordinary—nursing mothers. Their children were taken to hospitals.

This was being done in New Bedford, Massachusetts here—it was a Chertoff operation. This was the most inhumane, indecent, Gestapo-like—I used the word Gestapo-like—activity. I told Chertoff this. He had tried to work with Bill Delahunt, a Congressman from the Cape district, an old prosecutor, to try to find a fair way of treating women and the children. I mean, if the people have violated the immigration law, they violated the immigration law, but you don't treat them inhumanely here in the United States. We've been unable to do it, and a part of this bill was going to do that, if I had ever gotten it far enough down. I'm going to have to try to amend another legislation, which I will do.

But in this instance, they shipped people up to Fort Devens and airlifted them to places in Texas and New Mexico, where they were denied attorneys; their attorneys couldn't find them. They even deported American citizens they can't find now. Some of these people were American citizens and had foreign names, and they sent them back to Guatemala, and now they can't find them. The contrast with this law we did not pass! They all came down to me and said, "Can't you do something?" With this law, these people would have been able to stay here. It would have guaranteed they would stay here unless they'd come here in the last six or eight months. That's a big deal.

Young: Does Chertoff care?

Kennedy: No, he doesn't. We've had very tough exchanges on this thing.

Young: So they put a—

Kennedy: The lawyers, this is the lawyers. Chertoff would say, "We notify; we follow procedures. We notify the Department of Health in these states afterwards, and we're sensitive to humanitarian needs" and all the rest of it—it's just baloney. ICE ought to have a protocol in every one of these raids.

Young: These raids are conducted by the ICE.

Kennedy: That's it. But ICE came and didn't give notice here in the state.

Young: Yes. I was going to ask, were any of the law enforcement—?

Kennedy: Yes. The federal judge here finally issued a restraining order. It took him three days, but the lawyers representing the workers got a restraining order saying they couldn't deport any of the workers until they could speak to their lawyers. It needed a federal judge.

Just a last point: the interesting dichotomy on the issue of immigration with the undocumented is that you have two things. One is the politics, but there's a more substantive issue. In the House, all the Republicans were very strong anti-immigrant. In the Senate, it was divided between Republicans who aligned with the Chamber of Commerce, understood that the farmers and the growers and companies needed workers, we need workers for an expanding economy, and therefore we ought to bring more workers in the country. But they're temporary workers, so we're going to send them back, and that's fine. The Republicans in the House say, "We're not going to have law breakers." It's a values issue as well, divided between the Republicans who are interested in the economic benefit and who deplore immigration—at least they say, "We're not going to be sympathetic to undocumented illegals." But a lot of that is the racism.

The issue I see is on the one hand you ask, what are the values Americans really admire? They admire people who work hard. They admire people who look after their families and care about their families. They admire people who look after their parents. This is a big issue, particularly in this immigrant population. They're also willing to join the military and the armed forces. We have 70,000 now who have served in Afghanistan and Iraq; 70,000 immigrants have served who have been permanent residents. The individuals work, work, work, work. Forty billion dollars is

being sent back to Central and South America this year. They care about their families. They're not just coming here for a free ride.

More of them are churchgoers, and they take more care of their parents. What we have on our side is that magnet of jobs over here. And while this anti-immigrant crowd is just burning this other side of the issue because these people are violating the law by coming in here, we have that magnet of jobs. We have the cash register blinking, blinking, blinking, blinking, while the immigrants are caring about their starving kids, wives, and families. We're so morally superior to that because the immigrants are viewed as lawbreakers, and they're doing nothing other than just growing our economy. It's something Americans don't think much about when they're thinking about the issue—or a lot of them don't.

Young: Or it's something they don't hear much about.

Kennedy: They don't hear about it.

Young: When you look at the talk shows and all the stuff that's—

Kennedy: You can't get away from the fact that we just can't have open borders. I agree there's a role for legal immigration, and you have to deal with the illegal immigration. But if you're going to deal with the illegal immigration issue, what we were saying in this legislation is the undocumented are going to come in. You can't build a wall because the wall's not going to be high enough. Janet Napolitano said if you build a wall 40 feet tall, they'll have a ladder 41 feet. Or they'll dig underneath it. So what are we going to do, put something down into the ground, or so high they can't climb over? It's 1,800 miles on the southern border, and we have 4,200 on the northern border, and you have the coastline.

The idea is they don't press, they stop at San Diego. Only 30% of the people will come in at San Diego, but it's 250% at the other end of the border. It only takes common sense to understand what's going to happen. There should be a legal way for the people to come in and out of the country. We'll say, "Okay, you can come in, and you know what else we're going to do? You're going to get a card, so if you're here, you'll be able to go back home"—which they can't do now. The 12 million can't go home. A lot of people would welcome the chance to go home, but they can't, so what do they do? They get married and stay here, and this is a problem.

The concept was that we channel these people here illegally through a process, and then open up the process so a lot of people can return, which will bring less pressure, and try to develop a process where they're going to have economic development in Mexico. A third of the money the undocumented return is to spend in their local communities for water wells and other things. It's interesting. They want it to go to their family, but they also want a little economic development. We should have worked that with the Mexican government, to do something, because the demographic flow over the next 30 years begins to shift and change.

The other day I was talking to the Foreign Minister of Ireland, and he said, "We had a fair, and we had thousands of Irish in the United States who want to go to Ireland and work. Americans want to go over there. We're not able to deal with them because of the economic prosperity." If you look over the demographic issues in this country with Mexico, over a period of time

properly done, you have some different patterns. But, you know, it was always to try to get them to do some things in their country, in Mexico.

Young: Two things. You haven't mentioned Bush. You mentioned Chertoff. Where was he in all of this? Was he helpful?

Kennedy: Well, Bush wanted to get a bill, but he's completely ineffective in trying to influence people. He spoke to me on a couple of different occasions. I went down to see him this year about funding for No Child Left Behind, and he asked me to remain behind. I had gone down there with George Miller and [Michael] Enzi and [Howard] Buck McKeon. He said, "Can we get a bill?" and he was interested in doing it.

Then I saw him at a St. Patrick's Day lunch and he said, "What can I do?" I said, "You ought to talk to Specter of the Judiciary Committee, and Leahy." Leahy bears a part of the burden on this bill too, because we had the first meeting with Leahy and the White House. Leahy said, "I'm not going to report out a bill that the President doesn't agree to, that the President won't indicate he's going to support."

Well, we knew what the elements of the bill were; you know who it's going to sponsor it. I knew what they were. So Leahy said no, no, he wasn't going to do it, and he was very assertive about that. When we started to work on the immigration bill, it was the time of the flap over the U.S. attorneys; the U.S. attorneys were being politicized. The Attorney General was replacing U.S. attorneys who were not political enough, and it was a real flap in the Justice Department.

And so Leahy would have nothing to do with our ability to have a markup in our Judiciary Committee. We never marked up our bill in the Judiciary Committee. We went straight to the floor, bypassed the Judiciary Committee, and there was always a sense that if we'd gone to that committee—I always said, "We marked it up last year. We've had umpteen hearings on it. We've marked it up effectively. You don't have to go through the committee, but we've been able to mark it up and take a little time on that." Three days, I think, could have made some difference.

With Bush, towards the end on this '07 bill is when I saw the difficulties. I wanted to go down and see the President, to ask him, to say we needed to have some compromises on the bill—to get Menendez on board, try and make some adjustment on these family provisions. It was basically the green card provisions. The argument I can never understand with Kyl is he says we can't increase the total number of green cards, the cards that permit people to work and allow them to move on the path towards citizenship. But he was going to make sure, of the 12 million who were here—this was the deal—that all of them were going to get on the path to citizenship, all of them. It was going to take some time, but every one of them could get on the path. That's a big deal for all the undocumented. They're going to have to pay fines, but they're all going to have to get on the path, a big deal.

Towards the end, there were different compromises I thought Kyl had to make, and I asked to see the President. They wouldn't let me: Chertoff and Josh Bolten wouldn't let me talk to him. So I went down and talked to Chertoff and Bolten and told them exactly what was going to happen, and it did. I went down two or three times in that last ten days and said, "Unless you

move toward a compromise, unless you do this compromise, unless you do that, this is where we're headed. I'm just giving you the straight scoop on it."

Young: So it wasn't a case of his trying and not being effective at the right moment.

Kennedy: The President wasn't involved, and I think they thought he wouldn't know. Listen, I'm a pro. I don't expect him to understand the details. What you know is that you have to have a compromise. The President says to Chertoff, "Kennedy says we have to give Menendez 200,000 green cards." He'll say, "I think we can do it for 120,000 green cards"—or something like that. And then he looks at you and says, "Will you take 140,000 green cards?" and I say yes or no, good. The President doesn't have to know the nitty-gritty on this stuff. But that didn't happen.

So, in retrospect, the President has a part of it too. If only he had been engaged, accessible and available. It was in contrast to the No Child Left Behind bill. When we ran into a stone wall, I said, "We can't have vouchers." And the President said, "Okay, I'll take the vouchers out, but I'm going to offer them on the DC approach." I said, "That's fine, we'll fight it there, and we'll go onto the other issues." He was involved in that, but not this one.

Young: Are you going to have another chance with the bill, the reform?

Kennedy: Yes. The fact is, these issues are not going to go away, and you see them now in the raids they're having with Labor, as I told the building trades. All the heads of the building trades came in and said this bill was a disaster, absolute disaster. I said, "Well, let me tell you something, you have undocumented now who are all working in the building trades down in Miami, in San Diego, and L.A. They're not paying workman's compensation; they're not paying their insurance. If they get sick, you're double paying for these people. Why not make them safe here? Then you can organize them. You're not going to organize them if they're undocumented. Why not make them safe here and then go out and organize them?"

They said, "Oh no, you're going to have other undocumented people coming in." I said, "I just don't get it." I was over with the head of the ironworkers, a fellow named [Joseph] Hunt, who's a pretty good fellow. I did an event for Howard Dean, and Hunt came, although the other trades urged the building trades not to go because I was going. But Hunt came over and said, "Any more immigration bills, Kennedy?" I said, "Let me just go over this one more time so you know." He said, "Okay, okay."

I said, "They're undocumented, so you ought to be bringing a RICO [Racketeer Influenced and Corrupt Organizations] charge against these contractors, because they're all using suitcases full of money out of these banks in Miami. They're paying these people cash, and everybody knows it. You get treble damages, and you're not doing that and you're not organizing the workers. I don't see how that's a path for the benefit of your workers. I just don't get it. I might be missing something, but I don't think I am."

My hope is that we'll probably make some progress. We've gotten this thing into the final stages, but I was absolutely convinced that we were going to elect a Democrat, and we would be a lot further down the road if we were adjusting and changing this bill instead of starting over again. We're going to have to start over again with a new President. We're going to have to start

dealing with this bill again. I think there are ways. I think the next time we're going to come from a hard Democratic side of it, a workers' rights side.

Young: Do you think the Democrats will behave differently?

Kennedy: I would hope so, with a Democratic President.

October 9, 2007

Young: This is a continuation of yesterday's session on immigration. This is October 9. Vicki Kennedy is with us.

Kennedy: I thought we'd just look at immigration globally, from '80 through the late '90s, because some important things happened, both in terms of the substance and in terms of the process. I think it's probably worth mentioning, without getting into the details of the particular legislation, which I think can be looked into by those who want to.

The recommendations in 1980 are really a result of the Hesburgh Commission, and the actions that were taken by the Senate took place after 1980, maybe '82, '84, but they weren't successful in getting through both the House and the Senate. The first bill of substance that marked an important difference was the '86 Act that was called IRCA [Immigration Reform and Control Act]. The most significant part of that legislation was that it provided amnesty for many of those who were here illegally. They had to be here for a period of time. I think it was four or five years, which is interesting because later on, when we passed legislation—or tried to this last year or two—we're always searching for how far we ought to go back. I believe that the '86 Act went back about four years. We might have modified it and moved it forward a bit, but that was a pretty significant difference, because a lot of other people came into the country in the meantime.

The '86 Act also proposed employer sanctions. That was a new proposal, because up to this time, employers were never really held accountable at all. All the focus and attention were always on the workers. If there were raids, it was always the workers who were deported, and the employers never had really any penalty at all. This Act reversed that practice and established some penalties for employers. But the way the provisions were established raised substantial concern, particularly among the Hispanics, that they'd be used to discriminate against Hispanics and against American workers because of the issues of documentation. Anybody who looked Hispanic or looked foreign would not get the job, or if they had the job, they would be dismissed. That's a fairly general theme that I've seen over the time: if there were provisions in immigration acts that permitted discrimination, they resulted in discrimination, and that has been the history.

This legislation was heavily debated and passed. Only a few voted against it. I was one who voted against it because of the employer sanction provisions and the fear of discrimination. There was the ability for three million of the undocumented to adjust their status to permanent resident aliens, and then become citizens over a period of months and years in the future.

One interesting point was amnesty. Forgiveness was somewhat of an issue, but not an important one during that period. I don't believe the '86 Act had the extensive penalties for people. It was the recognition that we were going to have people with second-class status in this country. This was the beginning of that debate: if we had people with second-class status who were going to be subject to exploitation, it was going to have a negative impact on society. We had to deal with enhanced border security, and we were giving increasing focus and attention to skilled workers. But the central mark of the '86 Act was the amnesty.

We had the next major legislation in 1990, when we wrestled with [Alan] Simpson in our Judiciary Committee was about green card numbers and skilled workers and the border patrol, and also, again, about some employer sanction provisions. There was a debate about what the numbers of green cards were going to be, whether we were going to have an increase in the total number of individuals receiving green cards. I think at that time we added a diversity program to represent some of the countries that historically contributed immigrants but were gradually getting squeezed out because of the way the other legislation was going.

I think Jack Brooks was there. He was a very colorful figure. When we sat down in conference, he'd start off the discussion, "Does Senator Kennedy have his Irish? Are the Irish in this draft?" I'd cringe and go on to the other provisions. He was a very colorful Texan and a bit of a rogue, but a delightful personality.

The '90 Act was a very good bill. I think there were only three or four votes against it, and it got even better on the floor of the Senate. Some unusual amnesty provisions provided additional protections for people seeking asylum. They won narrowly. It was a very good bill, although Simpson was very concerned because the Democrats controlled the House. The bill provided some expansion for legal immigration, and he thought if that bill went to the House, it would be taken over by the Democrats and made a good deal more liberal. He refused to permit the Senate to finish consideration of the bill.

I made an agreement with Simpson that what we would effectively do was pre-conference the bill. That means that we'd finish all the amendments, and then before what they call the third reading of the bill on the floor, which preceded passage (and which meant no more amendments could be taken up), the leader would effectively pull the bill, and we would consider it in conference. The House had a bill, we would have a bill, and I told Simpson that unless he was satisfied with the bill that was worked out in this pre-conference, I wouldn't sign the conference report. There wouldn't be a bill. And on that basis he agreed.

We had long sessions in the Capitol at night on the bill, and there was great pressure to make it more liberal and more progressive. We had to resist those, and several times it looked like the legislation was going to fall apart. Eventually we worked out our agreements. It was still a good bill, very good legislation. We began to provide some help to local communities and beefed up

the border, had skilled worker provisions. The provisions about employer sanctions had been for the most part pretty well straightened out, and they kept faith with the Hesburgh Commission.

Then we brought it back to the floor, and within half an hour we passed the bill and passed the conference report effectively together by the same margin.

The next serious legislation was in 1996, when the Republicans had taken over. There's always the tension between the legal immigration and the illegal immigration issues, and the Republicans were picking more and more on the illegal immigration and making it an issue. We had a situation where Republicans under Gingrich passed an extremely harsh piece of legislation that was enormously detrimental to immigrant rights and civil liberties, cutting back on asylum, on notification of immigrants, on the flexibility of judges by cutting back on appeals, cutting back on representation—just cutting back on all the rights. A very bad bill came out of our committee, but we hoped it might be made better. I'm not sure how I actually voted on the '96 Act.

In any event, the bill went to a conference, and Gingrich put it into the continuing resolution with all of its bad provisions. [William] Clinton was able to get some of those provisions out—not many of them, but it was just a very bad bill that had Republican support. The House Republicans circumvented the whole process, all the rules. It was bad, but we couldn't vote on it as an individual bill. I'm not sure if I voted on the omnibus budget bill. I spoke in opposition to it, but we couldn't restrict it or restrain it. That was the beginning of the festering in the House of Representatives for legislation that would be bigoted and harsh and discriminatory towards immigrants.

Young: Did the House refuse to negotiate with the Senate on this? They were obviously drawing a line in the sand and setting it up for failure. They refused to conference with the Senate on it at all, and when they did, it was already a done deal. Clinton threatened to veto it if it passed, and you and Simpson were adamantly opposed to it. You said you would filibuster if that bill came to the floor. It was pretty awful. It had the provision saying people can't be treated for AIDS; states were permitted to deny public education. It was really bad. It was an awful bill.

Kennedy: But they put it in the omnibus budget bill and got it through. Clinton made some adjustments to the immigration provisions, but it was still a very bad bill. That's the atmosphere that continued to dominate the House of Representatives as we came to 2001 and 9-11—that same climate, same atmosphere, the same views among the Republicans.

And we saw it expressed in the battle on immigration bills in more recent times, and also expressed in the Patriot Act, which has some particularly discriminatory aspects towards immigrants. The most dramatic policy was what they call the NSEERS [National Security Entry-Exit Registration System], which required the fingerprinting of all Arab and Middle Eastern people, fingerprinting and photographing everyone, which of course created an enormous stir and raised important constitutional issues and antagonized broad communities.

Young: That was very quickly after 9-11.

Kennedy: That was under [John] Ashcroft, and it was the most dramatic policy, I think, but it was typical of the provisions he included in the Patriot Act, and their view towards immigration.

Young: The border crossing from the south didn't get much attention right after 9-11. The President had been saying he wanted to work something out with Fox to solve that problem, including a guest worker program, but that all stopped in its tracks with 9-11. Now it's coming back.

Kennedy: So now we find ourselves at the point where the dichotomy is still evident: people viewing the person next door very positively, the hard worker, the industrious worker, and admiring the student and admiring the churchgoer and admiring the people trying to make it. But they have this very intense hostility towards the undocumented person and are not able to distinguish between the two. So they're ambivalent about this issue. When considered as people coming and following a tradition—and all Americans know we're a nation of immigrants—people have positive views, but when they have the sense that it's done illegally, then they have a different view.

Young: Well, I think we've filled in the middle part.

Kennedy: That's good.

Young: And yesterday you talked about McCain.

Kennedy: We're going to take a minute. I've got that 9:30 call.

[BREAK]

Young: Where are we with immigration now? Where are we going?

Kennedy: At the present time, we're going to try to draw lessons from this experience and what the prospects are in terms of the future. On the one hand, in the United States Senate we're considering trying to do some immigration reform by piecemeal bills. We're looking at the AgJOBS Bill, the DREAM Act, what they call H-1B, which is the skilled worker program, and H-2B, the unskilled worker program. There's a general sense that if you put all of those bills together, there might be some support for this approach, but underneath it all would be a recognition that you're basically selling out the 12 million people who are here, and their safety and security, because these bills are the engines that help get the immigration reform bill through.

If you start taking out the goodies and leave behind the other aspects of it, it will do a real disservice to immigration reform. That's what a number of the Hispanics feel, although they're caught in a difficult position because they favor some of these provisions very strenuously. They favor the provisions dealing with AgJOBS and the DREAM Act. They're less interested in the high skilled workers, the H-1Bs, and the less skilled workers in the H-2Bs. The H-2Bs are the ones who work in resorts in Massachusetts. The H-1Bs are the ones who work in Microsoft, and they have rather special privileges because they can bring their families over. H-2Bs can bring

their families over, but they don't generally, and the H-2Bs return to their countries because they can travel back and forth.

Probably a fairly interesting indicator in terms of the undocumented would be if you regularized their return to their community, there would be a lot of people who would go back. There's no question that a lot of them stay here because they don't think they can get back, and because they stay here, then they put their roots down here; they get married and start living here whereas otherwise, they might have just gone back if they could have gone back and forth and stayed in their community. That's called circular migration, and if you have an effective immigration system, there's no question there would be a lot less pressure. People would return, and that solves some people's problems. But you can't get there unless you have a comprehensive reform bill.

So, at the current time, as we're meeting now, there's some life in trying to get the AgJOBS bill, which is the bill that Larry Craig and I initially introduced. I let Dianne Feinstein take it over because she was back and forth in her support on the immigration reform bill, and once she got the AgJOBS bill, which is a big deal in California, she signed on to the immigration reform bill. She's still looking to see if we can try to figure out how to pass an AgJOBS bill. Durbin is working on the DREAM Act, which says that if a child was here at the age of 15 and brought here, after they've been here for five years and continued their education, or they could chose to go into the military, they could get on a path towards permanent residency and then eventually citizenship.

So those are still out there in the Congress. The chance of those bills passing as a group, I think, is unlikely. There's a possibility of bits and pieces of them passing, but I don't believe there's the will to do it, because the other groups will get into it to get their bills passed.

There's some sentiment in the wake of the 2007 bill that we ought to try to pass legislation that would maintain the safety and security of the 12 million, and not give them the path towards citizenship. The Hispanic groups would accept that, but they wouldn't have until we lost the 2007 effort. It is certainly my impression that that would be perceived as being amnesty. The people violated the law and we're letting them stay, and we'd be right back in the debate again. The atmosphere is so poisoned now that it doesn't seem to make a great deal of sense to do that, although it might be worthwhile doing some hearings later in the year on this whole issue.

So we're in a situation where the federal government is involved in increasing what they call the ICE raids, immigration customs raids, and we've seen, in the last weeks, a series of them. They cause enormous disruption in local communities, incredible fear, not just among the people apprehended, but in the whole community if there's a sizeable immigrant population. The raids are taking place in different parts of the country, and Chertoff was on the national news last week saying that he's going to continue them. He has the law, he has to enforce the law, and he's going to continue to do it. We've seen a dramatic increase in the number of deportations every year. I think we're up to 300,000 deportations, and he said this is what the law is and he's going to enforce it.

There's tremendous fear over this. It's going to drive the undocumented people underground, and you're going to enhance the underground economy, and it's going to put undocumented

people more and more in the shadows. It's going to drive them to the criminal element. There's no question, because they're not going to be able to survive otherwise. That's what will happen.

A second, broader issue is that the Department of Homeland Security has absorbed all of the immigration services. The immigration service has historically been of two parts of the immigration structure. One component is service to people who are immigrants, and the other component is enforcement. But they have been two very important components, and they've worked closely together when it's run well and effectively, and there are services for immigrants.

Now it has all been tied into the Department of Homeland Security, so effectively the process has lost all the service aspects and is just punitive. It's badly bureaucratic. The morale of the whole agency is deteriorated and broken, and the delays, the time, the mistakes, the whole process has taken a very bad turn. That's part of the reality now. It's more and more difficult getting foreign students here and more difficult getting immigrant families reunified. Some of the able or more gifted foreign students are going to other places around the world, and we're losing a lot of them. It has affected some industries, tourist industries and the rest. A lot of people would otherwise want to come to the United States because the value of the dollar has gone down and they can get terrific deals here. That's a secondary aspect to this problem.

A third part of the administration's policies has been what they call the "no match rule," which is requiring employers to verify with Social Security whether there's a match between the records of the Social Security Administration and those of employers and the employees to try and catch undocumented workers. At the present time, the numbers of mistakes that are made, just by Social Security, are identifiable, and they review their documents. They re-review these Social Security documents every year, and they find out that of the 17 or 18 million Social Security numbers, three to four million are mistaken, and among immigrants who have become citizens, it's up to 30%. So what's happening with this is you're going to have Americans who are legitimate workers being fired because their names are maybe spelled differently. And you're going to find that immigrants who are legal workers here are going to suffer extensively, and employers are going to try to find ways of not hiring people who may present problems in the future.

Young: They would be liable.

Kennedy: They would be liable. There's very serious accountability if they make mistakes. At the present time, that law is suspended because of a court case, but we don't know where it's going to eventually come down in the future. Some of us were thinking that this might cause sufficient disruption among employers to change their attitude about immigration reform and they might turn out to be allies for us.

The fact is, in the immigration debate, the Chamber of Commerce did virtually nothing for us. Employers did virtually nothing. The growers did some things, but the other employers did virtually nothing in terms of the support for immigration reform this time. They had done some things previously. So you have these ICE raids, this "no match rule," and also the increasing involvement of state and local police in apprehending immigrants. There were limited provisions that existed in the current immigration law, where if states wanted to send their people to the Department of Justice, they could have a six- or seven-week training program to learn a bit about

immigration laws, and then the states can go ahead and involve their police in immigration enforcement.

Alabama was a state that did it, and what they found out in Alabama was that the amount of racial profiling went up 30 or 40%. The police went out and thought they had had their training, and they started pulling people over as they were passing through Alabama, and caused enormous disruption. The reaction from the immigration groups is that they are no longer supporting and working with local police on drug busts, guns, and crime.

Young: And gangs more recently.

Kennedy: And gangs. They're halting and stopping their cooperation because of this. So these are some of the conclusions. We tried, with Congressman Delahunt, to work out guidelines to ensure that detainees' humanitarian circumstances were addressed and those with humanitarian circumstances are released.

Young: This was after the New Bedford raids you mentioned.

Kennedy: After New Bedford. We're committed to doing that, but we haven't been able to get this done. I would say in broad strokes, on the future of immigration, the country can't tolerate the current conditions. We need to have a program that's going to deal with the undocumented here and the borders. We have to have some kind of confidence. The American people have to have some kind of confidence we can do it, but to get there, you're going to have to be more creative and imaginative.

Young: The problem is not going to go away.

Kennedy: It's not going to go away, and you need much broader, more comprehensive initiatives that involve other countries in the hemisphere in this effort, not just us. We have to make it a matter of national security as well as national pride and humanitarianism.

Young: Do you think the path we're on now is moving toward the European way of bringing immigrants in: not to become English, not to become French, not to become German, not to assimilate?

Kennedy: Well, what we have learned now is that these cells being used by Al Qaeda in a number of the European countries are individuals who have been denied assimilation in these nations and who have been isolated, discriminated against, and denied basic, fundamental human rights and justice. As a result they've developed a very hostile attitude toward the community they're in, and to the government and to the basic values of these societies, and therefore are fertile grounds for recruiting by dangerous people who will threaten the United States.

That's all out there and will be out there now, as we're going to find if we continue on this path of harsh, cruel treatment of this population. The variety of different things this administration is involved in is going to sow the seeds of real danger for this country and society in the years to come. The echoes of what we heard during the Hesburgh Commission about the sons and daughters of these immigrants having such an intense degree of hostility is very real. There's a sense that immigrants themselves who have broken the law, have come here, who are trying to

make it, are spending all of their time, for the most part, working hard, looking out after their children. But if their children see their parents, who are working hard, playing by the rules, trying to be good citizens, and doing all the things this country is supposedly standing for—if they see them ultimately cast aside, punished, exploited, discriminated—

Young: Or deported.

Kennedy: And deported—the rage that’s going to come from these younger people is going to be dramatic. Part of the challenge for our society is to reduce the pressures and tensions, whether they’re ethnic, racial, gender or whatever. But we’re just creating hotbeds of churning and rage, and that’s very dangerous for this country over the long term.

Young: The problem is going to get worse, and the collateral damage, so to speak, is going to get worse. Are you a pessimist? Or do you just think we have to have a change of administration, a change in thinking, or a cooling down in some way, of the essentially racist or anti-ethnic feeling?

Kennedy: I think the forces aligned or arrayed against this have to be dealt with. I don’t think they can be ignored. I think there are answers to it, but it requires leadership. We don’t have leadership on this, certainly from the President at this time. He’s incapacitated and incapable of providing strong national moral and effective leadership. The failure of the whole business community to even try to be of any kind of help whatsoever in this effort is just a catastrophic failure. The President was just missing in action in this. He’s pleasant enough, and he can say the words, but he was isolated and not engaged or involved. Even when he made some speeches, he was unable to have an influence on his own party in a very important and significant way.

My own view is that there’s reason for hope and some reason for optimism, even given what’s happened to him, and that’s because of the political realities. As we move through the elections, we’re going to find, as we did the last time, those who took the harshest positions and were the most negative actually were defeated.

Young: Yes.

Kennedy: That’s not lost on politicians. The voting groups out there, this whole movement and trend, is going to be stronger and more involved in the future. There will still be the voices of the know-nothings, which has been part of the American tradition since the birth of the country. But my own sense is that people of goodwill and vision can fashion and shape legislation that will address the most fundamental challenges, and they can, over a period of time, work on the different features of this proposal. It may take several different bites at the apple, but I think it can and has to be addressed and will be addressed. That’s really the future.

Young: Don’t misinterpret the question, but you mentioned the President is missing in action. A President wasn’t missing in action in ’65, and the times were different and all that, but—I don’t want to bring Iraq into this, though it may be the most important thing—how would you envision, if you were the next President? What would you see from that vantage point, rather than the vantage point of a Senator, that a President could do to get us back on the right track?

Kennedy: Well, it seems to me that you'd have to galvanize the base and your supporters in an important way. You may look for different kinds of alliances, and then obviously try to minimize and isolate those in opposition. It may very well come to the point where you have to develop broad support. There's still some division within the Hispanic community. You have to make sure you have all those people on board. I'm not sure we did get all of those on board quite the way we could have and should have, because some of the groups were outside. You have to make sure you get all the church groups. Some were still on the outside.

You can galvanize Labor if they have a feeling that these people could be part of the legalization program and aren't going to be subject to exploitation. We're going to get Labor. There's no reason not to have that, because that's also in the interest of the business community. They want them to work for a period of time. I don't think that's really inconsistent. What we had the last time was enough to keep them on board. There's enough support out there to be put together, but it would have to be put together in a different way.

I think, finally, people have to understand that this is a major defining issue for our time, and we have to deal with it or we're going to reap the wind. This is an important national challenge, and we need a President who's going to be willing to take this thing on and be an inspiring leader, and say, "These are the things we have to do. This is an issue for our country. We have to deal with this, and deal with it." I think people will have to get into that. There are other issues, obviously, out there that people want to focus on, but they have to put this right up there too.

Young: Right now it seems that the people who are standing up, who have the bullhorns, the Lou Dobbs and other people like that, are trying to take back our America, and we've lost our way. It seems that the bully pulpit is a place where it would be quite effective to doubt that theme, but say what we really are and why we should be true to the kind of people we are and the traditions we have.

Kennedy: Well, it's the naysayers. You need to have the positive message, the inspirational message, the uplifting message. We should point out who's paying Lou Dobbs. That's an interesting thing. If they find out he's getting paid by these ultra right-wingers—he's paying them and they're paying the system—they're not in the country's interest.

It's just like that 900 number in New York where they make all the profits from pornography. It's the most profitable aspects all going into—New York is owned by the telephone companies and it's all these right-wingers. They're all conservative, all the church-goers, and they're making so darn much money on that kind of thing, and it's all pornography. People haven't spent the time to tie those things together. You have to play it with inspiration as well as hardball with these people. But I don't know whether we need that part. *[laughs]*

Young: Well, you're not despairing.

Kennedy: No. I know what it takes. We have to get about the business of pulling all aspects of support together, and it's going to take strong Presidential leadership. They have to feel it, understand it, be committed, and get about the business of doing it. It's a defining issue for our country, our society, and our future, and we have to get a handle on it.

Young: Okay. We can end on that.