EDWARD M. KENNEDY ORAL HISTORY PROJECT

TRANSCRIPT

INTERVIEW WITH HENRY WAXMAN

February 18, 2010
Los Angeles, California

Interviewer

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Heininger: This is an interview with Henry Waxman in Los Angeles, on the 18th of February, 2010. I think the most important thing that we could talk about today is what you feel the effect has been of Kennedy's absence from the healthcare process over the past year. How would the bill have been different coming out of the Senate? Could he have saved a public option? Would his presence have made any difference, or would we still have ended up in deadlock the way we are?

Waxman: We can speculate about what his absence has meant and where we would be if he had been around and an active legislative player. It's not as productive as just the recognition that we lost a great deal by not having him involved in the Senate and participating as the chairman of the committee in the Senate and being an inspiration for whatever legislation, but a more active participant in the deliberations to pass it.

Senator Kennedy was an inspiration not only because he's worked on this issue for so many decades; he was a very practical man and an influential individual who could talk to fellow Senators and House members and get people to understand this is where we were, this is what our possibilities might be, and to influence people far more than anybody else as to how to move forward. He was a supporter of the public plan, as I have been, as the President has been, but he either would have been able to convince people to be for the public plan or he would have convinced his supporters of the public plan that if it wasn't going to happen, to let it go. He also could have been very influential, I think, in bringing some of the Republicans, like Senator [Orrin] Hatch, along on a bipartisan basis.

Somewhere along the line, after President [Barack] Obama took office last January of 2009, the Republicans made a decision that they would oppose everything, that they wanted President Obama to fail, and if he succeeded, it had to be with Democratic votes. Then if the public didn't like it, they'd be the beneficiaries in the next election. That has been their operating pattern, starting off on the stimulus bill, even though conservative economists urged the stimulus bill just as liberal economists did, because of the perilous economic condition that we inherited with the new administration taking power. We saw that then; we saw it on energy, we saw it on healthcare. Maybe it wouldn't have happened on healthcare if Senator Kennedy had been there. His not being active was an enormous loss for those of us who shared his views for such a long time. It's hard to know where we'd be now, in February of 2010, had he been there, but his absence was clearly felt.

Heininger: Let's go back and compare that to the healthcare effort under [William J.] Clinton. He was part of the process. It still ended up with nothing taking place, and then ultimately a shift to incremental reform. Maybe you can talk about some of that.

Waxman: All right.

Heininger: What was his role in '93, '94, and why didn't he have more of an effect at that point in being able to get something done? Again, the Republicans—But this was a different case, because in this case, the Republicans started off with everybody assuming that yes, something was going to happen, and it wasn't until part way through that the Republicans came to the decision that they came to at the very beginning of the process this time, that we're just going to say no, we're not going to let it take place.

Waxman: Well, 50 years from now, when this transcript or the actual recordings of this interview are unveiled, I want people to know that as of this moment, I have not given up on healthcare reform passing. So often you hear people say, "Would we have been successful had Kennedy been around?" We would have had a greater chance for an easier time and I believe a successful time, but I still think we're going to achieve the goal.

The effort by the Clinton administration failed for a lot of reasons, and a lot of those lessons the Obama administration took to heart. President Obama brought in the Republicans and the Democrats to the White House. He brought in all the stakeholders. He didn't design a bill and say, "This is the bill you have to pass," as the Clintons had done. He tried to set out certain principles, a modest reform, to deal with people who couldn't get individual insurance, or to reform the insurance system so that the uninsured would have an opportunity to get insurance that was not available to them, either because their employer didn't offer it, they couldn't afford it, or they were being denied coverage at any price because of preexisting medical conditions. He also wanted to transform healthcare in this country, and once the law was in place, the opportunity to build off it.

Senator Kennedy has certainly been the inspiration for moving forward on making sure that all Americans have affordable, good-quality healthcare, but his committee didn't have sole jurisdiction.

Heininger: Oh, I know.

Waxman: A lot of the efforts, and maybe the majority of the efforts, had to go through the Senate Finance Committee, and that I'm sure was a frustration to him in his whole career, because so many of the issues that he cared the most about were in the financing area.

Heininger: Right.

Waxman: But his committee had shared jurisdiction on national health insurance and the Public Health Service Act, which gave him an opportunity to leave an enormous legacy in healthcare policy.

The Obama administration had been very careful to try to put the blocks together to build this bill. In fact, the President is still working on it, because as of the time we're talking, next week

there's going to be a bipartisan meeting at Blair House that the President has called to try to see, in one last effort, if we can find some common ground with the Republicans. I'm very skeptical that we'll get the Republicans to cooperate, because they seem to have already made their decision; but maybe it will illustrate to the Democrats that we've got to still go forward with our own numbers, which are still substantial majorities in both houses. Notwithstanding the failure to have 60 votes anymore in the Senate as an avenue to move forward, we can use the budget reconciliation process to change the Senate bill that will get us closer to the result that we hope to accomplish.

Heininger: How do you know? What if you try to go on reconciliation? [Robert] Byrd will stop it with the Byrd Rule, so reconciliation is going to be problematic.

Waxman: I don't think I want to get into that. The Byrd Rule will prevent some things from being offered, but I think we can ameliorate some of the problems with the Senate bill and make it closer to what we wanted in a conference.

Heininger: I hope. I just spent six years working for him, though.

Waxman: For Senator Byrd?

Heininger: Byrd, yes.

Waxman: But while the Republicans say how outrageous it is that we're looking at reconciliation, they did a reconciliation process for their agenda—

Heininger: Yes, they did; of course they did.

Waxman: —to bring about the huge tax cuts for the wealthy in this country, and welfare reform.

Heininger: No question that it has been used.

Waxman: And we need to try to use it still.

Heininger: Do you think there's a chance that Olympia Snowe, who was the decisive vote on getting it out of committee, could be won over at this point?

Waxman: Well, we'll see. I don't know the answer to that. We'll see. Let's go back to Senator Kennedy. This will all be dated pretty quickly.

Heininger: Part of the issue in looking at Kennedy's legacy is that he—

Waxman: Let me go back.

Heininger: Go ahead.

Waxman: If you go back to the stimulus bill, we had three Republican Senators: Snowe, [Susan Margaret] Collins, and [Arlen] Specter, who supported the stimulus bill, the only three Republicans in the whole Congress of the United States, and as a result of that, Senator Specter was told that he would not be reelected as a Republican.

Heininger: Right.

Waxman: He was told he would lose the Republican primary, and maybe the suggestion was even made, and I suppose it's true, that he wouldn't be able to be a chairman or a ranking member as a Republican in the Senate. So the Republicans played hardball with their own members. Senator Snowe has backed away from her support. I don't know all the reasons for that, but I'm sure there was a good example of what they did to Senator Specter that weighs heavily on all Republicans who may want to show some independence.

But the reality at this moment in history is that we don't have the moderate-to-liberal Republicans we've had in previous times. Those three were the closest we had come to the old [Jacob] Javits, and other Republicans, who worked so closely with Senator Kennedy that they could be counted on to be participants in these efforts. Even if Senator Kennedy had been fully active, he wouldn't have been able to change the dynamics the Republicans have chosen on so many issues, but that's—We are where we are.

Heininger: No, but as you say, his personal relationships with so many of these members counted a great deal.

Waxman: Yes, they did, and his skill was enormous.

Heininger: And his skill, and that simply isn't there right now.

Waxman: Right.

Heininger: It's just missing.

Waxman: Back to the questions.

Heininger: Let's go back even farther, or let's start with the question that I often start with, which is: When did you first meet him, and what were your first impressions of him?

Waxman: I've been in Congress for over 35 years. I don't think it was when I got to Congress that I first met him, but I can't recall when it was that we met. I had been involved in health policy in the California legislature, so Senator Kennedy to me was a mentor, even though we didn't work together. He was a mentor because of his active involvement and leadership in the healthcare area. I've always supported national health insurance, and so I was willing to be part of the efforts that he was supporting. And in fact, when I came to the Congress of the United States, I think very early on I became his House cosponsor of various versions of the national health insurance bill that he had introduced.

I don't recall a specific time, but he's always been someone that I've looked at with a special sense of awe as a superb Senator and a skillful legislator and a health policy person committed to doing the things that I cared about.

Heininger: Did he ever campaign for you?

Waxman: No.

Heininger: You have a relatively safe district, though.

Waxman: Yes. He never campaigned for me, but I supported him against Jimmy Carter in the 1980 election.

Heininger: Was that hard?

Waxman: It was hard, because Jimmy Carter was President of the United States and I supported Kennedy for President at the time when he was weakest, not when he was strongest, because I didn't make a decision until he had already run into troubles early in his Presidential effort.

Heininger: Yes, when he was having problems in the primaries.

Waxman: The early primaries. But I felt that I wanted to be with him, and I gave him my endorsement. He lost the New Hampshire primary, as I recall, and I think it was after that loss that I said to him, "Well, I'm going to be with you. I'll do what I can for you in California, and whatever happens, I feel that you're the person that I want to see as President of the United States. I'm not doing it for opportunistic reasons, because you're not looking so good at the moment."

Heininger: Yes, that's right. [*laughter*] And as it turned out, it wouldn't have mattered one way or the other.

Waxman: Well, he did well in California.

Heininger: He did very well in California, that's right. Yes.

Waxman: Not that I take credit for it, but he started to come back, and he gave the speech at the convention that I think resonated so well with Democrats and kept the liberal base recognizing that he was our voice.

Heininger: Now, many people have said, and he's talked about it with us as well too, that one of the key reasons that he decided to challenge a sitting incumbent President of his own party was because of what had happened with the second major attempt to get national health insurance under Carter. When you look back at that time period, do you think there was much of a chance of getting national health insurance then? The economy was a mess; inflation was horrendous. It got even worse, but an oil crisis—

Waxman: It was a very difficult time.

Heininger: Very.

Waxman: I don't know that I can give you an answer. I haven't thought about it. At that time I did know that President Carter was trying to get a child health initiative through, and I think Senator Kennedy was the lead author in the Senate. I know I was in the House, and we couldn't even get that through, although most of what the CHIP bill, the Child Health Insurance Program, called for we got into law through reconciliation, in bits and pieces over the years, when

[Ronald] Reagan was President, because there was a price the Republican administration had to pay to get our support for the budget. I had a lot to do with the Medicaid area, particularly.

As I think about it now, remembering how difficult it was to even get a child health initiative through, it certainly doesn't strike me, in my recollection, as a time when we could have done national health insurance. But I thought that President Carter was vulnerable for a lot of different reasons, and that Senator Kennedy just seemed to me—and others, so many others—as the obvious person who ought to take the mantle for the Democrats in that Presidential election.

Heininger: Given what we know 40 years later how close it came with [Richard M.] Nixon, would we have been better off if there had been an ability to reach an agreement at that point?

Waxman: I think so, and I think Senator Kennedy made that comment.

Heininger: Yes. He came to that conclusion much later.

Waxman: I wasn't in the Congress then, and we all disliked Nixon so vehemently that we sometimes forget that in many ways he was more moderate or progressive on a lot of domestic issues, and we should have taken greater advantage of it, both in the health area and in some ways the welfare area. But it wasn't to have been, and that's the way it came out.

Heininger: Well, and something for which Nixon is not given a whole lot of credit, but clean air, clean water, all came under Nixon. The politics became so polarized with Watergate, which is that same time period, in '73–'74, when—

Waxman: Watergate and Vietnam, and so I think it made it difficult to do some things that might have been done under other circumstances. Nixon had a propensity to try to move in our direction on policy. He was pretty grudging.

Heininger: Yes, that's a good way of putting it. And in many ways—We looked at this time period fairly closely. At the executive branch level, in HHS [Health and Human Services], there were a lot of people who were in fact committed to trying to get some kind of agreement, but then just the press of events and labor opposition, thinking they'd be able to get it all.

Waxman: Yes. There's a lesson to be learned.

Heininger: Yes.

Waxman: And it's a lesson that we must be mindful of, that sometimes you make, as the trite statement goes, the perfect the enemy of the good. I've always believed that it's better to get a good compromise than to end up with nothing and start all over again, and for those who at the present moment say to me, "Why don't we have a single-payer bill? Why don't we have a public option? Why don't we have a better health insurance bill?" my answer has to be that we have to seize the moment and do the best we can and build on it for the future.

Heininger: This is a conclusion that Kennedy came to.

Waxman: Yes.

Heininger: After many years in Congress.

Waxman: And he would have been able to convince people of that far easier than the rest of us have been able to do.

Heininger: But did you come in believing that: "don't let the perfect be the enemy of the good"?

Waxman: Well, I always hated that expression.

Heininger: I know. It's trite.

Waxman: It's trite, but also people used to use it to tell me that I should compromise further, especially in other areas, like the environmental area, and they say, "You should be satisfied with what we're going to support," and "Don't press us to be for better." And I used to think that we could do better and we should push for better, but I've always felt that compromise is important and usually leads to a better product. I think Senator Kennedy believed the same thing. He was a model not only to me on policy, because he believed in the best policy, but he believed in the practical realities of getting the best you can get and continuing to move forward.

Heininger: What was he like in conference committees? I'm sure you must have had a lot of contact with him.

Waxman: Yes, we had a lot of contact in conference committees and other settings as well. He was wonderful in conference committees. I remember one of the times when the Republicans had control. I don't remember what it was; it was something we couldn't get, and we had to give up on it. Sometimes you think when you have to give up on something you should be gracious about it. He was not gracious. He turned to the Republicans and others—of course sometimes it was Democrats, if there were Democrats who weren't going along, either—and he'd say, "You may think you've won right now and you may think it's a good situation, but let me just tell you, this is an issue that's not going away. You're talking about a lot of people's lives, and a lot of people will not get the benefit that they should get." And then of course we moved on when we lost what we'd wanted, but I was so proud when he'd speak up and make that point to people, that he wasn't going to just go quietly. He felt deeply and strongly about his positions. He was willing to compromise, but he was willing also to sometimes just stick his ground and say, "You may beat me now, but you're making the wrong decision, and you should recognize that."

Heininger: It's interesting, because there are other areas, not ones that you've necessarily been involved with, where he has done that and then turned around when he realized he was wrong. He was the chief opponent of David Souter for the Supreme Court, little realizing who we were going to end up with on the Supreme Court.

Waxman: I've had that experience as well. I was one of the chief opponents of C. Everett Koop to be Surgeon General, because while he had to have Senate confirmation, he was too old to qualify without legislation to allow him to be in the public health service corps.

Heininger: That's true.

Waxman: And I held that bill up, finally traded it away in the conference committee on Reagan's budget in the first year, and then once he became Surgeon General, I realized how wrong I was. What an outstanding man he was, with enormous integrity, and did a fantastic job, arguing for public health and against smoking, and on good policy dealing with HIV [Human Immunodeficiency Virus] and AIDS [Acquired Immune Deficiency Syndrome].

Heininger: Yes. He was one who confounded what initial views were of what he was going to be like. You've raised two big other issues that I wanted to talk to you about. Tell me about tobacco, because you worked for a long time with Kennedy on tobacco. This is a 20-year fight, and now major progress has been made.

Waxman: Right. We finally have gotten legislation to give the FDA [Food and Drug Administration] the authority to regulate tobacco, something we've tried for at least a decade to accomplish. Senator Kennedy was a stalwart in pushing that legislation and getting it passed a number of times through the Senate when we couldn't do it in the House. And of course, when we could do it in the House, we couldn't get it in the Senate, but we finally got together and passed the law that we had championed. He understood that cigarettes were the leading cause of preventable death in the United States. There were 400,000 people dying every year, and every day thousands and thousands of kids would start smoking because of the efforts of the tobacco companies. So he understood the problem and thought we needed an effort to have government regulation be the start of a solution.

Heininger: Is this one of those issues, like many other ones in Congress, where it's a matter of timing? The best thing I can compare it to is that you look at the change between how the military is responding now to changing the "Don't ask, don't tell" policy, and how different that was at the beginning of the Clinton administration. Is tobacco in the same category, as something it's taken time to work the public's mind around to? There has been a change in public behavior, so that the tobacco—Even Virginia, a big tobacco state, now has a state law against smoking in public.

Waxman: That's true. A lot of issues take a question of timing, although the public has been ahead of the lawmakers on this issue for a long period of time, and the reason the lawmakers didn't get around to it is because of the power of the tobacco industry, particularly when the Republicans were in control of things. In fact, just as an anecdote off the subject a bit, Tom DeLay, who actually ran the House of Representatives for over ten years, took the private jet from R.J. Reynolds Tobacco to plead not guilty when he was indicted in Texas, as well as a lot of money for Republicans when he protected tobacco from legislation.

The relationship with the tobacco industry to the Republican leadership was so strong that in the House, when we had an agreement with Congressman [Thomas] Bliley, who represented Richmond, Virginia, and the Philip Morris Tobacco Company, [Newton] Newt Gingrich wouldn't allow the bill to come out of committee and go to the floor. So the timing is very important, and we have the timing now because we have a Democratic administration. We don't know if we could have even gotten it through to President [George W.] Bush and he would have signed it, although we were trying every year to move it forward.

But the point that I think needs to be made about Senator Kennedy is that whether it's the right time or not, you've got to lead on these issues in order to get to the point where the timing will be right. The public starts to understand it and then even Senators and Congressmen understand that the public interest is being defeated by the special interests. You may get a campaign contribution from them, but your voters are not going to be pleased with it, because they understand that tobacco or any other big powerful special interest is getting its way unfairly.

Heininger: Why was it so much easier to get through the ban on smoking on airplanes? Because that one came fairly quickly and it wasn't that difficult.

Waxman: It did come quickly. But not difficult? It's easy to say now, but it passed the House of Representatives by literally one vote. I think it was three or four votes on the final tally, but during that vote itself we were neck and neck, and finally, after everything had settled down, we were about even and we finally got the one vote, and then once we got the one vote, then we got the other two or three that felt they didn't want to be on the wrong side of that legislation. But that was an amendment to an Appropriations Committee, and it was an experiment for flights of one hour or less, maybe two hours or less.

Heininger: Yes. It started with duration requirements.

Waxman: Right. So it was something that people were willing to try. Once it was put into place, it became so incredibly popular that public pressure stopped smoking on all flights. It would be barbaric and unacceptable today for people to go on an airplane and have to breathe in someone else's tobacco smoke. But, it used to be that smokers' rights prevailed. We would not go back to that time when their right to smoke trumps your right to breathe healthy air.

Heininger: And a larger proportion of the American public smoked at that point.

Waxman: But it was an attitude.

Heininger: It was an attitude.

Waxman: An attitude that has changed, and I think a lot of the attitudes that were changed regarding tobacco are a result of hearings that we held in the House and in the Senate to illustrate how even the tobacco executives were so cynical that they were denying that cigarette smoking was harmful, and that nicotine was addictive, and that they manipulated the nicotine. We did not learn these facts until the mid-'90s, and that they were explicitly targeting kids. They denied all of that under oath, and people saw these men in suits who looked respectable saying things that they knew weren't true, and even smokers knew weren't true. I think that moment was a key moment, and the public attitudes changed.

Heininger: I have not thought about this, but I think you're right. The hearings that were held both in the Senate and in the House were critically important in terms of both the public understanding of what the tobacco companies had done, but also the effect that it had on Senate and House colleagues, too.

Waxman: Senator Kennedy would often hold hearings to illustrate problems that he couldn't address legislatively, but you had to build not just a record, but building an understanding for

your colleagues and for the public to see issues that they hadn't thought about, to understand that there needed to be some way to move forward and solve these problems, or at least address them.

Heininger: Tell me about his staff. I know that your staff has a similar reputation too.

Waxman: Well, his staff always had the best reputation of any staffs in the Senate. I think it was a point of pride, and I think they played a very important role. He looked for people who shared his commitment. He didn't look for people simply to process the legislation and be impartial. He looked for people who would push the envelope and try to advance a progressive agenda, and he had staff very committed to that and to him, because they shared his views.

Heininger: How much contact did your staff have with his staff?

Waxman: We had a great deal of contact, because we were the authorizing committees. We knew we were going to go into conference together. We often would think about what is the best way for the bills to be designed in the House and the Senate so that we can come out with the best result in conference. We had a very collegial relationship between us and also at the staff level.

Heininger: More than the Labor Committee has with the Finance Committee, or your committee has with the Ways and Means Committee?

Waxman: Well, we have a very good relationship with the Ways and Means Committee and worked closely with them on the healthcare bill.

Heininger: I wouldn't say necessarily the same in the Senate, between Finance and Labor.

Waxman: The Senate Finance Committee is a different kind of makeup of the committee. We have to look for opportunities to be together, but there are times when we have to later bridge differences that are genuine differences. For example, to make that comment clear, the Senate Finance Committee on financing legislation in the health area represents smaller states.

Heininger: That's right. It makes a big difference.

Waxman: And so oftentimes, they come out with proposals that we have to work on, because the House members represent the larger states as well.

Heininger: Yes, you're right. I hadn't thought about it in that direction, but you're absolutely right, who is sitting on the committee and which state they're from really does make a big difference. But I'd still say in the long run there's been a more difficult relationship between Finance and Labor, in part because of a very, very active Labor Committee chairman when Kennedy was there.

Waxman: Yes.

Heininger: Or when Kennedy was in the minority as well.

Waxman: Also the way that jurisdiction is divided up. We have a different situation, where we have both the Medicare program as well as the public health programs, so much of what you think to do in the public health area is to use those programs, especially. Senator Kennedy was committed to trying to help the low-income people in this country have access to healthcare services, and you can only go so far in your committee. But in our committee, we can go much further, just because of the jurisdiction.

Heininger: Yes.

Heininger: Tell me about COBRA [Consolidated Omnibus Budget Reconciliation Act]. How did COBRA come about?

Waxman: It was part of a reconciliation bill, reconciling the programs to the budget.

Heininger: How important was Kennedy to COBRA?

Waxman: I don't recall. I know that Congressman [Fortney] Stark was the lead advocate in the House. You might ask him.

Heininger: Yes.

Waxman: COBRA was worthwhile because it provided something, but it's not a real adequate response to the people who lose their jobs, because they have to pay the full cost of continuing their health insurance.

Heininger: A huge financial penalty, but at least they got something.

Waxman: Yes, at least they have something. So it's been a godsend for some, at least for now, but it's not a solution.

Heininger: But it was an interesting piece, because after the failure under Nixon to get national health insurance and the failure under Carter to get it, the difficulties in turning back—and I know you worked with Kennedy in turning back Reagan's assault on block grants and healthcare programs and stuff. Coming in '85, this was the first really critical piece of incremental reform that gave a certain slice of society, those who became jobless, the right to maintain coverage, even though it was at great cost. Did it lay the groundwork? Was that a piece to the puzzle that eventually led to SCHIP [State Children's Health Insurance Program] and led to HIPAA [Health Insurance Portability and Accountability Act]?

Waxman: No, I don't think so.

Heininger: What were the differences?

Waxman: First of all, I want to point out that President Carter never proposed national healthcare, but he did propose a health insurance program for children by extending Medicaid, which we were able to do, starting under President Reagan. We used the reconciliation bill, starting with the Reagan administration, which proposed future cuts in Medicare. Every time they wanted to reduce the amount of money that would go into the Medicare program, we

required them to pay the price of putting more money into Medicaid, and then the balance to be deficit reduction. That's how we were able to get the SCHIP program incrementally. I don't think there was any connection to COBRA. COBRA was connected in some ways to efforts that Senator Kennedy and others supported to provide healthcare for the unemployed, an especially glaring problem during recessions. We were all for it, because it was going to provide more care for people, but it was hard to design and difficult to pass.

Heininger: Tell me about working with Kennedy on AIDS.

Waxman: Kennedy was very good on the AIDS issue. He understood the problem. He had a hearing that illustrated it, but he had great limits on what he could do in the Senate on legislation, because of Senator [Jesse] Helms more than anybody else. Senator Kennedy was able to get things like money for research, but couldn't go beyond that, because of Senator Helms's opposition. We were able to do more in the House bill and get to a decent final agreement. And Senator Kennedy did something that I thought was very impressive. I didn't think so at the time, but it was very impressive. He decided, with Senator Hatch, to name the program the Ryan White Act.

Heininger: Right.

Waxman: And I thought, *Well, I've got so many gay men who have died in California and in my district, and to single out one AIDS victim, who was not gay—*

Heininger: A hemophiliac.

Waxman: To have the law named after him—My first reaction was very negative. But then later I realized that this was a way to get support from Senator [Daniel] Coats, who represented Ryan White.

Heininger: Because Ryan White was brought up to Congress and met personally with so many members, he and his mother, brought our compassion for AIDS sufferers—humanized it.

Waxman: We just had a signing of the latest reauthorization of the Ryan White Act, and the mother showed up with President Obama at the bill signing. I've talked to gay activists who have said to me they were pleased it was named after Ryan White, because they said, "This is part of our coalition. We are all working for the same thing."

Heininger: One of the most interesting things about that time period and how the whole thing evolved is that Helms, 20 years later, changed his position.

Waxman: On AIDS patients in Africa. I don't know if he ever—

Heininger: He changed them on Africa. He did change them somewhat on AIDS patients here, because he had a number of people who actually got through to him and put a personal face on it, that as he grew older, he was more willing to acknowledge.

Waxman: That's good, to his credit.

Heininger: It was a nice sea change.

Waxman: You have to realize that when Senator Kennedy and I were working on the AIDS legislation, we didn't know about HIV. It was just AIDS, and first, we didn't even know about AIDS, because it was just a Kaposi's sarcoma affecting a lot of gay men, and CDC [Centers for Disease Control and Prevention] was telling us it was a real problem, we ought to be concerned about it. There was a real reaction in the public, of fear and hostility, to people who had AIDS. We had to overcome that, but President Reagan wouldn't even say the word "AIDS."

Heininger: Right.

Waxman: And in my mind, I assume it was Gary Bauer, his Domestic Policy Advisor, who had him take such a rigid position. Not until Elizabeth Taylor came to Washington and went to talk to him did he finally realize that so many people he knew in the entertainment industry had AIDS and were dying from it. People did change their minds, and if Senator Helms changed his mind, it's all to his credit. But I remember having an exchange with Senator Helms where I told him, after he defeated our conference report one year, that I thought he did a tremendous disservice to a lot of people who are going to die of this disease, and he snapped back at me. I don't remember his exact words, but I was so angry at him for being so self-righteous.

He did a lot of harm, not only stopping the legislation, but stopping the efforts to communicate honestly with people who were gay and engaging in sex, as if by talking to them about safe sex would make them think of the idea of having gay sex. And his attitude about drug use and needle exchange—He believed we would be encouraging drug use intravenously, which was absurd. In the House we had someone who was worse. We had Bill Dannemeyer, the ranking Republican on the Health Committee, who thought that gay men ought to be incarcerated simply for being gay, and if they had AIDS, they had to be taken to an island and left there. So it was a difficult time. People don't often remember what it was like at that time, when we were trying to be constructive about this epidemic.

Waxman: While I only have praise and enormous regard for Senator Kennedy, I also thought at times that Senator Kennedy made compromises that were a little bit more than he needed to do. I also thought that some of his staff, as they went into the private sector, had a greater influence than they should have with him. They were lobbyists representing private interests. When you have a staff that was so trusted, and then they came back and represented a client—He might have thought of them as staffers, rather than advocates for a private client.

Heininger: Yes, and I know to whom you are referring, several people. Yes. I think that was—

Waxman: It's understandable and it's very human.

Heininger: It is understandable, but that doesn't make it right.

Waxman: Well, it shows a loyalty that he had, that people had to him as a mentor and leader, and then he in turn had to them.

Heininger: One last thing—Iraq. Tell me about your efforts on Iraq and his.

Waxman: Well, he was right and I was wrong in the conclusion we reached on the Iraq War. He never bought the argument that was being made by President Bush. He just didn't think that the facts were there to justify what President Bush wanted to do, which was to go to war. I looked at it from the point of view that maybe it was true, that there were weapons of mass destruction. It wasn't just the Bush administration that I listened to. David Kay, an American who was an inspector in Iraq, who came and talked to us in Congress, had an enormous influence on me,. He said, "We haven't had inspections for quite a while, but when we started inspections, after the first Gulf War, we found that they were further advanced on nuclear activities than we ever believed. We only heard about it, not through inspections but through disgruntled family members that revealed it." And he said, "They may well be further advanced than any of us have imagined. We just don't know." He became our designated inspector after the war started and he realized he was wrong, that there were no weapons of mass destruction there.

I was concerned about that. I thought Saddam Hussein had nuclear weapons, but I was taken in by misrepresentations by the administration. A lot of my staff said to me, "You can't believe anything the Bush administration is saying on most policies, why would you give them any deference on foreign policy?" And I said, "Well, you're right," but it just seemed to me perhaps a different situation. But my vote at the time was not to go to war. The vote was, at the time, for the administration to go to the UN [United Nations] and solidify the UN, to say to Saddam Hussein, "You have to allow inspections, and you have to dismantle any weapons systems that you had." But in the Bush administration's mind that was not a genuine attempt. They wanted to go to war and they used that resolution for their purposes.

So I made the decision based on what I knew at the time. I think Senator Kennedy had more wisdom than I did, in seeing through this administration and realizing that they would go to the point of even sending out lies as to what the intelligence was showing and the information they had. The argument that the President used to claim they had nuclear weapons was that Saddam Hussein was trying to get uranium from Africa. That was based on totally false, forged documents, and the CIA [Central Intelligence Agency] knew it. The CIA told the administration, but we didn't know at the time we voted. But Senator Kennedy saw through it and I give him credit for it.

Heininger: Last words on Ted Kennedy.

Waxman: He's the model of what a legislator should be, a man committed to the public interest, a man committed to trying to use government for very positive, useful, important areas that would live up to our goal of giving every American an opportunity to succeed in life, making sure a child can get an education, making sure a child can get healthcare, making sure that people aren't kept back because of the financial circumstances of their birth, but to allow every person to succeed to the fullest extent possible. And secondly, to realize that government has a responsibility to provide a safety net, and that if you want people to be rewarded on merit for their intelligence and abilities, we have to recognize some people might, by circumstances, by birth, not have those abilities or intelligence. They're human beings and we have to respect their dignity and provide a safety net, not let them fall to the very bottom.

Heininger: The Senate will be a lesser institution without him.

Waxman: Absolutely.

Heininger: Thank you very much.