

George J. Mitchell Oral History Project

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David H. Nexon
(Interviewer: *Brien Williams*)

GMOH# 148
September 18, 2009

Brien Williams: This is an oral history interview for the George J. Mitchell Oral History Project at Bowdoin College with David Nexon. We are in the Washington, D.C., offices of the Advance Medical Technology Association, where he serves as senior executive vice president. Today is Friday, September 18, 2009, and I am Brien Williams. Let's start first with you giving me your full name and its spelling.

David Nexon: It's David H. Nexon, N-E-X-O-N.

BW: And your date and place of birth?

DN: April 10, 1945, in Chicago.

BW: And your parents' names.

DN: Phyllis and Hubert Nexon.

BW: Give me a little bit of your family background, sort of where you grew up, maybe your parents' professions and so forth.

DN: Well, my dad was a lawyer and an executive for many years with the Commonwealth Edison Company, which was the electric utility in Chicago. My mother was trained as a social worker and did some social work off and on, but primarily was a homemaker. I had two siblings, grew up in, first in Hyde Park, near the University of Chicago, when I was a little kid. When I was eight we moved out to the suburbs and I lived in Northbrook and then in Glencoe, and then went off to college at Harvard, worked in Washington for a [year, with O.E.O.], then went back and got a graduate degree in political science at the University of Chicago, taught for a few years and then came back Washington full time, working first at the Office of Management and Budget as the senior examiner in the health division, or health branch, responsible for Medicare and Medicaid. And that was from 1977 to 1983. In 1983 I joined Senator Kennedy's staff as his health staff director and senior health policy advisor, and I stayed there from 1983 till 2005.

BW: I notice that your studies were in political science. How did you move into the health field?

DN: Well, my interest was always actually in policy – politics and policy – and originally I'd hoped to have a career something like Daniel Patrick Moynihan's, probably an elevated ambition, would teach in a university, come in and do policy work in the government, and the university side didn't work out. I was not happy as a professor in academia, and I decided to come back to the government full time. And my political science degree was interesting, I enjoyed the graduate work and enjoyed my research on parties and voting behavior, but it ended up having really little relevance to my subsequent work, except that I did learn a little bit about quantitative methods, which was helpful in reading some of the policy literature.

BW: The two years you spent in Washington prior, what were you doing then?

DN: Well it was a year, I worked for the Office of Economic Opportunity as a management intern, which became the Presidential Management Intern Program, and now I think they call them Presidential Fellows or something like that, and the Office of Economic Opportunity was the old poverty program that was started by Lyndon Johnson, and Sargent Shriver was the first director. I worked there for a year, and then I worked for a local poverty program in Pittsburgh for another year, and then went to graduate school from there.

BW: And did you pick up your expertise in the health arena at OMB, sort of on the job, or?

DN: It was on-the-job at OMB. I think they probably would never hire somebody like me today, because I walked in there being only very dimly aware of the difference between Medicare and Medicaid, was hired to be the Medicare examiner, and then when Joe Califano merged Medicare and Medicaid into a new agency, the Health Care Financing Administration, I was given responsibility for both programs.

BW: To put health care into some context here, what was the status of health care and possible reform and such under the Carter and Reagan administrations?

DN: Well, in some ways the more things change, the more they stay the same. It was the fastest growing part of the federal budget and viewed as a substantial budget problem even then. Certainly in the Carter years, there was an interest in universal coverage. I think the Carter administration was interested in it primarily because they were worried about Senator Kennedy's challenging them on that issue, rather than it being a passion of President Carter's. Also a strong interest in controlling cost, they had both the hospital cost containment program, which was a legislative initiative which was unsuccessful, and there was ultimately a Carter universal health insurance bill which never got much traction. And I remember the president was very frustrated by the whole thing, at least in the meetings I observed or was told about.

Then under Reagan, Reagan initially went after Medicaid but not after Medicare, thought it was a little hot to handle, but certainly Stockman was sort of thinking about what he ought to do about health care because it was such a big budget issue. And probably the biggest innovation they did was the implementation of the prospective system for hospitals, the DRG system. They were sort of hostile to most of the public health programs and I think tried to cut them back.

BW: So in '83, what motivated you to move over to the committee?

DN: Well, I'd always been a liberal Democrat, and I really enjoyed OMB, liked it very much. And when Reagan came in I thought I'd stick it out as a career, and as a career civil servant, and I did enjoy working with Stockman, even though I disagreed with much of his views. He was a very bright, engaging kind of a guy and kind of fun to work with. But after a while I decided, it looks like Reagan was going to be in for eight years, not four, and I began to think, well I don't really want to be here, because I don't agree with the policy direction. And so I went looking for a job in the Congress, and was very fortunate that Senator Kennedy had an opening at that point.

BW: So you and he had not crossed paths, or had you?

DN: No, not really. The way I got in there to at least be considered for the position was that I'd become friendly with Joe [N.] Onk who was the White House, in the White House Domestic Policy Council, working on health care, and Joe had worked for the senator at some point in the past. And when I told Joe I was looking and asked if he had any suggestions, he put me in touch with Jim [James B.] Steinberg. Jim was then the counsel to the Labor and Human Resources, Democratic staff in the Labor and Human Resources Committee, he wasn't the staff director but he was one of the chief guys there, but he also did health care as part of his portfolio, and at that time he was looking to leave, he wanted to move into foreign policy, which he did quite successfully as you know, he's now the deputy secretary of state. But he liked me and thought I would be a good person to take over in the health center. As it turned out, the other person who was working there in health actually left before Jim did, so I moved into her position.

BW: And Senator Kennedy had already made his mark on this as a major interest of his.

DN: Yes, he had really, he had taken over the health subcommittee of the Labor and Human Resources Committee in 1971, after the '70 election, and he'd done two things: he'd become the leading advocate of national health insurance, in the country really, I would say, at that point, using the health committee as a platform, and he'd also built up a very aggressive, he was an extremely aggressive legislator who looked for problems to solve and came up with solutions, and he'd done a tremendous amount in the public health arena as well during that period.

When I came to it in '83, they were in kind of a regrouping mode. The Democrats had lost the Senate in the 1980 election when Reagan came in, I think Kennedy spent the first couple of years of the Reagan administration trying to fight, in the health arena, trying to fight back against the attempts to abolish so many of the programs that were cut back that he'd worked so hard on. That kind of first wave was just about over when I came in, so they were beginning to think about what could they do in a more offensive agenda to achieve more stuff. The staff was very small at that point, there were just two paid health staffers when I joined the staff, I being the second one when I joined the staff, and it was a much slower pace than it became later on.

BW: Whose payroll were you on, just as a thought?

DN: (*unintelligible*) committees.

BW: But your -

DN: Senator Kennedy at that point was the ranking minority member of the committee, so he hired the Democratic committee staff. Although we were paid on the committee payroll, we were really responsible to either the ranking minority member or the chairman when he became chairman, we were really Senator Kennedy's people, we were not, the fact that our paycheck was written by the committee didn't make our function any different than if we'd been on the personal staff, except there was some sense that you were also supposed to help out other Democrats on the committee and assist their staff.

BW: So was this the subcommittee, or the committee as a whole?

DN: At the point I joined the staff, Kennedy had become the ranking member of the full committee and he abolished the health subcommittee, since he felt he could do it just as easily at the full committee level, since he was in that position. Hatch I guess had re-, I don't know whether Hatch, actually I suppose that decision was Hatch's, Hatch wanted to do health care himself as well, so I think the two of them decided it made more sense to just put it at the full committee level than to maintain a separate health subcommittee.

BW: And since you stayed there all the way through to '05, it must have been a comfortable base for you.

DN: It was a wonderful experience working for Senator Kennedy, he was a terrific individual, just very inspiring to work for, a very decent human being, very nice human being, and guy whose total passion in life was to make life better for the American people. So the opportunity, and because he was such a skilled legislator, the opportunity to really make a difference there was great, and then it was exciting and absorbing and wonderful work, so I had a wonderful experience.

BW: What prompted you leaving then in '05?

DN: Well, things were kind of slow, to be honest, we didn't have control of the Senate. Our chairman, usually we had been able to work out kind of a progressive agenda with whoever was the Republican, either chair or ranking member. The one exception to that was Judd [Alan] Gregg, who was really didn't want the government to do much of anything, and his health staff in particular was extremely conservative, in the sense of really not wanting to be active as legislators, they didn't believe health care was a proper role for the government, as best I can determine. So there was very little happening, and I also was getting closer to retirement age and really felt it was time to store up some savings so I could have a kind of more comfortable life in retirement.

BW: What accounted for Kennedy's particular interest in health care, do you think? Or do you know?

DN: Well, that's a long story, which I only got third hand because I joined him well after the decision was made, but I think there were a couple things going on. In 1970 there was a reshuffle on the committee and Kennedy had his choice of either chairing the education subcommittee or the health subcommittee, based on the seniority on the committee. Walter Reuther, the story goes that Walter Reuther flew out and had a session with him and convinced him that universal health care was the next big issue, and that he ought to identify himself with that and work on it, and that in part motivated him to take over the health, the committee, as opposed to education which he continued to have a very strong interest in.

Health is a fascinating issue, it's so complex, it touches every American's life, it's such a big part of the economy, I think he just found it extremely interesting. And then he had, I think, a special appreciation of health care issues because of all the illness in his family with the son who had cancer, Teddy, Jr., Patrick had very serious life threatening asthma, his sister was, as you know, the story of the retarded sister, Jack had terrible health problems. So I think that he just felt some kind of natural affinity for the issue, as well as the, sort of the political draw.

BW: What would be the words that would come to mind to describe his leadership style in that committee?

DN: In the committee?

BW: And among the staff.

DN: Well, with the staff it was inspirational without ever being overt, there was just this expectation that you were there to make people's lives better. He was working harder than anybody else you could imagine, so you were inspired to work just as hard as you could. He had very high standards for himself, and high standards for the staff, and you incorporated those standards so it was kind of an, it wasn't an inspirational style as in giving you an inspirational speech, but it was more inspiration by example.

It was kind of an entrepreneurial approach, I mean, let's find the problem, let's figure out a solution to it, let's get it enacted. The senator was not interested really in just putting in a bill for the sake of putting in a bill generally, he really wanted to get things done. He was also a very good, what I call an executive temperament, a very good delegator, and because of that he was able to multiply his effectiveness many fold because he relied on the staff to do lots of things that other senators felt that they had to do themselves.

BW: How did he inoculate himself, might be the word, from, or how did he deal with being the sort of poster boy for the far right?

DN: Well, I think that sort of came with the territory, of being the poster boy for the liberal

left. But I think the way he dealt with it was really, and it came out of his own personal approach to problem solving, first of all he was a very charming guy, and on a personal level he had good relations with almost every member of the Senate. I wouldn't say a hundred members liked him, but it was pretty close, just about everybody who knew him personally in the Senate liked him, no matter how antagonistic they were to many of his views.

And then as a legislator, he was immensely skilled, he was just skilled at mobilizing the public, he was skilled at mobilizing the groups, he was skilled at framing the issues, and he was skilled at working out solutions with people who had very different views of the issue than he did, so he just managed to put it all together. And to be honest, even with the right wing Republicans, there was sort of a kick out of working with Ted Kennedy, there was that Kennedy mystique, and so he would call them, I mean he was very assiduous, if somebody was sick he would call up and see how they were, and he did that with the staff, did it with a whole circle of friends and acquaintances, he also did it with members of the Senate. Orrin Hatch talks about the fact that when his father died, Senator Kennedy was the only member of the Senate who showed up for the funeral, and that was kind of a typical gesture on Senator Kennedy's part and people appreciated that.

BW: What about the fortunes of health care under Bush the First?

DN: We were in kind of a building mode. Really, in 1980, about '85, they'd sort of traditionally put in the universal health insurance bills every year, because it had been so active in the seventies, and he got closer in the early seventies with Nixon, then he had a huge fight with it over Carter's failure to do it. When I got there in '83 we initially didn't put in a bill, because I didn't think there was any point, it seemed so remote with a Republican Senate, Reagan in the White House, huge deficit balance. Then after a couple years we noticed that although the recession was kind of ending and jobs were coming back, health insurance wasn't. There had been a spike in the number of uninsured during the recession, and it didn't go back down again when the jobs started coming back.

So we thought it was time to get things going again, and in 1986 we developed, and then I think introduced in '87 the first new kind of approach to this problem. It was totally novel, Nixon actually had something like it in the early seventies, but a new approach for the senator, which was to have an employer mandate to provide coverage, which obviously didn't have much budget impact, because of the anti-tax sentiment and the big deficits.

We reported that out of committee, first time in the history of the U.S. Congress that any bill that was close to universal health coverage was reported out of any committee in the Congress. [We] introduced another bill in '89 that was similar, except that we now had a program to take care of those people who were not employed as well, so it was truly universal coverage. I think we did that with Congressman Waxman as the co-sponsor, also reported that out of committee.

And then we did the same thing again in '91, and in there someplace, the focus was on trying to build momentum. I think Kennedy didn't take it to the floor – in retrospect, I wonder if we

might, maybe we should have – but we didn't take it to the floor because we didn't think we had the votes and we wanted to keep building till we had a more realistic chance of getting it passed. He did a tour on health care in America, went around the country and did press and stuff at every stop, we put out a little book reporting the findings, we had a lot of hearings. I mean those kind of speeches, the kind of activities to build interest and support. We had a couple hundred groups who endorsed each of those bills, so we had some traction.

The issue got momentum in two ways, beyond what Senator Kennedy was doing and beyond what was happening in the country. Harris Wofford campaigned on universal health care, as you probably remember, and when he was elected that really sent kind of shock wave about, gee, maybe the politics of this issue are finally beginning to turn. The Pepper Commission also, Claude Pepper put a clause in one of the reconciliation bills, saying that he had to have a commission to study universal health care and long term care, and that produced a report that, it really was based on what we'd done, it was an employer mandate but it had a new twist, which was a pay-or, the so-called pay-or-play system. But that got a somewhat broader group of legislators involved that hadn't been involved previously.

And Senator Mitchell, and I've now forgotten whether it was primarily driven by the Wofford thing or the Pepper Commission or some combination thereof, I'm sure Kennedy lobbied him on it privately, although I don't know that, I can't remember whether that was true for a fact, set up a working group within the Democratic Caucus to develop a Senate bill, a Senate Democratic universal coverage bill. Don Riegle was the nominal chair, and we produced something that was pretty much tracked, the Pepper Commission and what we had done previously, and that was the bill that we reported out of committee in '91.

And then of course Clinton picked up the issue, took the employer mandate approach and that made it a big issue in the election, you remember, 'it's the economy, stupid,' and don't forget health care, and then you know the rest.

BW: Was Bush One committed to supporting the plan?

DN: Bush One I think was feeling the heat, which I think showed that the issue was gathering some velocity. And he described a plan of his own, the details of which I've now forgotten, but I think it was basically a subsidy scheme for low and moderate income people. It actually wasn't that bad in retrospect, but I don't think the Bush administration really took it that seriously, it was more an electoral thing, they never actually drew up the specifications for a bill, and they never identified a financing source for it. Did a fair amount of work on it over at OMB, but it was never really something that he pushed, it was more kind of like a rhetorical response to say I've really got something.

BW: Did Bill Clinton come to health care as a political strategy, or with a real sense of commitment, and was Ted Kennedy a player there at all?

DN: Well, I think he came to it as a political strategy, but became committed to it. I don't

think as a governor health care had been a dominant interest of his, although I'm no expert on where Clinton was previously. And Kennedy was not originally enthusiastic about Clinton during the original nominating process, because Clinton had been involved with the New Democratic Caucus, I've forgotten what it's called, the Democratic Leadership Council, something like that, which is very, very critical of what Kennedy thought was the nature of liberalism, and Kennedy resented that I think, to some degree.

But he came to, as he does with just about everybody, he very quickly established a relationship with Clinton, I'm not sure at what point it began. There's a good summary of some of it in a long article for the *New Yorker* that was done by, gosh, I'm blanking on her last name (*Elsa Walsh?*), and I'm sure you can track it down, it was a very long article about their relationship, it was really about the relationship between Clinton and Kennedy.

BW: Recently?

DN: No, it was back during the Clinton administration. And he established a good relationship with him, and he was of course delighted that Clinton picked up the banner of universal health care. And I remember when, after Clinton gave his State of the Union speech, the first State of the Union, when he announced that he was committed to universal health care, he came over to see Kennedy, as he was walking off the floor, and Kennedy said, "I've been waiting twenty years to hear a president say that."

BW: Right. Let's turn to the Clinton health plan, and let me get your reaction first of all to Broder's and Johnson's book, *The System*. Did that seem to cover the story pretty well, or did you -?

DN: They did a terrific job of doing the political events. I thought they overplayed the complexity of the plan as an issue, I don't think that really was a driving feature on what happened, but they did a pretty good job.

BW: So you would, there was nothing in there that you felt needed correcting, other than there could have been a -

DN: Other than that, yes.

BW: Change of focus. So rather than going through it step by step-by-step, I think I'd like to start out at least by asking you, what did it look like from your perspective, and what sort of vivid memories do you have from that?

DN: Well, boy, it was like a marathon race. A lot of the memories are being up till two in the morning, night after night after night. Kennedy, unlike just about everybody else, except Waxman to some degree, he felt that the First Lady and the president decided on this White House process which people criticized so much, and they offered that any member of Congress who wanted to be part of it could be, and Kennedy took them up on it. Waxman, as I said, was

the only other one who really did it in any significant way.

So, I was really working two jobs. And I had a big staff then, we'd never had much paid staff, but I got a lot of fellows in, detailees to help us, who were all very good people. And we were all working two jobs, we worked in the day time for Senator Kennedy, and we'd go up there in the afternoon or evening for the tollgates and the work of those task forces, so we were very heavily engaged. And I ended up being in kind of the outer edge of the inner circle, so after the thing had been going on for a while, Ira [Magaziner] started having kind rump meetings in his office with basically five or six of the top administration people he relied on, and I was usually there. I'm sure there were meetings I wasn't in but as Kennedy's representative I was given a privileged position in that process.

So as I said, working these incredible hours, I mean for this whole process before it even moved up to the Congress, and I remember one night, I think it may have been later on, but I remember stumbling to my bedroom at like three a.m. and my wife was asleep and she heard me, I bumped the door or something, she said, "Who is there?" I said, "It's David." And she said, "David who?" which was sort of emblematic of what was going on.

A couple other memories in terms of Senator Mitchell, I thought he was an absolutely brilliant man. I remember a couple meetings with him and Senator Kennedy, trying to figure out where they went from there, the markup course went on for two-week markup, stumbling out at the end with a brief moment of elation when we voted the bill out of the committee with Jeffords' support in addition to the Democrats, immediately quashed by the Finance Committee, starting their markup and screwing everything up. I don't know, it was just a very, very long process with lots of different events associated with it.

BW: Were you assigned to particular part of the task force, it was divided up into so many different working groups?

DN: Well, because I was Kennedy's primary representative I was on a couple of the individual working groups, but I was more in the plenary, in the small group activities. I think I volunteered for one other benefit package where there was a lively fight over whether we should ration care, which was absolutely ridiculous politically, but he brought in all these academics who didn't have a clue about, I mean Ira knew, he sort of quashed that but we spent a number of hours on that thing.

And then I was in the health professions ones for a while, because again, the guy who ran it was a lovely guy, a very nice guy, I'm blanking on his name now, but very committed to primary care training, which we do need more primary care but on the other hand, all these Massachusetts, in the business of training super specialists so you don't want to disadvantage them, so I felt I needed to be on that one. And then I had staff members in lots of the other ones. I was in the cost containment one for a while. We bounced around a lot.

BW: Were you mainly there to collect information and report back to the committee, or were

you actually -?

DN: I was there to be Kennedy's guy and to try and shape it in the direction that he wanted or we thought he wanted or, whatever.

BW: And since he signed up to participate himself, what was his role?

DN: Well, it was really sending your staff up, these were staff levels. He independently was talking to Clinton and Mrs. Clinton, he established terrific relations with them, again, you'll see some of that in that *New Yorker* article when you find it. And he's working with Mitchell, he's talking to other members of the caucus, he's mobilizing outside groups, he's doing his typical Kennedy routine. I'm not sure at what point we started, but we had weekly meetings where we convened all the lobbying groups who were supporting the plan and trying to talk strategy, and he usually wasn't at those meetings but every so often he'd come by and give them a pep talk.

BW: So would I be correct in saying that at first there was a lot of optimistic enthusiasm for this?

DN: Yes.

BW: And did things begin to sour before something was sent to the Hill, or not?

DN: Well, I think we felt that the delay hurt us, and there was a sense of public opinion slipping away from us and the momentum dissipating, you could see it in the polls, for example. And the 'Harry and Louise' stuff I think had a, people have argued about the impact, but I think it had a pretty profound one. And then there was a shift in the Republican Party positioning so when we, at the beginning, the early months, you could just see all the interest groups weren't fighting it, they were figuring out how they could make a deal to protect their interests, because it had this aura of inevitability. And the Republicans totally didn't know what to do. Dole appointed Chafee, who was the most liberal Republican probably to – except for Jeffords – to be the leader of a Republican task force. That was a way of keeping Chafee from jumping over to Clinton at that point, but they were really back on their heels and didn't know how to handle it.

As public opinion began to shift, there was also a decision within the party, there was this famous memo by Bill Kristol, 'do you remember memo,' yes, and I think that most members of the party followed that approach. Not all of them, I think there were some that really still wanted to make a deal but you could feel that the momentum had changed a bit. But we were still, I would say, relatively optimistic going in, going into that fall. Nobody thought the game was lost or anything like that.

BW: I interviewed [Senator Jeff] Bingaman this morning, and I asked him whether part of the opposition from the Republicans was just sort of because they enjoyed the thought of stymieing Bill Clinton. Did you think that was part of it?

DN: Oh yes, well the Kristol memo, as I said, the predicate to getting a Republican House is to keep Clinton from passing a bill, and I think people bought that. And you know Packwood's statement toward the end: we've killed health reform, now we've got make sure our fingerprints aren't on it.

BW: Did Ted Kennedy ever let down his hair with you and show frustration as things were going on?

DN: No, no.

BW: Because that would not be his way.

DN: That's not his style, no. Whatever he was feeling internally, every moment with the staff was figuring out how to do better, how to get it done.

BW: So talk to us a little bit then about all these different iterations of the, as various people were trying to save the issue and deviated from the Clinton White House plan.

DN: Well, that was an interesting thing with Mitchell at the end, when they were actually finally bringing the bill to the floor, health committee reported out something, it was pretty close to the original bill. Finance reported out a bill that was more like the mainstream bill. Mitchell I think was counseling the White House at that time, he was saying, you're not going to – the employer mandate was the biggest sticking point, biggest problem in the bill – and he was counseling the White House, "You're not going to get it, and let's back away from that and pass a bill that's got a generous subsidy scheme and move people toward." And for whatever reason, his advice was not heeded. Maybe because Clinton had made that veto threat: it's got to be universal coverage. So what they ended up with was kind of a compromise thing that said: we'll try a voluntary approach, but if that doesn't work after such and such a period of years, then the employer mandate comes in.

And Mitchell is a good soldier, he felt the president was the leader of the party and he needed to follow his wishes. I think at the point that that discussion was going on though, that the thing was probably not, although we didn't know that at the time, in retrospect I think probably it was unsalvageable, and even if they'd gone the Mitchell route, it was too late, the lines were too strongly drawn.

BW: Mitchell would not have been able to keep the Finance Committee from issuing their -

DN: No. He was very frustrated with Moynihan. At one point he said to Kennedy - We thought our bill was going to be the forward vehicle actually, but then for a variety of procedure reasons they couldn't do it. And I remember Mitchell saying, "I want you to do it, Ted, I can't work with the other guy," meaning Moynihan.

BW: Did you ever have dealings with Senator Moynihan?

DN: With what, Senator Mitchell?

BW: No, with Moynihan.

DN: Oh, Moynihan. Well yes, we went in to see him, I dealt with his staff primarily. We went in to see him, and when he'd meet with Kennedy he was all sweetness and light, 'there's enough here for you and me, Ted, we'll work together.' Then we had this huge fight where they tried to prevent any portion of the bill being referred to us, so that Finance could dominate it. Every time the guy opened his mouth in public he did something else that undercut the effort to pass the thing, and his staff was just terrible. I don't mean terribleness as in being dumb, although a couple of them, to be honest, were not very bright bulbs, but Larry O'Donnell, his chief of staff, I guess, yes, Lawrence O'Donnell, was just like the Prince of Darkness. His goal in life seemed to be to elevate Moynihan at the expense of everybody else, including the ability to pass a decent bill. It was just really very difficult to deal with him.

BW: So part of the story is really the story of personalities.

DN: Yes. Well, it always is.

BW: And you say that as having spent many years up there.

DN: Yes.

BW: What was Chafee like, and what's your take -?

DN: Well Chafee was the kind of, that was an interesting story, and somehow we've managed to, I think Dole was very smart to appoint Chafee to that task force because that made it very difficult for Chafee to move early to work with Clinton and Kennedy, and even Moynihan, I suppose. He had a very good staff, and they managed things very shrewdly but the problem was, the shrewd management ended up in keeping something from happening, instead of producing a bill. Their goal was to maneuver the so-called mainstream. Originally they were representing the Republican Caucus, and they got the caucus on a bill that now, in retrospect, now looks pretty good, although again, if there'd really been a possibility of moving it, it wouldn't have moved, I mean Chafee was sincere, but most of the guys who signed on to that bill were not.

And then when the Republicans jumped off and later Dole put another bill in, much more modest, and Chafee had convened this mainstream group and did a terrific job of keeping them together in the sense of not making a deal with Clinton, the theory was to get Clinton to come to them, or get the Democrats to come to them, and they were able to really dominate the Finance Committee markup. But they couldn't make it happen, you really can't make these things happen from the center. What you can do is if they had they decided to, said, "Okay, we're going to support the Democratic bill if you make x, y, and z changes," if there'd been that clear a commitment, they might have gotten those changes, particularly when it became clear to the

Dems that they weren't going to be able to pass the bill. But they weren't willing to do that.

The Republicans in that group, to be honest, would have dropped off had that deal actually been made. Chafee wanted to introduce the bill after the, just put it out there, the bill that they'd agreed on, and he couldn't get any of the Republicans to go on it when, if you were actually going to drop it.

BW: Which was the amendment you mentioned?

DN: I said, "Look, if you're willing to take these changes, we'll vote for the bill." Democrats might have taken it at the very end, they were so desperate.

BW: Bob Kerrey, were you witness to the blowup between him and –

DN: Yes.

BW: Talk about that for a moment.

DN: Well, I don't know, it didn't seem to me quite as big a deal as people made of it afterward. Kennedy was very frustrated with the mainstream group, and he was particularly, he's smart, he's very action-oriented and he knows you've got to move things along, and basically the mainstream group was diddling around because they couldn't figure out really quite a cohesive position, but they were blocking everything else from happening. It was like, 'we won't vote for it because we're negotiating in the mainstream group, but was also we won't come down.'

And one of these caucus meetings, Kerrey made this kind of sanctimonious speech, I've forgotten exactly what the thrust of it was. And then Kennedy said, pounding on the table and said, "You're the one who's hanging it up, you're the one, I want you to sign. Are you with us? What are you going to do?" And Kerrey, as I say, had this very, I can't even remember the substance, but it was a very sanctimonious tone, like we're the good guys and you guys are just obdurate partisans. But they weren't producing. And Kerrey just snapped back or something. They actually were very good friends as I remember.

BW: Something you wrote, the thought was that with the continuing trouble of passing substantial and universal health care, the problem is not getting the politics right.

DN: Yes.

BW: So expand on that, or develop the thought.

DN: Well, as you grow older you become a little more mellow about some of this stuff, but that was the way Kennedy always kind of was, but you're a policy guy like I was, and there are policy guys all over this town, sitting in different congressional offices, and they think, 'oh my

gosh, this is the best way, this is the best policy, I got to fight for that.’ And the fact is, if you think about universal health care, there are lots of different ways of doing it, just look at other countries, it’s not like there’s a one, there may be a one best answer, but there’s no answer that’s the one and only answer.

And so what’s kept us from getting the job done, and I’m hopeful that we’re going to make it on this current round, has not been: gee, we just haven’t figured out the right policy and persuaded everybody to back it. It’s: we haven’t somehow figured the politics out to get it done. It isn’t an issue of a program design, except insofar as that reacts on politics. And you also don’t have to get it totally right the first time. I remember back during the Clinton period there was a brief vogue for the German system, which I have now forgotten what it was but at that time there was a very good report, the *Boston Globe* did a series on it and people were really interested, and maybe they’ve found a way to solve the universal health care problem.

So I went up to this seminar that they had at the Goethe Institute in Boston, [] House, [] where a bunch of guys from Germany explained the system. And somewhere in the course of the description, somebody happened to mention in passing that they’ve had fourteen major reforms of the system in the last sixteen years, so I figure we [don’t have to get it exactly right the first time].

BW: Let’s focus on, well, anything else to say about the ‘93-‘94 (*unintelligible*).

DN: Well, it’s all been said by others. One of the things that’s interesting is how much this group learned from the mistakes of ‘93-‘94, and didn’t make them again, and I think that’s one of the reasons we’re successful, plus the fact that we’ve got sixty Democrats in the Senate is also a big factor.

BW: So you’re fairly sanguine about this.

DN: Yes, it’s going to happen, I’m convinced it’s going to happen.

BW: And you think they did learn a lot by -

DN: Yes, it was interesting. Dave Durenberger got somebody to fund him and he had a reunion of a lot of the staff people who worked on the health care program, up in Minnesota last fall. I believe it was before the election, maybe after, I can’t remember if it was before or after the election, but it was around that time, and both Republicans and Democrats, and the exercise was to develop a set of recommendations for the next president on health care reform, focusing on process and substance as much as on process and tactics. And they had about eight recommendations, [] [and] it turned out that this administration followed just about all of them. So it was: do it fast so you don’t lose your momentum, (didn’t do that with Clinton); try the best you can not to alienate any major interest groups, the last thing you need is more opposition, which they’ve been very good at corralling interest groups. I’ve forgotten the other ones.

BW: I think there were, this was at the University of -

DN: Don't do the bill yourself, let the Congress do it and work it out, make a lot of these deals. You notice how deferential he's been to the Congress.

BW: Maybe even too much so, do you think?

DN: I don't think so. There's a point where he's got to move in but I think it's probably about now, and I think he's doing it.

BW: Let's shift focus now a little bit to Mitchell. In '88, do you think Kennedy saw George Mitchell emerging as the appropriate leader for the party?

DN: Well he supported Dodd, wasn't it a Dodd-Mitchell race?

BW: No, that was Daschle-Dodd, in '94. It was Inouye, Bennett Johnston, and Mitchell [in 1989].

DN: You'd have to check with somebody else, but my vague memory is the senator did not make a cut on that until very late in the game, too late to have really gotten maximum influence out of backing Mitchell. I know he had a great deal of respect for him, and as leader, as he seems to with virtually everybody else who gets into a position to be important, he established an extremely close relationship with him. I think Mitchell's a very, extremely brilliant guy and somebody who takes his own counsel more than anybody else's, but to the extent that he listened to anybody, I think he listened closely to Senator Kennedy.

And I remember it used to drive the Mitchell staff crazy, where they'd think they got a course of action worked out, and then Kennedy would kind of drop by after hours, off the floor, have a little chat with Mitchell, and Mitchell would come out with a different view, because he would find Kennedy's counsel persuasive.

BW: That, probably not too many senators had that influence over Mitchell.

DN: I don't think so, no. Mitchell was a very internal, inner directed guy. It's interesting that a guy with that personality became leader, because the leader's got to keep the caucus together. I think Mitchell did it to a significant degree by force of intellect, he'd listen to people and then he'd figure out how to thread the needle; a less open personality in many ways, I thought, than Daschle, but very effective leader nonetheless.

BW: How would you characterize or describe the Kennedy-Mitchell relationship?

DN: Well again, I didn't perceive it that directly, because they would [have] a lot of private chats. I think Kennedy was deferential to Mitchell, as he would have been to any leader. I believe Kennedy had tremendous respect for Mitchell, he thought he was an extremely smart

guy. He was also attuned to Mitchell's moods. For example, we might have talked to him, he just figured out what direction he was going to try and move Mitchell on, on some issue, and he'd come back. And we'd ask him what happened, he'd say, "Well I didn't talk to him, I could tell George was just as tight as a drum after what had been going on on the floor; it wasn't the right time to talk to him."

And I think Mitchell in turn, although again, you can probably get this better from people who were on Mitchell's staff, again, he was not a guy who would be pushed to take a direction unless he thought it was the right one, but I think he really valued Kennedy's counsel.

BW: Did they do any -

DN: He also recognized Kennedy also represented a very significant block in the caucus.

BW: Were they sailing pals at all?

DN: I don't know.

BW: You don't know, right. I was going to ask you about Mitchell's particular role on the health care, but I think you've pretty well said it already. Maybe summarize?

DN: Well, yes, I think his view was, he viewed it as an incredibly important historic issue, and I gather, although I didn't know this from direct knowledge, that he turned down a, he had planned to leave the Senate but then decided to stay to try and do this job. And I think he wanted to get the job done, he believed he owed it to the president to follow his wishes on this last decision that I described to you. He acted as a broker on some key decisions on the shape. I know he made a deal with AARP to get drug coverage in there as part of the price of getting their support, and that was something he did that was outside the committee process. My guess is when we had the jurisdictional fight with Moynihan, my guess is that he may have spoken privately to the parliamentarian to urge him to consider our viewpoint, but I don't know that for sure.

I know, that was a hell of a story, too, not Mitchell related directly, but we had persuaded the parliamentarian, I think rightly, that the section of the bill dealing with the employer mandate was really the Labor Committee's jurisdiction, and insurance reform, and the bill was still going to the Senate under the Rule of Preponderance, because if it has any significant tax matter it's automatically considered, the Finance is the preponderant committee, and this bill had some tax matters as well as Medicare.

So we wrote the bill, we wrote a sub-bill that included everything but the Medicare and tax pieces, and our thought was that we would be statesmen, the Moynihan bill, the president's bill being introduced referred to Finance, our bill would be introduced, which was the president's bill minus Medicare and tax, being referred to Labor, and the parliamentarian, he'd listened to the arguments, heard the briefs. And as I say, I think Mitchell may have spoken to him privately, []

and [we] concluded that we were right on the merits.

So it comes time to introduce the bill, and I guess Moynihan and Packwood hadn't bothered to check with him, they just assumed they would get it. And they saw this separate bill that we were doing and they asked him, and he said he was going to refer it to Labor, and they went absolutely nuts: "We're the Finance Committee, it's financing, it's an employer mandate," and it was really Packwood leading Moynihan around, it was kind of a joke, Moynihan was the chair and Pack was the ranking member. And first they'd come over and they'd harangue Kennedy, then they'd harangue the parliamentarian, then they came and harangued Kennedy again. Then they used Rule 22 to block referral of the bill to our committee, and Kennedy decided he'd be statesmanlike, he wouldn't block referral of their bill to them, we'd just introduce it, we could just do our thing as an original bill in committee. But it was kind of a funny scene.

BW: Absolutely. I wanted to ask you a little bit about your observations on the role of staff serving a member. And I remember someone, where I was reading, that in some other totally different issue Packwood had allowed his legislative director to speak for him, and that this was so unusual, that the voice the media heard was the staffer, not the member. What was your sense of Kennedy's expectation, and how did you conduct yourself in terms of that relationship?

DN: In terms of dealing with the press?

BW: Going to press or, yeah, I suppose primarily with the media, yes.

DN: Well, I did a fair amount of press interviews to explain the policy, and occasionally I quoted, but the general thought was that the senator ought to be the one who was quoted in stories, so we were giving them his statements. And we often would cook up a quote if there was a point that we wanted to make, we'd do the background about point we wanted to make. We'd say, "Would you like a Kennedy quote that makes that good?" And they'd say, "Yes." And you'd say, "Well we'll go talk to the senator," and then of course we'd just write it and run it past – Kennedy's LD was sort of his alter ego – and then give it back to the reporter as a [quote]. I don't know if I ought to put that in a, well I guess it doesn't matter anymore [].

BW: That's right. So how do you think George Mitchell ought to be remembered?

DN: Well, I don't know the full scope of his career and activities in the Senate because I was so focused on health, but I would say he has to be one of the most skilled majority leaders, certainly my time in the Senate, and certainly probably one of the brightest ones who ever held that position, in terms of intellectual capacity. A guy who I think, like Kennedy, was very committed to the public welfare and to doing the right thing for the American people, he had a great sense of integrity, whenever you spoke to [or] dealt with Mitchell.

I'm not sure what else to say. Again, I can't speak to legislative achievements too much because I wasn't that close to him. I know he was the Health Subcommittee chair on Finance for a little bit, before he was the leader, and I know he was the leader on something that Kennedy

championed as well, which was getting the espousal protection for the non-institutionalized spouses, which I know was a significant legislative achievement.

BW: Anything else we want to cover in this?

DN: I don't think so, you hit a lot, and it hasn't been that much about Mitchell but I've given you most of what I could.

BW: Good.

DN: And a little bit about the Kennedy relationship, which I hope is helpful.

BW: Right. I guess I'd like to end just by some of your thoughts the last month or so, with Kennedy's passing.

DN: Well it was very personal, for me it was a very personal event. He was, except for my family, probably the most important person in my life, to be perfectly honest, and I just can't tell you how much I admired him and respected him and felt affection for him. And while I knew he had incurable cancer, there was some emotional level at which I didn't think he was going to die; he's always seemed so indestructible. So it was very hard, it was really quite a shock when he actually did pass away.

At the same time, I thought that the memorial service before the funeral, the trip to Arlington Cemetery, the press coverage, the crowds lining the street, really were such a wonderful tribute and recognition of him as a human being and as a public servant that in a way it was cathartic and helped deal with the loss, and gave him the kind of recognition that he really deserved. And the outpouring from people of all different political persuasion was so wonderful, particularly since, as you point out, he'd been such a, for so many years he'd been such a demon figure for many on the right.

BW: Well good, thank you very much.

DN: Okay, thank you.

End of Interview