

Programme OPERA – ENTRETIENS

Entretien – santé n°25

Pour citer cet entretien : Beaussier, Anne-Laure, Entretien santé n°25, Programme OPERA (*Operationalizing Programmatic Elite Research in America*), dirigé par W. Genieys (ANR-08-BLAN-0032) (*insérer hyperlien*).

May 15, 2009

Responder: First, let me say that there has been, I think, an evolution over time in how Congress, as a legislative body, operates.

Interviewer: Okay.

Which means that some of the kinds of things that, today, are done are not as comparable to my earliest experience.

Okay.

Because when I-- I did work in the Senate, but we'll-- let me focus on the House. When I went to the House in 1986, and I worked there until '93, the end-- the beginning of the year '93, the Republicans had been in the majority-- in the minority in the House for-- well, at the end, it was 40 years, but basically, all but two years of my life at that time.

Okay.

So that there were moderate Republicans on the Ways and Means Committee like my-- one of my principals, a guy named Bill Gradison, who was a Congressman from Cincinnati, who was the ranking member on the House Subcommittee during that period, meaning he was the Senior Republican. He-- on that subcommittee, got along very well with a fellow named Pete Stark, who was chairman of the subcommittee then, and actually is chairman of the subcommittee now.

Yes.

Pete's deep into his-- well, he's in his late 70s, but he's still (inaudible).

Yes.

And-- they were very close, and those kinds of relationships like that are much-- are fewer and far between today. They were more common then, because if you're in the minority long enough, then you spend a lot of your time-- you either are just against everything, or you figure out a way to work with the majority, and it's a little different model than the Newt Gingrich and post-Newt Gingrich Congresses. I would argue that even though the Democrats control today, a lot of the way they approach things reflects much more Newt's influence.

Now, I don't think they would like that-- they would admit that, but it actually-- and what I mean by that is, the centrality of the leadership, the importance of party discipline, and the leadership dominating the committee structure-- back in-- and that's different than it was back in the '80s and early '90s. When I was there, the-- you had Senate-- Congressman Rostenkowski was Chairman of the Ways and Means Committee for most of that period until he got into trouble.

Well, actually, that was after I left that he had to leave. But, the committee chairs were the powers, and the leadership sort of guided them and herded cats there, so they had-- but it was-- but today, it's completely different. Now that is the top, but that filters down all the way to staff, in a sense, because-- and the reason I gave this introduction is because when I worked in the Congress, on many pieces of legislation, because Stark and Gradison had such a close relationship--

With Pete Stark? Yeah.

I worked closely with the majority counterparts and actually, between '86 and '93, played a role in all the major health legislation. Today, the minority is frequently sort of locked out, and/or it-- and that's not true of all bills, but back when I was there, there was a fellow named Brian Biles who was the staff director on the House Subcommittee staff-- he was in for Pete Stark, and he and I would sit down and work out who was going to come to hearings, and we had a lot of hearings, and when we did the Medicare Catastrophic legislation-- did I talk about that before?

Yes, sure.

When I talked about-- really, I was very involved with-- it was a Stark/Gradison bill, and I was really involved with the design of that legislation. That probably wouldn't happen today, anything that big being considered in health on a bipartisan basis in the House. So, my world was different than-- now, the world when I went back to Congress in '95, '96, '97 into '98, when I was the House Subcommittee staff director, was much more like it is today, because today, the minority has-- in the House, has very little say about anything-- has-- I mean, there are non-controversial bills, but basically, in terms of any major legislation, it's usually partisan in the House and the minority is coming up with talking points as to why whatever the majority wants to do is bad.

Okay.

And that's partly-- it can turn out to be a PR activity, or it-- a public relations activity, or it can be somewhat substantive, and you're trying to make points, either parliamentary points or policy points with the media, but basically, you're the loyal opposition and not the-- you don't really-- you get along with the majority, but it's not-- I mean, people figure out a way to get

along, but it's an adversarial kind of thing, whereas, in my experiences in the House, it was a collegial thing, and it was really a stark contrast.

Do you think it's better for policymaking process? Do you think it helped to enact laws or bills or do you think it's much more difficult now?

Well, no, I think it's actually-- well, I sort of like parliaments, so I think the House now behaves more like I would envision a parliament to behave. Now, it doesn't have a Prime Minister, but the Speaker is very, very powerful. Now, she's just the leader of the House and Dennis Hastert was just the leader of the House, and Newt Gingrich was just the leader of the House, but I think, in the case of those three individuals, they run it in a more parliamentary fashion, so that the question of whether a bill that's at all controversial-- now, there are many, many bills-- there are many, many issues that are not controversial, that Republicans and Democrats work together on.

But, actually, are you-- I can't remember. Are you interested in process generically, or just-- or does this come from health?

Health. I'm studying the impact of Congress on health policymaking.

Okay. So, in health policymaking, when you're dealing with big delivery or entitlement issues, issues that are costly, that significantly change policy, they are generally adversarial.

Yes.

Now, when you get into some issues related to the Food and Drug Association or the National Institutes of Health or some other areas--

Public health?

Public health. Unless there's some divisive issues that are involved, I mean, if the abortion issue is subject to it, if stem-cell research, I mean, there are things that can be part of some legislation that can make it strictly partisan, but generally, Republicans and Democrats both like to fund NIH.

Okay.

So, when I talk about-- my context of healthcare, I didn't work-- there were different parts of my career where I worked on some of those issues, but I generally worked on financing and delivery issues.

That's the part I'm interested in the most.

Which tend to be a lot more controversial, at least in the House. The Senate is really a different animal.

The Senate, yeah, they're working together, like in the Finance Committee.

They, they always-- in the House, the point I was going to make is that starting with Newt, although I think it predates Newt some, the issue-- on any issue, the question was, could you get a majority of the Conference-- they call it the Conference, in the Republican Party. In the Democratic Party, they call the aggregation of Democrats the Caucus. So, it's the Democratic Caucus, it's the Republican Congress.

Okay.

And in Newt's days, and in today, the first question the Speaker asks is, "Can I pass this bill in my own conference, in my own caucus?" So, it's a sufficient majority from the majority to pass the bill, which means that if you can get that, the minority doesn't matter, the minority party doesn't matter.

So, that's the way it's really worked since the early '90s. Now, I can't say that generally pre-'94, or '95, that there wasn't a lot of partisanship in the House. There obviously was. And two, that every bill, you know, was bipartisan. No way. But, generally, you had a few Republicans go along. In almost every bill, Bill Gradison was there, where Pete Stark was, all the way to-- my whole experience there, and that's a little different. Actually, when we finish, I'll show you some pictures up here. I have a picture of Pete Stark and a picture of Bill Gradison, so you'll be able to see what they look like.

So, I'm--

They were still partisan at that period, but not--

Yeah, I mean, they were different parties, they had different-- I'm sure their voting records on many, many issues were different, but on healthcare issues that were considered by the Ways and Means Committee, they were generally together.

Okay. So, has it changed a lot since the time that you were working first--

Well, since the early '90s, since Newt took over, on big issues, there tends not to be a lot of working together between Republicans and Democrats, and that was what I was describing when I said that staff today, on the minority side, are figuring out how to attack something, how to criticize it, how to generate interest against it, rather than working for it, and that's just the way the House operates, generally, and the majority guys, they're figuring out how to sell it, how to-- I mean, sell the policy to the public, you know, how to-- I mean, they're making the law.

And I'm just arguing that's more parliament-- more oriented towards parliaments, because in parliaments, you know, that's not always true, but in the UK's Parliament, unless there's vote of confidence, which does happen periodically, and the Prime Minister loses, otherwise, any piece of legislation is a foregone conclusion, and the executive, the Prime Minister's cabinet or the department, the health department, or whatever, is writing the bill.

Yes, that's right, in France, too.

So, here, there is a separation of powers so that there is interaction between the executive branch and the Hill, and if they're of the same party, the majority part in the House and in the

White House, usually that's intimate-- they're intimately working together, and the Health and Human Services Department will provide technical support, and the members will care what the President and his staff think, and there will be negotiation-- positive negotiation.

Even when there are different parties, they-- the White House finds ways to work with the majority in the Congress periodically.

For instance, for the BBA 97.

Well, BBA 97 is an example, the Health Insurance Portability and Accountability Act is an example, and actually, Medicare Catastrophic is an example, because back in '88, both the House and the Senate were Democrat, and the Reagan Administration negotiated with them, and Secretary Bowen, Secretary of HHS, was the lead negotiator for the administration.

Okay.

So-- but the administration is a player and provides both policy and technical assistance and can negotiate because, ultimately, the President has to sign the bill that's going to be enacted, can negotiate-- but the President usually gets, you know, X number of wishes. He's not dictating the bill, generally, and so the-- that's where the key members and the staff have their own experts that they have-- in case of healthcare, or in Medicare, there's the Medicare Payment Assessment Commission, MedPAC. Are you familiar with that?

Yes, I have met someone from MedPAC last year.

Right, and so, MedPAC is really a Congressional animal, and they advise-- they also do some assessment stuff they give the administration, but basically, MedPAC exists to advise Congress on Medicare policy, and some Medicaid policy and some other kinds of health policy, so, that's sort of un-parliamentary-like, because it's like they have their own advisory bodies separate from the executive.

In France, for instance, they don't have--

Yeah. So, the separation of powers is not-- there's not a stone wall between the two, but there is a distance that is un-parliamentary.

Okay.

And that's important, because in the defeat of healthcare reform in '93 and '94, I think the administration overdid their own policy development by coming up with a bill and every jot and tittle of the bill, and the guys on Capitol Hill, their attitude was, "Well, we write the bills, what is this?" That's not to say bill language is never sent from the executive to the Hill, but I'm just-- and sometimes it's requested, but it was a big mistake on their part to get so in-- an administration cannot afford to get so committed to its own language that it can't be flexible, because at the end of the day, they've got to pass the bill up there before it goes to the President.

Okay. Would you say that under the President Bush period, in 1997 and 2003, the approach was different, or they just set up guidelines, just like President Obama is doing?

Yeah, I would say in '93, I mean, in 2003, when they passed MMA, the Medicare Modernization Act, that you had a Republican Congress, and the President, as you say, developed some sort of guidelines that he wanted to see met, and he provided what we refer to as presidential leadership. Presidential leadership is important. Presidential leadership is moral leadership, like the President-- like Obama is doing now. He's not saying, "We have to have a public option," although he's not against a public option, might be for a public option, he's saying, "We've got to have health reform, and we've got to reduce healthcare costs," and he's having-- and, you know, two days ago, he had an event where he had the speaker and the committee chairs of the health committees from the House and on the White House lawn, I think it was, and he said, "I'm glad the Speaker's here today, and she's pledging to get this bill through the House by July 31," or something, that was the message.

So, the President is important, because, also, when it gets down to the bill itself, and they've got the bill, and they have members that may not want to be for it or have problems, or they need to do some kind of negotiation, it's-- the President gets on the phone and calls people, and can be very involved.

With MMA, I'm sure they had President Bush very involved, personally.

Yeah, calling, and, yeah.

Yeah, and sometimes it may have something directly to do with the bill, sometimes he'll say, "Oh, by the way, we can put that post office in that town," I don't think that-- we don't give away post offices anymore, because I guess the post office is independent, but--

Hospitals?

Hospitals, not too much. It might be a, you know, it might be a park or a bridge or-- there are things that, you know, or-- there are different things the federal government, you know, or that new office building for the Census Bureau, you know, we hadn't decided where we are going to put it yet, we could put it in your district.

I mean, there are things that are done like that, I'm sure that happens in every country, where to get votes--

It's like trade negotiations.

Right. I wrote in a note to someone today that this is a transactional city in the sense that-- and Congress is transactional in the sense that you-- if you want to do something, or if somebody wants you to do something, then there's usually a transaction involved. If you voluntarily say, "Well, we're going to go do X," you know, if-- like what happened on Monday, if the hospitals and the doctors and the pharma and the device-- medical device people and the insurers say to the President, "Well, we're going to go save \$2 trillion," which was the dumbest thing they ever could have done, and the President says, "Fine, I accept."

Then, when people go to the Hill and they say, “Well, you said you'd save \$2 trillion, so that must mean that we can do whatever we want up here to you.” So, any good deed goes-- no good deed goes unpunished, and anything you say you could do voluntarily, in this country, a legislator can say, “Well, gee, if you don't want to do it voluntarily, then why don't I just mandate it, and we'll just be sure that everybody will comply.”

Okay.

So-- but I'm getting off on a tangent there. The Senate's different because there is at least the - there is at least sort of rhetorically the presumption there that you need to be bipartisan. And I think I probably talked-- did I talk about Senate process at all last time?

Yes, yes you did.

You can see that today-- did you follow the budget controversy over whether or not they would do reconciliation?

Yes, yes, by the fast-track process--

Right. We only need 51 votes in the Senate, and so that makes the Senate a different animal, it's not a majoritarian body, it is-- and so for this bill, at least at this stage, it seems like they're trying to get a certain number of Republicans.

Now, they might be able to get the 60 votes even without the Republicans because of the results of the last election. So--

But you said rhetorically, so, you said that it was like rhetoric?

No, I--

No, I understand that you said that the Senate was bipartisan from a rhetoric part--

Oh, oh, because sometimes, when they talk about bipartisanship, it may mean that they have five Republicans. So, you know, true bipartisanship would be a vote of 80 or 90 or 100. That's when you've really got both parties. If you just pick up a few members-- when the stimulus bill passed-- when did you come back?

Oh, in March.

Okay. Well, the stimulus bill, I guess, passed before that. Was it February, or the beginning of the March? Anyway, the stimulus bill had three Democrats-- in the Senate, had three Republicans.

So, it was bipartisan?

Well, they called it bipartisan, but that was sort of a joke.

Yes, okay.

And now, one of the people that was one of the Republicans, Specter, who was the Senator from Pennsylvania, has even gone over to the Democratic side.

Yeah, I guess Specter switched, so it's like 59--

Right, and when Franken comes-- I assume Franken is going to win the seat in Minnesota, then it'll be 60.

So, majoritarian behavior?

Well, a little bit. It actually makes the moderate-- there are a few moderate Democrats, and so that makes them very powerful if they can't get any Republicans, because it means that now Ben Nelson from Nebraska, Blanche Lincoln, from Arkansas, Mary Landrieu from Louisiana, sometimes Senator Carper from Delaware, sometimes Senator Byrd from Indiana, those are senators that may have problems with some issues, they're more moderate.

Okay.

And that will affect healthcare, because they may have a problem with the public option, they may have a problem with the employer mandate.

Sure. How (inaudible) when you were in the Ways and Means Committee, how did you manage to get these votes and to get enough unity to pass this reform? I think it was, like, a very difficult process to get there? Did you work very closely with the leadership to do this?

Well, I would say, in my experience, from '95 on, that gets to my point about-- we did a Balanced Budget Act in '95, which President Clinton vetoed, and then we did HIPAA, and then we '97, which he signed. In '95, the Speaker-- there's cross-jurisdiction on certain programs in the House, so that the Ways and Means Committee, the Energy and Commerce Committee and now even the Education and Labor Committee, but the Ways and Means and Commerce both have jurisdiction on parts of Medicare, which-- and that got split up back in the '70s, when-- how are you-- are you going to write this up in--

Yes.

What you're doing you're going to write up in some way?

Yes. I am going to write that-- my dissertation.

Because there is some color. In '74, the Chairman of the Ways and Means Committee, Wilbur Mills, was a very important man, and he was the king of the hill. He was-- at that point in time, the Ways and Means Committee was as powerful as it's ever been. It was also, for the Democrats, the Committee on Committees, so the Democrats on the Ways and Means Committee chose the committee assignments for people. And-- so Wilbur Mills was really important.

And he wrote Medicare and Medicaid and a lot of other things. Anyway, he had a dalliance with a stripper, and he had an alcohol problem that most people didn't know about, and one

night, he was out with the stripper, and he went swimming in the tidal basin, which is over there, and got caught with the police. And-- he was totally drunk, and then it sort of came out-- and so at that point, in '75-- I think it was in '75, when Nixon had to resign in August of '74, there was this big-- you know, the Republicans were really in trouble, more in trouble than they were this year-- last year, and they lost all kinds of seats.

So, in '75, and I think that's when Henry Waxman really became first really known, the guy who's Chairman of the Energy and Commerce Committee today, they did a revolution, and I don't want to go into all the details of the revolution, because that actually had a lot to do with civil rights, because that-- and the Vietnam War. The Democratic Party really was moving to the left, and when they had this influx of members, many of whom never would have won if it hadn't have been for the Nixon scandal, they were very left, and, in any way, Wilbur Mills, after he did this-- embarrassed himself--

And these--

He lost-- I don't know if he resigned that year or the next year, but he basically was neutered as Chairman of the Ways and Means Committee, and I think he may have even had to resign the chairmanship, I can't remember. And, at that point, they split some of the jurisdiction, and they put Medicaid over on the Energy and Commerce Committee, and they put part of Medicare over there, and the Ways and Means kept part of Medicare.

Now, I can get into all the intricacies of this, but I'm not sure-- you could probably read it, and I'm not sure it's all that important today, but the point is, that it began a process where the entitlement and delivery programs had split jurisdiction, which meant that both committees ended up having to do work, which caused confusion for many decades.

But, with Newt, even though he didn't change the rules, on the big, important issues, he forced the Committees to work together. So, the Committee staffs, as well as the Committee members, on the majority side, worked together, and that follows through all the way to today, when Chairman Waxman of the Energy and Commerce Committee, Chairman Rangel of the Ways and Means Committee, Chairman Miller of the Education and Labor Committee are working together, and so all of their staffs are working together on a unified health reform bill.

That was just unheard of in terms of the long history of the House.

Okay-- how was it possible to force this--

Okay, well, it was partly-- it started in '94, I mean, '95, when I started back there, because Newt brought the people together and said, "I don't care about the committees. I don't even care about the committee chairmen." he didn't quite say it that way, but he basically sent that signal.

"We're going to have one piece of legislation." So, he basically forced everybody to work together. So, I had to work with-- unlike my previous years, or on my majority counterparts. Not that we didn't get along with the people that worked on the other committees, we got along, but we all had to work together as a unit.

Okay.

And I think, in terms of BBA '95, BBA '97, and HIPAA, in terms of the two BBAs, I managed the Medicare part, and in terms of HIPAA, I probably managed a good bit of the bill through the process, but I was working with everybody else, and we were all working together in terms of the majority on these different committees. But getting the votes, though, was more difficult on the Energy and Commerce Committee than on our committee, because our committee had a-- the Ways and Means Committee is such an important committee it usually has a supermajority.

And you don't get on the Ways and Means Committee unless you're going to vote with the majority. So-- and it used to be people were smarter who could understand tax law and would vote with the majority and were from safe seats. Now, they've reduced-- now it's people who are going to vote right, and they may not-- may or may not be from a safe seat, and the IQ has gone down.

[crosstalk]

Well, you can tell who is the-- I mean, you learn-- nobody goes-- on these key committees, on Ways and Means and on Energy and Commerce, and on the Finance Committee on the Senate, too, but also in-- no one goes there in their first term. It takes a number of terms before you go on those most important of committees. It turns out, health is in the jurisdiction of both those committees.

Okay.

Where am I-- am I answering your questions?

Yes, yes. You were saying that the Energy and Commerce Committee was-- it was more easy to get votes there than on the--

No, it's easier on the Ways and Means Committee.

On the Ways and--

For the majority, it's easier to get Ways and Means Committee votes. On the Energy and Commerce Committee, they tend to have a more-- it has more members, they tend to be more diverse on both the Republican and the Democrat side, and they don't have the same kind of party discipline there.

Okay.

Now, with the new Chairman, Mr. Waxman, who just became Chairman, and he kicked out Mr. Dingell, who had been the Chairman, and Dingell's another interesting character. He had-- he's the longest-serving member of the House, and he may be one of the longest-serving members of the House in the history of the House, and he was, I think, a little weak, and so Henry Waxman will be a lot stronger, so they'll probably be able to get the votes out of Ways-- out of Commerce now.

They have a lot of (inaudible) in there, like in the Democratic majority, like, the (inaudible) and--

They have more of a mix of those people on Energy and Commerce, from the different constituencies, than on Ways and Means, they always make sure that they have people who are going to be solid, even if they belong to one of those. You know, the black-- you see, in the Democratic Caucus, you've got the Black Caucus, you've got the Hispanic Caucus, you've got the Blue Dogs, you've got the New Democrats. There may be-- there are probably other groups, but those are sort of probably the big blocks, and everybody-- so, and then the progressives.

So, the progressives in the Hispanic Caucus and the Black Caucus are further to the left, and the New Democrats and the Blue Dogs are more moderate, but--

Okay.

It's hard to get all these people together, and that's what the leadership spends time doing.

What makes Dingell-- Waxman, the one more stronger than the other?

Well, from the standpoint of being a chairman, I'd say there are two or three things. I mean, one is, at least within their own party, I think Henry Waxman has spent more time, over time, raising money and helping younger members come along than Mr. Dingell did, probably. Second-- and he did it in a very organized, focused way.

Mr.-- and also, Dingell is a little bit old-style. Remember going back to (inaudible) '95, and more like in the Senate, but I think he's honest about it, there's more of a pretext of trying to do things in a bipartisan fashion, and he's usually friendly with the minority people, because he's been there so long, and it wasn't realistic, and it makes it more difficult, because at the end of the day, this important health legislation is usually something that most Republicans, and/or most Democrats, depending on where the bill is coming from, can't go with.

I mean, it's hard to believe in MMA that all the Democrats in the House basically voted against it-- I mean, not all, but a large-- most-- a preponderance, because it was giving people a new program, drug coverage they didn't have before, as well as some other coverage, but the Democrats didn't like the delivery mechanism and the way it was done, and so they opposed something that you'd think, "Gee, how can you be opposed to that?"

And the Republicans then were so ashamed of themselves after they passed it, for passing something that was so costly, that you could hardly find a Republican who admitted they voted for it, but a majority did.

It was, like, pretty hard process with opening the--

You know, every health bill that Republicans get involved in, and Medicare Catastrophic and MMA were the two real bills they got, where they expanded benefits or they expanded-- they did it because they felt like it was something important to do at the time, or it fit some objective, but they never really feel comfortable with spending more money.

I mean, Republicans generally are fiscally conservative. Now, they also want to cut taxes, so there's sort of this pull and tug between being fiscally conservative and cutting taxes, but they generally are extremely worried about increasing the entitlement programs, and so, even though they've done it twice on Medicare, I don't think they liked doing it either time, and they probably were much more comfortable in '89, voting to repeal Catastrophic, because that was more their natural stance.

I mean, they want smaller government, they don't want to spend money, they don't want to entitle the federal government to make any expenditures, and that's-- and the staff, in a sense, their job is to reflect what the members want to do and figure out how to do it.

Both in terms of writing legislation, devising ways to promote legislation, providing the kind of expertise on legislation that the members need to understand the legislation, and that's what the-- those are the kind of things the staff does, helping the members create a public record. That's what a hearing really is, is-- excuse me.

You must-- I'm sorry for-- your time-- you must be very busy now.

Oh, that's okay. Actually, I probably do need to go soon, but-- what else?

I had just a few questions. You told me that the Democratic Caucus had a lot of different views and members. Is that the same in the Republican Party? Whatever I read, they look just so unified.

Yeah, I would say the Republican Party is generally more unified in recent years. I think the Republican Party was more diverse, historically, than it is now, because of geography. It tended to have-- I mean, the Republican Party tends to have sort of two blocs. The very conservative-- I'm simplifying this, but the very conservative bloc and the moderate bloc, and frequently, those are geographic in nature, so that your Republicans from New York or from New England are more moderate, although you don't have that many Republicans from New York or New England any more, and your Republicans from Texas are more conservative.

Because of their constituency?

Their constituency, yeah, and culture, and what's tended to happen is that as the parties become more geographically based, with losing a lot of-- losing a lot in the Northeast and-- over on both coasts, except for Florida, it's generally been-- it is more homogenous.

Okay, there is not, like, the kind of thing like the Blue Dogs, or their equivalent?

Well, they have the Republican Study Committee. Their version of the Blue Dogs are the extreme conservatives who form a bloc, and then there's some that are called the Main Street Republicans, that are sort of the moderates, although they may call it the Wednesday Group, they all get together on Wednesday.

The Wednesday Group. Yes, it's moderate, or--

Right, more moderate. But they aren't self-identified. Well, the conservatives do self-identify with their little cabal, but in the Democratic Party, there's much more sort of ethnic identification. And most of the Blue Dogs are Southerners.

I can't remember why they call them Blue Dogs. They used to call them Boll Weevils at one point, many years ago.

Boll Weevils?

Boll Weevils. Those are the weevils that-- the Boll Weevil eats cotton, so the Boll Weevil is a bug that can destroy the cotton crop, and they used to call the Democrats who were these Democrats that were more conservative, back in the '80s, they called them the Boll Weevils. But they now call them Blue Dogs. They're sort of the same kind of guys. They morphed into the Blue Dogs from the Boll Weevils.

Okay. I will figure out-- try to find--

Yeah, it's a little more moderate, usually Southern Democrats.

Moderate, okay.

Now, there used to be, historically, see, the parties have really both become more ideological, but also-- the geographic distribution has really changed the nature of the parties. Because, you know, prior to the '60s, the Democratic Party was a very peculiar coalition of northern liberals and right-wing, racist Southerners.

Yeah.

So, you're very, very-- and yet they worked together on things, and some of the Southerners probably supported FDR, and a lot of the Southerners from the South-- I mean, a lot of the Southerners, historically, have been populists, so they could get along with liberals because of the rhetoric, but they actually were sort of different from the people in the North. They were Democrats.

Okay.

Now, FDR, because of the Depression, sort of put all this together. Woodrow Wilson probably did, too, but it's interesting. Woodrow Wilson's elections were very close. So, it's interesting, going back to the-- the Democrat-- the Republicans were in the minority from 1954 until 1994 in the House, but in the '50s and '60s, a lot of the conservative-- a lot of the Southern Democrats, on many issues, voted with the Republicans.

Okay.

So, it wasn't until 1964, when there were so many-- there was a big-- when Johnson won the first time, I mean, won the election, he was already President, he brought in a big, big House majority, one of the biggest House majorities, and then he could even roll the Southern Democrats.

Okay, they weren't so--

They were less powerful, because there was so-- and that was one of the reasons Civil Rights legislation passed in '65, and then there might have been some in '66 and '67, was because there were so many Democrats came in, particularly from the North, in those years.

Okay. That's interesting. And-- when you worked there, on the Ways and Means for-- on the HIPAA or the BBA, did you-- what was your relationship with the leadership and the Committee, like, the Democratic-- the-- I'm sorry, the Republican policy committee? You know, this kind of leadership against the group?

Well, in that case, Newt Gingrich had a staff person who focused on health, as well as a few other issues, ended up being a portfolio guy at (inaudible), Ed Cutler, actually. And so, Ed would be our liaison with leadership both for me and for the Energy and Commerce Committee staff, so when we were going to come up with something on a joint effort, frequently, Ed would be the one who would convene us, and I tended to be the one who was doing agendas and organizing things.

Okay.

And then we had some really smart people from Energy and Commerce and we all split up the technical work, and I had a staff, too.

Okay.

Because we had a lot of technical work, particularly in Medicare, because a lot of decision-making in Medicare regarding payment policy and other kind of policies are not-- which, in a normal situation-- in any other country, those decisions would be made by the executive. A lot of those decisions are made by Congress, and as-- it's tremendously variable, where Congress takes authority or where it leaves it to the administrative branch.

Okay. Okay. Thank you. Yeah. What kind of ID did you support at that period? Did you support-- did you support a particular ID, a particular, I don't know, view, and did you have the opportunity to put it (inaudible) on the--

You mean, for my own, personal--

Yes.

Well, you know, I think there's great variability in terms of that. I think different staff people have different views of their own importance in the process. I could give you some examples of particular pieces of Medicare that I personally had a lot of influence over, but my basic working assumption was that my job-- I mean, I felt comfortable with the members I worked for, I felt philosophically simpatico with them, and I felt that I was sort of the technician who was helping them prepare the hearings, prepare the legislation, doing the work that projected what they wanted to accomplish from their agendas.

Now, all that being said, there are a hell of a lot of details, particularly in health law, that, I mean, the bills are this thick. The members don't read every page. So, there are things in

there-- the staff becomes powerful, because-- and you've got to be careful with it, because you can't do something that's inconsistent with where your principal would want to go. But it does become a problem, because-- with some staff, I think, and I could probably, if I thought about it long enough, come up with some examples of problems, where staff went off and did things that weren't consistent with where their members would want to go, but I sort of prided myself on making sure I was always sort of in the right ballpark.

Now, there was some-- I don't know if I mentioned-- did I mention anything specific last time?

No, you didn't.

Diabetic shoes. I-- actually, I never admitted this to anyone, but I actually, when I got separated from my first wife, I actually went out with a person who was diabetic, and that's why I sort of got interested in this, but she-- and, anyway, Medicare did not pay for diabetic shoes. So, I talked-- when I went to Ways and Means Committee, I talked my boss into-- and actually, it wasn't Gradison, it was another member, it was Mr. Duncan, who was full-ranking, and I talked him into a little bill that would pay for diabetic shoes, because I got CBO-- I got the Congressional Budget Office to do an estimate on the diabetic shoe benefit, and it was one of the only benefits-- it was one of the only-- up to that point, it was one of the few times that I-- that anyone got them to take something that was a preventative service, and diabetic shoes really are a preventative service, and get a positive score.

Now, the reason that we got a positive score, that it actually would save money for Medicare was because the analyst who did the estimate assumed that if we-- if Medicare paid for diabetic shoes, that we would reduce the number of amputations and hospitalizations for amputations. Well, hospitalizations for care for, what do you call it, something-ulcers, the ulcers that form-- because, you know, diabetics are very susceptible to bruising and hurting their feet because of the circulation problems that comes with diabetes, particularly in the elderly.

So, now, the CMS Act-- the HCFA actuaries at the time, the Health Care Financing Administrating actuaries and OMB were furious at this, because they said that there's no reason-- there wouldn't be savings here, because Medicare would simply be replacing shoes that people were buying anyway. So, we had this big debate, and I got kicked out of the-- we got kicked out of the bill, so, it's a long story, but we basically came up with the following notion:

That if-- and, actually, the same thing was done on pneumococcal pneumonia vaccinations, that we would have Medicare do a demonstration, and if Medicare could show, within two years, that the diabetic shoes save money, then it would automatically become a benefit, but then, we went further than that, and said that if they can't show it, the positive, then after another year, they had to show the negative. They had to prove it didn't save money.

Now, it's a lot harder to show the-- to prove the negative than to prove the positive, but we couldn't prove the positive, but they couldn't prove the negative, either, so it became a benefit. So, today, Medicare-- this is back in the '80s, so, today, Medicare pays for diabetic shoes, and, also, they did the same thing with pneumococcal pneumonia.

Now, I'm sure somebody looking from the outside will say, "Well, that's silly," but that was the way-- and I talked a few people into it, but it really-- I could point to that. There are two things I could point to and I said, "If I had not physically been there promoting, talking people into this little piece of legislation--"

Now, the American Diabetes Association, you know, they helped me, and there were some other advocacy groups for diabetics, but I was the one that engineered that.

Okay.

So, there are a few things like that, and I know that's not a big, world-changing--

Yeah, it's not big from, like, a micro point of view, but for thousands of people, it's very important.

Yeah. And then-- one of the other things I did, which actually turned out to be a very big thing, was HIPAA privacy. In the Health Insurance Portability and Accountability Act, there was a provision that I put in there in the administrative simplification provisions that required that the Secretary of Health and Human Services come up with privacy and confidentiality guidelines, and I thought that we'd have a legislative process eventually, so we didn't define what the rules were, we just said that the Secretary had to promulgate regulations, and a few people wanted to pull it out, and I was able to keep it in, and ultimately, it became part of the law, and Congress never was able to return to the issue.

But, since it was written the way it was, ultimately, the Secretary did regulations, and today, the privacy regulations, I don't know if you're familiar with those--

Not really, but I will find--

Yeah, the HIPAA rules on privacy, that's all you need to look for, and if you go to the drugstore to get a-- like, if you go to Rite Aid, you know, one of the big chain drugstores, you'll see there a description of all the rules regarding confidentiality for drugs, and those rules were written because I kept that in the legislation, and it-- ultimately, HHS-- I mean, they wrote all the specifics, I had nothing to do with that.

So, there are all little things that staff can get in, and I sort of always had an agenda-- it wasn't an ideological agenda, because-- and-- but there were a few of these little things that I did.

Now, a lot of people don't like HIPAA, the HIPAA privacy rules, because they're a little difficult, but they do make people aware-- they do penalize people if things get exposed, but they went further in the Stimulus HIT bill in terms of electronic data getting out than we did in the '96 bill.

That's-- okay. Would you say that your personal expertise, your personal skills in health policy would have been very important in, like, your recruitment in this function at that period? I don't know if I'm--

Yeah, in 1983, I had been looking for a job on the Hill for a number of years, and I got a Master's degree in Health Administration, and I came up here and worked for the Association

of American Medical Colleges that has-- that represents the teaching hospitals, as well as medical schools and academic health centers, and then I went to a little association after-- for getting my Master's, part of it, you had to go do a practicum, or an internship, and I did that at AAFC, and then I worked there for three years at another association called the Association of University Programs and Health Administrations that-- and I oversaw-- we did curriculum for Master's programs in Health Administration-- Hospital Administration, and I did a financial curriculum and a few other things.

And then I finally broke into the Hill in '83, and I think I was hired originally because, you know, I had a Master's in Public Health and sort of had the background. I didn't know squat, frankly, I don't think I knew that much, but anyway, over time, I probably did gain-- I mean, I had a base of knowledge, but I gained a lot of knowledge about the substantive area.

I gained a lot of knowledge about process, I gained a lot of knowledge-- I don't have a law degree, but I think I know how to draft, and there are a set of skills that I developed which are really legislative skills, and as I progressed along the line, you know, they don't like to hire people-- this is not so much true anymore, but it used to be they didn't want to hire somebody on the Hill who didn't already have Hill experience. Well, how do you have Hill-- where are you going to break in? Everybody's got to break in sooner or later, but once I broke in, I developed, over time, all these different skills.

And the thing about Hill staff is you really-- the really good Hill staff have to have all kinds of different skills. They usually are working in a substantive area, so they have substantive expertise. They usually-- they have to have some kind of legal or legislative expertise. That's why a lot of them are lawyers. They have to have some understanding of politics, obviously, because they work in a political environment. They have to understand-- they don't have to understand, but usually they understand (inaudible) and how to project issues and help their members do that.

So, there are a set of these skills that-- and they generally have-- if they get to be senior staff, they have to represent their members in negotiation, frequently, so they've got to know how to negotiate.

Okay.

So, the vast-- it's a vastness of these skills that you've really got to have to survive in that environment.

Yes, but it's pretty rare to have people like you who stay a lot of time on the Hill?

Well, that's an interesting question. In the old days, and I sort of define the "old days" as pre-'95, both the Republican and Democratic side, people stayed a long time. I mean, I was there from '83 to '93, so I was there ten years the first time, and it was hard for me to leave. I mean, ultimately, I needed to make more money and I wanted to go do some other things, but I left because Bill Gradison left and became head of a trade association for insurance companies, and so I went with him, and then, when I had a chance to go back, I went back, because I had a chance to sort of-- I would say the best job I ever had, and the one I loved the most, was being Staff Director for the Health Subcommittee. I did that for three years. But, you know, I

guess at that point I was getting a little older, and it's hard, it's really hard. But, I think there's much more of a revolving door today than there was then.

Now, if you look around the health staff, though, and you look on the Energy and Commerce Committee, Karen Nelson is the Health Staff Director, and you look at her armada of people, she's got a lot of people, some of them have been there, either in-and-out, or been there, off-and-on for 30 years.

So, there's some areas where, first, you've got to have member stability, which they've got a lot of there, but there's some areas where staff have been around-- are professional staff and are there for 20, 30 years. That's not as true today as it used to be, but there's still some.

Okay, and is it fair-- it is very important to make the legislation pass, because--

The real-- I think one of the problems over the last few years has been that staff wasn't experienced enough.

Okay.

No, these are really critical positions, and, like, the Kennedy people today, they've never put together a big bill, and I was at a meeting today, and they're just flailing around. They don't think they're flailing around, but I think they are, and their bill's going to be a shitty bill. I mean, shitty in terms of just, it's not going to be well-drafted, it's going to be-- they're going to make a lot of mistakes, because they just don't know what they're doing, they haven't gone through.

Building a big bill, it's 1000 pages, that includes a lot of different things, that has vast effect, is something that takes a lot of experience.

Yeah, they were-- Mr. Nexon, David Nexon that works--

Oh, David Nexon, yeah, he worked there for-- David Nexon and I started at around the same time, in 1983, and then he just-- he left about four or five years ago, or six years ago, I don't know which year he left.

Okay, so, since then, the staff has not--

Yeah, I don't think-- they've never really done a big bill. I mean, David Bowen, have you met him?

No, I would like to.

He's a good guy.

I would like, but he didn't answer.

You know, part of the problem right now is, they're just so busy.

Yes, it's too bad.

Yeah, who are you trying to say?

I am trying to see people from the Hill in the Committee, but it's very difficult. I would also like to meet former people who were involved in former reform, because I am interested in the reforms now, but also before.

Did I give you any names before?

Yes, you gave me Howard Cohen.

Oh, did you talk to him?

No, I guess my e-mail just went to his trash, spam books.

Did I give you his phone number?

No, I didn't have it.

He's-- I'm going to give you a few people here.

Oh, thank you, I would like--

Okay, Howard's phone number-- his mobile phone is 202-441-0161.

441-0161?

Yeah, tell him that I told you to call him. Okay, and then Ed Cutler used to work for Newt, and his business number-- let me just-- Ed's a really-- he's a good guy, and then I'm going to give you (inaudible).

Yeah, I don't think everybody-- you're going to have trouble talking to people who are-- here's--

That's when I was planning my trip last year, I did not expect that this period was so exciting for health.

Yeah, let me give you some-- the people I'm giving you now, I think, will (inaudible). Are you-- where are you headed? You aren't at GW, are you?

I am, actually. I am a visiting scholar there. I am a University in France, but they sent me--

Have you bumped into Brian Biles?

No.

So, who are you-- which part are you in?

At the George Washington University?

No, no, which department are you in?

I'm--

So, where's Sarah Rosenbaum?

In the Public Health, I think. I am in the International-- in the School of International Relations.

So, do you know Sarah Rosenbaum?

Yeah, by name.

Okay, so, Brian, he's over there, and he was head of the department that Sarah's head of, or some department, and he got into a lot of trouble. But-- he can be a difficult guy. But, from your standpoint, he was the Staff Director on the House Subcommittee many years ago. He's (inaudible). David Abernethy is another guy who worked on many committees.

I have met with him last year.

Oh, you already met with him.

But I--

Here's Ed Cutler, and then--

Thank you very much.

I want to give you-- you've got so much Ways and Means, I think I need to-- let's see.

(inaudible)

Yeah, sure.

Now, this guy's a very good guy. Now, this guy, Tom (inaudible), never worked on the Hill, but he worked at the Health Care Financing Administration, so he understands how the executive branch works with the Congress on legislation. (inaudible)

Now, there are other people at Health Policy Alternatives, and-- it's a consulting firm.

Yes, I've met with Mrs. Fuchs.

Fuchs?

Yeah, and Mrs. (inaudible), and Mr. (inaudible).

Okay, well, then, he works with them. He's familiar with-- how were those interviews?

W. Genieys, Operationalizing Programmatic Elite Research in America, OPERA : ANR-08-BLAN-0032.

I met with the advisor of (inaudible).

No, but with Lisa (inaudible), and with-- what-- did you learn much? What did they talk about?

They talked about-- with Mrs. Fuchs it was about (inaudible), and (inaudible), and--

Okay. Okay. But the nice thing about Tom is-- with Tom, he worked for the executive branch for Medicare, for the meta-agency over Medicare and Medicaid, so with Tom, you can ask your question about how does the executive branch work with the Hill. How do they advise policy? All those questions you had, he can provide a lot of color for you there.

(inaudible)

Some of these people, I think this might be a little hard to see, but he would be a good guy to (inaudible). John Rother is at AARP, and he worked on the Senate side for many years, both for Republicans and he worked for Senator Hines. So, he would be another person, more Senate, more Finance Committee, but he's also very good.

And I'm also (inaudible) in the area of interviewing people from, like, professional (inaudible).

He might-- and you can use my name with anybody. That gives you a lot, that gives you-- if you could meet with--

Thanks, it's really a lot. Thank you very much. I don't want to bother more of your time. I can-- last question--

Yes.

Last time, you told me about a book retracing the history of the Ways and Means Committee, but I do not have the reference it, but I would be very interested in reading this book, so maybe you have the reference?

Yeah, let me think a second. Just to show you, this is-- so, when the-- in 1960-- in 1988, when the Medicare Catastrophic bill passed, this is outside the Capital, the entrance to the Capital, that's Bill Gradison, and that's Pete Stark, and I got-- this was the picture that was actually in the Washington Post, and I bought a copy of it and got them to sign it, but then, when the bill was repealed in 1989, they did a picture there of Pete Stark, who was not very happy about it, and Bill Archer, who I also worked for, who was in charge of-- who got the bill repealed.

So, this was-- both pictures were in the newspaper right after the legislation, so it's sort of ironic.

It's really symbolic.

Where is my (inaudible). I have a (inaudible).

Do they-- is it from this committee?

The Ways and Means-- it was written for the Committee, and it came out in 1988, I think, for the 200th anniversary of the Committee, and-- where is it?

I can find a very good library in George Washington--

Yeah, it should be there. If you don't-- if you can't find it, I know I have-- I can think of where my copy is at home, so I'd be happy to--

Okay, good. Thank you very much for your--