EDWARD M. KENNEDY ORAL HISTORY PROJECT

INTERVIEW WITH THOMAS SUSMAN

May 23, 2007
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Interviewer
Paul Martin

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TRANSCRIPT

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Martin: This is Paul Martin from the University of Virginia. I'm here today with Thomas Susman, former staff member for Senator Kennedy, in his law offices at Washington, D.C. It's May 23, 2007. Why don't we start with how you originally came to start working for the Senator.

Susman: I was in the Department of Justice. I had come here after a clerkship, to work in a Democratic administration, after the election of '68. [Richard] Nixon beat [Hubert] Humphrey and a new group came into the Department of Justice in January, during the transition. I had been from Texas and had a very good relationship with the hierarchy at Justice, and I wasn't ready to leave town. I wanted to do something else that I considered public service. I actually interviewed with one of the early public interest law firms at the time. I got to know some of Ralph Nader's people. I talked to Marian Wright Edelman, who started up the Children's Legal Defense Fund. I viewed that to be outside of government, but still public service. I had never even thought about the Hill.

My boss in Justice, the Assistant Attorney General, Frank Wozencraft, from Baker & Botts in Houston, came back one day from having lunch in Senator Kennedy's office. I was later to learn that that's sort of standard operating procedure. The Senator was taking over the new subcommittee, Administrative Practice and Procedure [AdPrac], and he was looking for ideas. Since Wozencraft, as head of the Office of Legal Counsel [OLC], was responsible for administrative law and process and the Executive Branch activity, he would have been a natural for Kennedy to meet. It was explained to me that as he was leaving from lunch, the Senator asked Frank if he knew any young lawyers in town who knew something about government and who might be interested in working on the Hill.

Even though I had spent only nine months in OLC, Frank recommended me. I went up to interview with Jim Flug, and I was the third lawyer on the staff, the third assistant counsel. Joe Onek and Sy Wasserstrom were the other two who had already been told that they would be hired. I remember because this was my first experience with Jim Flug. He said he couldn't make me an offer because they were trying to round out the staff. The Senator also was chairing an Immigration and Refugees Subcommittee and as I kind of pushed to find out what the issue was, I learned that I would be the third white male Jew, four including Flug himself.

As you know from your various interviews, it wasn't the male thing, because during those years Kennedy was staffed by men. The women didn't get ahead. There was a glass ceiling that was about floor level. But generally, Kennedy was probably way ahead of his time in terms of diversity. Ultimately, I was given an offer after a short meeting with the Senator, and it was quite clear that it was pro forma. I don't remember today what we talked about because I don't think we talked about very much. I think that Jim Flug had met me and done due diligence. I know for example, that he called Judge [John Minor] Wisdom, for whom I had clerked. I know that he had made calls back to the University of Texas Law School to find out about me and when he sent his memo in to the Senator he was sure that I was the guy who ought to be hired as the third assistant counsel. That's another phenomenon I saw through the years, when I became Chief Counsel of the Subcommittee; while the Senator was always very much involved in the top staffing positions, he gave his senior staff fairly free rein to recommend a lot of the new hires. I'm sure there were examples of people that he gonged because he didn't feel comfortable with them, but I don't know of any.

Martin: So once Flug gave you the OK or wants to give you the OK.

Susman: I think that was it, and I started in March of that year.

Martin: So this is pre-Chappaquiddick.

Susman: Pre-Chappaquiddick, right.

Martin: What were your initial portfolios on the committee?

Susman: My initial portfolio was to develop portfolios for the committee, because we knew that we had a license for nearly unlimited jurisdiction, and so we were looking for issues for oversight. I think Federal Trade Commission oversight may have been the first one we did. We did equal employment opportunity in federal contracting as an oversight hearing, because I remember the Secretary of Transportation, John Volpe, testified.

Martin: Was this connected to the Philadelphia Plan?

Susman: Yes actually, that sounds right. We all worked on Kennedy's legislative work, both in Judiciary and out.

Martin: That was one of the questions I wanted to start with. Can you talk a little bit about the relationship between his personal staff and the committee staff?

Susman: Probably through most of the '70s, and my guess during the '60s as well, you would be hard pressed to look at employment records of the Senate and figure out who worked where. Part of that was because the Judiciary Committee had very large budgets for its subcommittees, and the subcommittees were autonomous. There wasn't much attention paid to whose payroll you were on. So for example, Mark Schneider was on the AdPrac budget from his first day in the office. I know that there were times when even Paul Kirk was put over there, when the Senator needed some relief in his main office. There was a lot of back and forth. Almost 12 years later,

when Kennedy was running for President, in the primaries, I went over from the committee staff to become acting legislative director. I still covered my committee issues. He wasn't in town all that much so he wanted me to do that. It was awhile before any of that got sorted out. It was the same on the minority side, and the same in most other committees.

In terms of responsibility, probably one of the best illustrations of how we thought creatively about our jurisdiction related to American Indians. Bobby Kennedy had chaired the Indian Education Select Subcommittee. He was finishing up in that arena when he was killed. The staff director of that subcommittee, Adrian Parmeter, was kept on to finish the report and the Senator one day turned to me and asked me to meet with Adrian and to pick up the ball to see if we could do something with that report and those issues.

Martin: Shifting it into the Administrative Practice?

Susman: Effectively. That's the point that I'm leading to. During the early '70s, I worked on a range of issues involving Indians. We had subcommittee hearings on protection of Indian natural resources, including field hearings. We did an Indian education bill that I staffed, which was reported out of the Labor Committee. Senator Kennedy was senior on that committee, [Claiborne] Pell was the Education Subcommittee chair, and we worked with that staff. I sat up behind the Senator during the hearings and worked on witnesses and things of that sort.

The same thing happened before the Senator actually took over the Health Subcommittee. We had hearings on oversight of the pharmaceutical industry's marketing practices in the Administrative Practice and Procedure Subcommittee. Walter Sheridan, the investigator, did those hearings for AdPrac, and later did the exact same kinds of hearings for the Health Subcommittee when the Senator chaired that.

Martin: So it was very fluid.

Susman: A very fluid situation, that's right. We had hearings on Selective Service. Mark Schneider had done that set of issues for the Senator even though he was physically stationed in the Senator's main office, and I think considered himself and would have identified himself as a Legislative Assistant to Senator Kennedy. I think he was on the AdPrac payroll during that time, but he was the staff person who put together and staffed hearings on the oversight of the Selective Service system.

Getting back to Indians, we did a manpower and training bill that was out of Labor. We also worked on some legislation to return resources to tribes. I did that for the Senator out of the AdPrac Subcommittee. There was an Interior bill to return Blue Lake to the Taos Pueblo tribe. I did Alaska native claims for the Senator. Some of the other things: for example, when the AIM [American Indian Movement] took over Wounded Knee, they demanded that Senator Kennedy, Senator [George] McGovern and Senator [James] Fulbright of the Foreign Affairs Committee come to Wounded Knee to negotiate. The plane carried me, a staff person for Fulbright, and Jim Abourezk. Well, one of three wasn't bad, and not even the North Dakota Senator they had originally asked for.

We had hearings on the government's response to the riots on May Day in Washington. I remember I was driving a motor scooter at the time to work, and so Jim Flug arranged for us to have gas masks and walkie-talkies. You would have thought we were cops or something, the way we were riding around, going into town looking for disturbances, trying to follow when they moved the kids that they would arrest into JFK Stadium. We were trying to monitor and gather information. I think we had a hearing on the handling of that in the Justice Department and D.C.

Martin: About the D.C. police?

Susman: I think Justice was running the show, and the Defense Department. They had troops in there for it.

Martin: So his use of this committee in this early period seems to be whatever you can come up with, or does he have ideas of his own that he's pushing?

Susman: He decided he wanted to do something on the Indian issues; that was the Senator's initiative. A staff person doesn't get anything done without a Senator, and so we went out for field hearings. I remember I ghost wrote an article for him that was in *Look* magazine, called "Let Indians Run Indian Policy." This was during the early self-determination days. It wasn't just a matter of voting right on legislation when it came along. He allocated two of his most precious resources to the subjects of Indian affairs, Indian rights, and Indian education. One was his own time: floor time for debates, committee markups, chairing hearings, travel, speeches, and that sort of thing. The other was staff time because during those years I spent a large amount of time on Indian matters.

Then when I moved on to do other things, Theresa Burt, who had been a secretarial assistant on the staff, picked that up, and that also corresponded with the establishment of Indian Affairs committees. The Senator moved out of the eye of the storm on those issues. But for a long time, tribes would come to Washington, probably even now, and want to visit with Senator Kennedy.

Martin: You traveled with the Senator to do these field hearings. Can you talk about how he was received and what was accomplished in the field hearings?

Susman: This brings me back to another story. I remember one of the early field hearings we had in the subcommittee was on the energy crisis in New England. We did a hearing in Boston on natural gas prices. Then of course with Senator [Strom] Thurmond being our ranking Republican, we had another one in Columbia, South Carolina, on the same subject. Most hearings were not in the field. But the Indian hearings, that was a whole road trip. It was one of the more interesting life experiences for me, because I had never done advance work before and I went out with Jim King, one of the world's great political advance men. He was a sight to behold, the way he would boss around local sheriffs and tell mayors how they ought to organize themselves because the Senator was a bit of a star. There was nowhere that he wasn't well received. We had hearings in Nevada, Arizona, New Mexico, and California, and at different venues: an Indian school, out at Pyramid Lake, in the Navajo Council Chamber. He was well staffed. Through the years we were always extremely well prepared.

But back to the story. I've done some additional work on the Navajo reservation in the last few years and I still remember being out there for the hearing. The last witness was a medicine man, with his niece, who was translating. I still remember Deschinee Nez Tracy. He wore massive turquoise jewelry and was very distinguished. We were asking softball questions on various things, like, "Do you remember this land before the coal companies came?" He was responding in Navajo and it was being translated in very long-winded answers. Someone brought in a piece of paper from the airplane pilot. We were using an IHS [Indian Health Service] plane or some DC-3 plane. The note said that a snowstorm was coming in and if we wanted to fly out of there we had to leave now.

The Senator wouldn't cut off the medicine man, and we the staff were all kind of going crazy, *What do we do?* We had another hearing later that night in Albuquerque. By the time we were finished with the Tracy testimony it was too late, the storm had blown in. So we had to drive to Albuquerque. Now, this has to do with how the Senator is received—the tribe put its resources together and literally created a caravan for us. They used their public utility vehicles because they had red lights and radios in them, and we drove in the snowstorm to Albuquerque, which is almost three hours from Window Rock.

That's the other thing, the Senator has limitless energy. I'm sure you hear this from everyone. What am I, ten years younger than he is? We got to Albuquerque and freshened up. Sometimes with his back, he needs to kind of stretch or lie down for a few minutes, but that night we were in the school, in the auditorium, having another hearing. He didn't like to waste time. A lot of times, especially with members of Congress, they like to build in down time, shopping time, whatever kind of time. He was all business. He was very interested in the subject and would always make sure that he had been through the notebook for each of the hearings. I still have some of those wonderful notebooks in my basement, with his markings on them, because he would go through and underline and mark and raise questions, sometimes putting the ubiquitous "See me" on the bottom. I don't know if he's still doing that at all.

Martin: I'm not sure either.

Susman: We'd write a memo and usually try to keep it to one page and get a decision on things, you know the co-sponsorship of something or other, or idea for a hearing. This was just to try to calibrate because he gave staff so much authority that you had to make sure you weren't overdriving your headlights. How he could keep all these things straight I never knew, but when he didn't want to make up his mind or he needed additional information, "See me" would be all he would write. Then you'd have to catch him, find some time and get on the schedule and walk between the elevator and the floor during a vote. It's a lot of the same things through the years, which I imagine still go on now.

Martin: Yes. I'm guessing that that would be institutionalized over a while. We've heard many stories of the walk from the office to the elevator to get in a few words.

Susman: Right. Only one administrative assistant tried to act like a chief of staff, Rick Burke, and it didn't work. I think that's one of the reasons why he was so disaffected at the end, because nobody paid much attention to him. He was a great traffic cop in terms of managing the

Senator's time and direction. He tried to institute a thing where he needed to sign off on all memos before they went in the bag, but nobody paid any attention to that.

Martin: That was one of the questions that I was going to come to, the lay of the land of who had power within the staff, who had influence with the Senator? You were there for 11 years so I'm sure it changes, but any sense?

Susman: When you say "have power," that brings a few things to mind. The office wasn't very hierarchical or pyramidal. Probably summer interns were the only ones who didn't have access to the bag and who couldn't communicate with the Senator directly. Now, a lot of times, I'd get a memo back from one of the staff people that I knew. For example, [E. Jason] Jay Steptoe would send a memo up to the Senator suggesting something, and it would come back, "Tommy, see me" written on it. I knew what that meant.

Martin: Which would be?

Susman: Which would be that he's not sure and he wants to know more about it, or he's not sure it's that good an idea. It may or may not be, but he wasn't ready to have a dialogue with Jay. When I arrived, certainly Flug was the preeminent staffer in the Judiciary Committee, though he had nothing to do with matters relating to immigration or refugees. That was Dale de Haan and later Jerry Tinker. No matter how important Larry Horowitz or [Bancroft, Jr.] Nick Littlefield or some of the later Judiciary Committee counsels were, they were not going to second-guess what Jerry Tinker told them they ought to be doing on an immigration issue. I mean that's sort of the way it was. I did freedom of information, I did Indians, I did traditional administrative law related stuff and anything else that came up in that arena. We understood the notion of primary jurisdiction.

Every once in awhile Mark Schneider would sneak something in that looked like it was prepared to infringe on my territory, but again, Rick Burke is the only example of a staff person who was so territorial that it mattered, because we could always work it out. We were always extremely friendly. We really didn't feel we had to compete for the Senator's time, not that he had a lot for everybody. When your time came on your issue, probably the most important thing was knowing when to push it and when to bring it up. I remember there was a staff guy the Senator just never—I won't use names, but you could just see the Senator never had a high level of confidence in this fellow. He was never told when to go. He just left because he just wasn't getting through. If you had tracked his issues, they weren't reaching the front burner. If somebody needed help at the last minute on something really important, he wasn't called into the meeting. That's the only way you knew where you stood.

Martin: So people gain influence informally in this setting.

Susman: Right. You're a political scientist. You probably study these kinds of things.

Martin: It is interesting, especially in a Congressional staff, frequently the titles don't really mean as much.

Susman: Right, that's correct.

Martin: The person with the most power might be the executive assistant, but effectively it's not the AA, it's the secretary.

Susman: We played with titles along the way. I think I had the titles of Assistant Counsel, Chief Counsel of AdPrac, General Counsel of Antitrust, and General Counsel of Judiciary. When I was General Counsel of Antitrust, David Boies was Chief Counsel. When I was General Counsel of Judiciary, Steve Breyer was Chief Counsel, but then they brought in a staff director as well. I think Boies stayed around a little while but didn't have a title, so he sort of got lost because the antitrust issues were evolving elsewhere. There was no hierarchy, it just wasn't inflexible or set in any kind of concrete organization plan.

Getting back to your point. Carey Parker was always *primus inter pares*. He sat right there, he traveled with the Senator, and he was probably the best writer among the staff, although we each did well in our arenas.

Martin: He started the same time you did, didn't he?

Susman: Yes, but a month earlier, and he had been at Justice before. If you wanted to figure out why something was happening or wasn't happening, Carey was the person to talk to.

Martin: How did that develop? Any sense of why Carey, other than talent?

Susman: No, it has to be talent. That's another thing, to look at hiring decisions. They're not all spectacular. Along the way, especially during the Democratic majority years, when Kennedy had very large staff, you find mostly strong people, but not all. They usually don't last that long. Sometimes you wonder why they last as long as they do. It's very much a meritocracy. I had no connections with Massachusetts or Kennedy or Harvard or anything else when I went up for the first visit on the Hill. I'd never known any of the staff people before nor had any relationship with them. I had a great résumé. When I was Chief Counsel, I remember when I first saw Patti Saris' résumé come across my desk. I picked up the phone and called her. Ken Feinberg, I picked up the phone and called him. These are spectacular people and you can tell by looking just at the paper, and as long as they don't walk in with soup on their shirt, you can be pretty damn sure that they're going to be really top quality staffers.

Martin: Did you get the sense from this early position that you had the pick of the pick in terms of staff? They were coming to you at this point?

Susman: Yes.

Martin: That Kennedy had already established a name.

Susman: Yes, he had. It wasn't always a traditional Harvard-only type thing. Massachusetts and old school ties played a very minor role. I had two lawyers working with me, whom I hired: Elaine Shocas and Jay Steptoe, who had both been at Antioch Law School. They were both

terrific, and Elaine stayed on a long time. It wasn't the blue blood type thing so much as just exceptionally smart, high energy, creative people.

Martin: How does jurisdiction work in this situation, where it's a relatively flat organizational structure and you're allowed to be entrepreneurial? How do you navigate turf between staffers?

Susman: I would say almost all of the time it was worked out at the staff level. I remember our gathering in Kennedy's office with Bob Bates on Supreme Court nominees and other things, and we would really discuss things: does the Senator come out, when does he come out, what does he say, does he try to delay, et cetera. We wouldn't all be in agreement, but he would listen. It wasn't always clear that he would follow Jim or Carey or me. Everybody got a say. That was really one of the wonderful things about the process—we didn't have to defend turf. You didn't feel put down. If you were in those discussions, then you knew you were part of the decision making circle. So it didn't matter that your advice was taken or not, it had been asked, and it was unlikely that you were there by a fluke. You were there because you'd been around long enough to be respected.

Part of my problem, and I'm sure that even now, if the Senator goes back and starts reflecting on staff, I was never really as adept as many in projecting him with the media. All members of Congress need attention, and when you're in an oversight mode, that may be the only power you really have, the power of the press, the power of the interest groups, and the power of investigative reports on these issues. I always felt that I could handle the substantive work. I was a good lawyer. But the political arena was not home court for me, and it really wasn't for most of the other lawyers working for Kennedy either. Larry Horowitz just had such a natural ability for the media jugular, and Flug did too. I never really had that.

Martin: Well, do you think you—not you but the staff, you can't have too many people like that. You only need a few who are particularly savvy with the press. Everyone else can do policy.

Susman: I hadn't really thought about that. I remember I was the General Counsel of the Antitrust Subcommittee and we were doing hearings before the natural gas deregulation filibuster, and we wanted to have some hearings that would catch public attention and try to aid [Howard] Metzenbaum and Abourezk in their efforts to filibuster deregulation of gas prices. Fools errand, probably a bad idea in the greater scheme of things. We were sitting around, trying to come up with media hooks. I still remember Hank Banta saying something about, "Well, maybe we could arrange for a bomb to go off in a gas line or something like that…" and my answer was—and shame on me—my answer was, "Wow, that would really be helpful." I sort of bit on it. You have a hearing without media and it's the tree falling in the forest with nobody there, it doesn't exist.

Martin: Were there topics that you could focus on that you knew would guarantee television cameras?

Susman: We knew a lot of that, and that again is another one of the things that I tremendously admire about the Senator: he did his job. The Indian hearings didn't get cameras, nor Freedom of Information. I spent a lot of time doing the 1974 Freedom of Information amendments. He

invested a fair amount of time in those. They were very important actually, vetoed by [Gerald] Ford. I was dying to try to get those hearings to be press worthy, but it was very difficult. We had Agriculture Department and Defense Department people coming up and testifying, and he read the questions I had written. We made ourselves a really good record, for the legislative record, and he persevered to get the bill through. Senator [John R.] McClellan was carrying the FBI's [Federal Bureau of Investigation] water, trying to block it, and the Senator really pushed and pushed and pushed. He chaired the conference and invested a lot of time. I don't think he got a lot of general press for doing that. I think people would identify John Moss and maybe Ed Long as fathers of Freedom of Information, but the '74 amendments are what gave the legislation the strength it has, its staying power, and Kennedy did that. He did it pretty much out of the spotlights.

Martin: Knowing it wasn't going to get a lot of press.

Susman: I think he's probably shrewd enough to be able to figure that out when he sees the proposal. This was the jurisdiction of his committee, it was the responsibility of the committee. We had some administrative law hearings that were boring, but we had jurisdiction over the Administrative Procedure Act, and we had recommendations coming in from various places, so we would try to do them as painlessly as possible. The hearing could be between 2:00 and 3:00 in the afternoon, with a panel, and every person had about 30 seconds. We knew that it was not going to be a media event or high visibility, but we still needed to do it. Then the staff would do the work: write the reports, do the statements, try to negotiate. He didn't have to do much additional work on those issues.

Martin: Do you get a sense from this time period—I guess we're talking when you're still on the Administrative Practice Committee—where Senator Kennedy was spending most of his time legislatively? Did he see this committee as something he was stuck with, settled with, or happy with?

Susman: I think he was happy with it because it had such broad jurisdiction. We used that committee to deregulate the airlines and trucks. It was ultimately legislated in other committees but the foundation was laid there. I think that he knew the potential power of the subcommittee. As I said, before he took over the Health Committee, we had hearings on health related issues in AdPrac. When he took over the Health Committee, I think there were a couple of years when he chaired both AdPrac and Health before he became chair of Antitrust. I can't remember which years. Those must have been '75, '76.

Martin: That sounds about right. I think '77 is when he starts in the Antitrust Subcommittee.

Susman: That's right. When did he take over the Health Committee?

Martin: That I don't have in my records right here.

Susman: In any event, during that time, there was a confluence of a few things. Horowitz was really good at press, and Walter Sheridan moved over to Health as their investigator, and they had some bang-up hearings. Kennedy would ask, "What is the AdPrac issue?" Well, we did

some deregulation, we did some oversight and we did freedom of information, but health is something that the Senator has had an interest in—healthcare, national health insurance, and universal coverage. That was a much more substantively significant bully pulpit for him, and it wasn't surprising to any of us that he decided to chair the Health Committee instead of the Judiciary Committee when he had that choice.

Martin: Now early on, he has both Immigration and the AdPrac.

Susman: And he had Immigration all the way through, I think.

Martin: What's the relationship between those two subcommittees?

Susman: Immigration was always very focused. Immigration and refugees, that was the set of issues. He cared a lot, active in that arena before it was a popular issue, and invested a lot of his time in it. We always competed with the calendar. When we'd like to have a hearing, he's going to be in Darfur visiting camps that week so we have to figure something else out. He was also on the Joint Economic Committee during that time, and I think maybe chaired a subcommittee because he had staff there too. OTA [Office of Technology Assessment], he started that up. So I mean it was a very large army of forces, and on top of that, in '80 he decided to run for President. Life still went on.

Martin: But it seems like from the vantage point of being a staff member, both sort of fluid between personal and committee, he's doing so many things at the same time here. Are you able to get a picture of the Kennedy operation or are you in your own trench?

Susman: Oh no, you knew who everybody was. We were all friends. In the early years we actually were doing things together. I remember the staff was all invited to the opening of the Kennedy Center. We got invitations to go hear Sonny [Bono] and Cher [LaPierre] at the Shoreham Hotel. We would go out to the Senator's house in the summertime. Some days he would throw open his pool. There was a camaraderie and good feeling and goodwill that I think exists today. I went last Christmas to the party. I went to the February birthday party reunion, and it was wonderful. Guys traveled from California for that two- or three-hour event in late February or early March.

Martin: I'm trying to get a sense of sort of how you project out issues that are going to be coming down the pipe. Do you have retreats every year or something like that?

Susman: We would start planning at the end of a Congress for the next year, especially if we knew his committee or subcommittees. There were a couple of times where we weren't quite sure because some decisions had to be made. Let me use the example of Antitrust. First, the fact that he brought in David Boies was a mixed blessing. Boies was a very unusual, charismatic, and highly egotistical guy, who wouldn't have been your first choice of someone to work as a staff person, but he was incredibly smart and really knew the subject matter. So OK, fine, there's room for someone who's a good trial lawyer. He took a leave of absence from trying IBM [International Business Machines] cases. He had made his millions. David had his views on

antitrust issues and they were important. I don't think he ever was able to wield much influence outside of that.

Martin: Are you meaning in terms of how much time Kennedy should spend on it—

Susman: Yes.

Martin: —versus what he should be voting or deciding?

Susman: No, I think probably time. This would probably be an interesting business school case study in terms of the time management. As the Senator's staff got bigger and issues were more ebb and flow, he was his time manager. Nobody else said, "Senator, you're doing too much next week, we can't do it, you're supposed to be in Boston." He would make the decision how he spent his time. If it was in Massachusetts, Barbara Souliotis would be with him making the decision. If it was in Washington, whoever his scheduling person was would be with him. I don't think he ever thought *All right, we're going to spend so much time on health and so much time on antitrust and so much time on refugees.* It would be kind of an advanced rational way, and I don't know why it worked, and maybe it didn't sometimes.

Martin: Well, it's one of the few metrics one can use to try to figure out what is he actually really interested in and what does he spend his time doing.

Susman: Right, but you can do that by tracing it over time. I mean clearly healthcare and related issues, including issues that would be good for Massachusetts. We did energy because of Massachusetts, not because the Senator was interested in energy generally. The refugees and immigration issues through time, certain foreign policy things. He kind of stayed the course. Other issues like Indians in the '70s began to get less and less important. We had accomplished a lot—got three or four bills enacted, got a lot of tribes' land returned, mountains returned, and established some oversight functions. Then I started doing other things too and the Senator started doing other things.

Martin: Do you think it's a situation where you've got it on a particular footing and you're happy with the status and you move on?

Susman: I don't know. It may be issues whose time comes or doesn't. Indians were hot in the late '60s, early '70s. This was the *Bury My Heart in Wounded Knee* time. Edgar Cahn came out with a book and there was a lot of writing on this subject. There was a lot of attention given to rediscovering Native Americans. Alaska Native claims needed to be resolved and that was a hot set of issues. After the basics were done, an Indian education scheme was enacted so the tribes could run their own schools. It wasn't that there wasn't much to do, because there's still a lot to do, but I guess the wheel didn't squeak as loudly.

Supreme Court nominations are another example. You know, it happens on a Friday afternoon, the announcement, "So and so is retiring" or "the President is going to appoint...." Early on, my juices would flow, you know, a [Clement] Haynsworth, kind of *oh boy, we're going to work around the clock*. Later on I thought, *Oh geez, quick, let's get some smart staff people in here to*

stay this weekend and find out about this guy so we can discuss it on Monday morning. You just begin to run out of gas. The fire bell no longer gets the adrenaline going. But that never seemed to affect Senator Kennedy.

Martin: Well, you were there through several contested.

Susman: Yes.

Martin: Haynsworth, [G. Harrold] Carswell, [William] Rehnquist's early nomination. Do you want to talk a little bit about those?

Susman: Yes, I will, but let me get back to one thing. We were talking about the planning process. With Antitrust, I put together a series of meetings at the Senator's house, grouped around subject matter. I remember one when John DeLorean was there.

Martin: Of the DeLorean car?

Susman: Yes. He would have been president of Chrysler. So we hit industries. Auto, what are their industry issues? What are the energy-related sets of issues? We were looking at airlines and we were looking at insurance, trying to figure out where the Senator should spend his time as Chairman of the Antitrust Subcommittee. We had already started on airlines at AdPrac.

The Harvard law professor, Steve Breyer, came in and he had an idea. That planning process harkens back to how I was hired. The Senator was looking for some ideas for his new subcommittee and was meeting with some really smart people who had an overview of government, and tried to bring them in and sift through suggestions. At these dinners out at his house, a few members of the staff were there. It was sort of a wide ranging and open discussion. One of the wonderful things about working with Kennedy and probably most Senators is that you did have access to people who would fly to Washington and go out to the Senator's house to spend an evening or breakfast, just to have the chance to try to interest him in an issue. There was a lot of that.

We went through with Antitrust, I remember we were looking at regulatory opportunities because airlines were really interesting: hot and good press. We had some scandals: a guy committed suicide the day before he was supposed to testify. We had another CAB [Civil Aeronautics Bureau] commissioner who I remember put his briefcase up in front of the camera and testified like that because he was violating some rules or other. That was fun stuff. We had a film in one of them about the treatment of animals on airlines. We had these frozen dogs come off the bottom of the plane; that was part of the whole drama. As to what frozen dogs have to do with airline deregulation, the answer is it brought people to another hearing and got the noise level up.

We looked at agriculture and the Senator didn't want to touch that.

Martin: Now is it because he doesn't know enough about agriculture, or does he already have sort of a starting point on some of these other issues?

Susman: I can't imagine he knew less about agriculture than he did about airlines or trucking. Some of it has to do with figuring what's the chance of success. Look at McCarran-Ferguson. They had hearings not long ago on McCarran-Ferguson again, the insurance exemption to antitrust laws. We looked at all these various issues, did some exploratory memos, and talked to people. I think agriculture was one that the Senator always felt that in order to do the right thing with agriculture, you'd have to do something that would be harmful to family farmers and farm workers and things of that sort, and he didn't want to do that. That was a gut thing.

You could never do anything that would hurt the coal industry. You never attacked the coal industry, even though you're from Massachusetts, where one would think, in those days that would be good. People weren't thinking that much about the pollution issue but the reason was because the United Mine Workers had been early supporters of Jack Kennedy. Certain things like that you never forget.

Martin: It's interesting. It's sort of a loosely political reason to pick one issue over another or to avoid certain topics.

Susman: Yes. On the other hand I did work for him in the mid '70s on copyright reform. His Hollywood friends would come in. He hobnobbed with them, and he raised money from them. I can't remember which one, there was one in particular like Tony Bennett or someone, I can't remember. Somebody well known, a traditional singer type who called me at home one night. I was always respectful but I knew that Kennedy wasn't going to make up his mind on the issue based on a personal relationship with someone who is pleading it. You talk about why do people stay so long working for him. What a wonderful way to work.

Martin: It sounds like it could be.

Susman: On copyright, which is really important, real significant stuff involving a battle of the titans every time the bills come up. Technology and publishing and music, just all these various competing interests. It's great because I could call them like I saw them, and had a pretty high degree of confidence that I was accurately representing what were likely to be his views on the subject.

Martin: The Supreme Court.

Susman: Sure, we can jump around.

[BREAK]

Martin: Should we pick back up with the Supreme Court nominations?

Susman: Yes, sure.

Martin: That's a good place to start.

Susman: When I first came to Washington, the first thing I did in the Justice Department was work on [Abraham] Fortas and [Homer] Thornberry nominations for the Department of Justice. Phil Hart was the Democrat trying to be helpful to the administration. Everyone wasn't pressed into service but Flug ran those kinds of things himself. I think I said an hour ago that the staff wasn't turf conscious but Jim was pretty proprietary on Supreme Court nominations.

Martin: Well, he gets brought back 30 years later for the most recent ones.

Susman: Right. He wanted to run the show, and he ran a pretty good show. Most of what I read about those I probably read in Elizabeth Drew's columns or books or things of that sort, because I was not part of the inner circle during the confirmation battles.

Martin: So the inner circle at this point would have been Flug and Kennedy? Is it that small?

Susman: Well, Carey Parker would have been part of that. I don't know that there was anyone else on the Judiciary Committee. I'm just not sure who was in the administrative assistant slot back then. I knew Dave Burke was when I started, but I don't think he was around that long.

Martin: He is 'til—it's pretty late, 'til '75 I think.

Susman: Oh, was he?

Martin: I think that that's right.

Susman: All right. Well, he would have then also been in that group.

Regarding the earlier nominations, one of Kennedy's first things in the Senate in the '60s was to promote to the Judiciary a guy named Francis X. Morrissey, who was apparently patently unqualified, and who didn't get confirmed, and didn't get nominated even, I think. It may have been from the [Lyndon B.] Johnson Administration. It was the mid '70s before that was no longer referred to by anyone whenever the Senator would come up and say something on a Supreme Court nomination.

Martin: In the staff or by other Senators?

Susman: No, by the press. I think Birch Bayh led the Haynsworth and Carswell battles, and Kennedy was certainly very much involved and responsible, but Bayh probably got the credit for it. I don't know why. I don't know if the Senator had other things to do, whether he hung back. I just don't know the answer to that.

Martin: But Flug was the—

Susman: Flug was the guy.

Martin: An interview with Flug would tell us what we need to know.

Susman: Everything you want to know about the Supreme Court.

Martin: Do you get a sense, from looking at this early period, that—by the time you get to [Robert] Bork.

Susman: Well, don't forget Watergate.

Martin: Sure, I'll come back to that. By the time you get to—you're not on staff any longer. 1987—you have Bork and Kennedy is leading the fight at this point. Any sense from these earlier sets of nominations that we can sort of get a window into predicting his emergence on the floor for the fight against Bork?

Susman: That's a good question. I'm just trying to think when [Antonin] Scalia was nominated. He probably voted against him but I don't remember.

Martin: There was very little fight against Scalia.

Susman: Not much of a battle there. I know that he was involved with Rehnquist. I don't know why he emerged during Bork. Joe Biden just did such a terrible job as chairman of the committee, along with [Howell] Heflin. I can't remember all the Senators on the committee but I don't remember Democrats greatly distinguishing themselves. It's the sort of thing that Senator Kennedy may have just felt that the occasion was calling for leadership and wished that Biden had done a better job of leading. I thought Biden was a terrible leader on that committee, and I think if Biden had been a stronger leader there may not have been that problem. Well, not a problem, but Kennedy may not have felt he needed to spend as much energy.

Martin: Which is odd because one of the arguments that I think is common is that Kennedy left the Judiciary Committee confident that Biden would do a good job with it.

Susman: That may be. I believe the decision was first made in 1980 or 1981, as to whether he would be ranking on Judiciary or Health. I believe that's when he chose the Labor and Health Committee. I was transitioning off the staff that fall, but I do remember there were a lot of discussions. Not too much lobbying because most of the Judiciary Committee staff had left or were planning to leave. I think Burt Wides was still there. I have a real clear recollection of not being surprised that the Senator took the Labor Committee. That set of issues: labor and union and health and education, those were his social bread and potatoes.

Martin: It's not hard to explain why he picks that over Judiciary.

Susman: Right.

Martin: Even though he gets a lot of credit from the civil rights community as being a strong advocate.

Susman: The civil rights community may well have wanted him to lead Judiciary. I know that every time it came around there was probably a lot of advocacy because they thought he would be more interested in that set of issues than Biden was, and he would have been—or [Patrick] Leahy for that matter.

Martin: Why don't we dial back. I didn't want to skip over early Watergate, the hearings, because that was one of the key things that your committee did.

Susman: I think we began down that road with ITT [International Telephone and Telegraph]. Until then, I don't believe that there was any feeling that there was a lot of corruption in the administration, so much as political agendas. ITT was really interesting because Kennedy did take the lead in that. It was a full committee set of hearings and it was the nomination of Richard Kleindienst to be Attorney General. The staff worked around the clock. I remember often picking up the newspaper as I went into my house, because it had already been delivered in the morning, and going in and showering and getting a few hours sleep before going back out again. Part of it was juicy stuff, the fixing of an antitrust case, you know, Attorney General dissembling, Assistant Attorney General [Richard W.] McLaren, who probably got offered the judgeship to throw a case.

Martin: Before you schedule these hearings, how do you know to start scheduling or do these hearings?

Susman: This was a real interesting thing. The full committee had the confirmation of Richard Kleindienst to be Attorney General, and they had a day of hearings. The first day of hearings was civil rights enforcement and criminal initiatives. Before too long, Reuben Robertson, a lawyer who worked with Ralph Nader came up to our office. Nader had been dogging ITT and felt that Kleindienst was somehow involved in the ITT fix. One of the things that we were given was a brief before the Supreme Court in the ITT case and the document had a sticky over the date and had been filed at a different date than it was printed. I remember telling Kennedy, "You've got to ask some questions about ITT," another day of Kleindienst hearings. He said, "Well, what do we have?"

Martin: We have a sticky.

Susman: We have a sticky and Ralph Nader's instinct. The Senator's rolling his eyes. It was lifting up the corner of the rock, and Kennedy started the questioning and started with Kleindienst. Flug and I were sitting behind him and we could give him little pieces of paper while he was chatting with him and trying to egg him on. And as soon as you begin to hit pay dirt—those were probably televised hearings because they were Attorney General confirmation hearings, and as soon as you begin to kind of get questions that look like you've got something, obviously, as is always the case, the Senators get interested and they all begin to come in.

That began our process of wallowing in pre Watergate. The press picked up a lot of the investigation—Brit Hume, Nina Totenberg did a lot of inquiry into Dita Beard and Hal Geneen and the ITT business and payments to support the San Diego Republican Convention. John Mitchell was chair of the party or the convention chair. There was a lot of really suspicious stuff going on. We wrote a minority report on the Kleindienst nomination because the majority of the committee voted him out. Our report has a foldout that is a timeline, and has the ITT case and the San Diego convention and Dita Beard's travels, and all these things were laid out so that you look at that and say, "Whoa." The date changed on the brief after ITT makes a big contribution. I don't remember the details, but our conclusion was that the administration had, for political reasons, decided not to pursue the ITT case in the Supreme Court. I can't remember the exact dates, but that sort of morphed into the early Watergate.

Of course there was the Watergate break-in. Before any Congressional investigation got started, we started looking at the dirty tricks during the election. We didn't have the capacity to follow the money. We talked about it a lot. We couldn't use compulsory process and our investigators were pretty good but they weren't going to be able to unravel that, but we did go after Donald Segretti and a lot of the campaign related activities that suggested that the Republican National Committee [RNC] was up to no good.

Martin: Do you have any sense at this point that Kennedy is seeing Nixon in his sights?

Susman: This is a staff frolic.

Martin: Oh, OK, at this point.

Susman: At the early point it's a staff frolic. We had enough to show the Senator that this was real enough for him to authorize. We issued subpoenas and traveled. I traveled to California and Florida, on the trail of dirty tricks. So we did a staff investigation of that and the Senator approved it. Even Thurmond probably had to have been fully informed of it. And it began to come out, of course that Kennedy had been on Nixon's enemies list, maybe even Jim Flug as well. They had done some sleuthing on Kennedy relating to a trip. So that ensured that he would be interested, but it also made it difficult for us to be the pursuers at that point, because if it was personal on Nixon's part with Kennedy, it couldn't be personal on Kennedy's part because it wouldn't have credibility. And so we handed everything over to [Samuel] Ervin, and we were involved in getting that committee set up. Ervin first started doing it out of a subcommittee, the Government Affairs Committee, and then they set up the special Watergate Committee, and we just handed over all the files to him.

Martin: Any follow-up?

Susman: Oh yes, the report. Ervin has a two or three volume report. And there's the House Impeachment Committee. There's a whole section, without attribution, but on the things that we had looked at. In fact Donald Segretti was prosecuted, and some of the RNC initiatives were identified. Mitchell fell in part because of that. Kleindienst also wound up getting confirmed but then leaving as part of the disgraced group and losing his license in Arizona. We felt like we had had the last word on him too.

Martin: But you as a staffer, once the Watergate Committee takes off—

Susman: Jim did a lot of kibitzing but the rest of us went on to other things.

Martin: So there's not a lot of behind the scenes with your staff.

Susman: No. We spent time talking to Sam Dash and I think Terry Lenzner was the staff person who stayed on and assisted there. We tried to be helpful but it was their show at that point.

Martin: There was also some concern that Kennedy's name was being floated for the '72 nomination, that this is going to look like a political trick by Kennedy.

Susman: I'm not sure that anyone in Kennedy's realm felt that '72 was it. He loved to flirt with Presidential campaign rumors. My answer to the question, "Why is Chris Dodd running? Because Kennedy told him how much fun it is." They're close personal friends, they're good buddies. In 1980 he had a great time. It was a gas, but did he really ever have a chicken's chance? No. And that was ten years after Chappaquiddick. You know, '72, no way.

Martin: Nixon thought Kennedy was going to be the nomination.

Susman: Yes, he did, and that's why they had the plumbers looking into Chappaquiddick too. I guess paranoia was Nixon's downfall. I understand that the recent book on Nixon and [Henry] Kissinger paints a more favorable picture of Nixon than Kissinger. I can't remember. I was reading a book review in one of the papers last week.

Martin: I have a colleague who has been doing some work at the Nixon Library for a dissertation and coming up with a lot of stuff on Kennedy in the Nixon papers, almost such that we could do some briefing of our own interviews based on what Nixon had collected.

Susman: That was his paranoia. Kennedy would normally be seen as the most potent of the opposition on Capitol Hill, because even with the albatross of Chappaquiddick, he remained diligent and political and astute and very effective.

Martin: Did that—it's hard to call it a rivalry because it never really materializes between Kennedy and Nixon, but those two sets of individuals, I wonder whether their contest, whether they went through straight legislation or whatnot, filtered down to you.

Susman: I don't know. I don't think I ever idolized Ted Kennedy. I think that he's an incredibly effective Senator and statesman and working for him was great fun and heady stuff. I use that as a predicate to saying I don't think that he would be driven by competition with Nixon. I never felt much of Kennedy being competitive in this traditional way. He did run against [Jimmy] Carter in the primaries, and he had some races that were more significant than others that he had to be serious about, but I think on issues, the competition only took place at the staff level—we wanted him out front on things we'd come up with. You know, you would come up with a good

idea and somebody else is thinking about it, but you want to be the first one who puts him out there on it. I'm going to digress.

Martin: OK.

Susman: Political science. You were asking the question about looking at how he tracks issues as a way to determine what's important. When I was down at AdPrac, I remember we had a political science graduate student hanging around with us for just a few weeks. It wasn't one of these semester things. The Senator said OK, that was fine. We gave him a desk and he could hang around and go to meetings, things of that sort. One day a friend of mine who worked for the National Association of Broadcasters walked in the office, and we were schmoozing and he reminded me that I had asked a few weeks ago about a cable television issue or something like that. I had handled the communications issues for Kennedy as part of the technology portfolio back then. I do not remember the subject matter but I know I said, "Gee, that's really interesting. We really ought to say something about that." And he said, "Well, I can give you some background, are you interested?" I said, "Yes, I really am."

Later that afternoon he came up with a couple of papers and he had underlined some stuff. I turned around at the electric typewriter, with legal size sheets of paper, and I banged out a floor statement. "Mr. President, the subject of competition in media has been of importance for me," et cetera, et cetera. I got a couple of long pages full, based on the material I had read, and I sent it up to the Senator in the bag that night with a short cover note saying, "This focuses on a recent development on a subject of interest to you" from a certain hearing or whatever, and the next day he put it in the *Congressional Record*. Again, at the time, it wasn't a bullet and it wasn't italics. He just submitted it to the *Record* and it looks like he gave the speech.

The political scientist guy just went bonkers about it, he said, "Holy cow, we measure inches in the *Congressional Record* as a surrogate for the attention and priorities that members have and you've just thrown that entire process to the dogs!" OK, so the Senator briefly read the statement, but I'd been working on this issue for years. He totally trusted me as to whether it was appropriate for him. I knew how to write for him. I wouldn't get him out on a limb. Yes, it was instigated by a lobbyist, big deal, but that also is another sort of reflection of the entrepreneurial staff situation, that is, we could get interested in things and move on them and he would be responsive.

Martin: This story leads to one of the things I was going to ask. Is there interaction with interests groups, lobbyists, and what not? Because one of the arguments that people have is that one of the ways that you're effective is that you basically use lobbyists as staff.

Susman: Right.

Martin: To do your homework for you or do some—

Susman: Even better, we used media as staff. With the Supreme Court nominations and ITT and Watergate, we would comb the press stories for leads to use in our investigations or questioning or things of that sort. I remember we would have some questions that we knew damn well we

couldn't get Kennedy to ask. I remember because Brit Hume, Watergate sort of catapulted him—he was doing it for Jack Anderson at the time. They were all over this ITT thing and we would give Brit issues to track down, which he would write about, and then we would have the answers to the questions, or he would come back and say it never panned out.

In terms of interest groups—well, before I get to interest groups, that also goes to the academy. For example, you have a question about a food and drug issue. You have hearings on commissions, national commissions. A lot of people are interested in the subject matter of these commissions. We got a lot of help putting those together and trying to figure out what was important, who was around, who should we have, from the people who had been involved in them. Working with Kennedy, it was always easy to pick up the phone and say, "Hi, this is Tom Susman with Senator Kennedy's office. I'm on the Administrative Practice Subcommittee with Kennedy, do you have time to talk?"

Martin: Who's going to say no?

Susman: And it's the same with the agencies too, even under a Republican administration. You could always get really good information wherever you asked. Part of it is probably generic to Congress but I think part of it is Kennedy-centric too, that people want to be helpful to him. I certainly have seen that through the years. Now on interest groups, there are certain interest groups that have kind of a close relationship with the office like education, labor, and civil rights where you can see the staff revolving door. They come in from the unions and go back to the NLRB [National Labor Relations Board], then they become union lawyers. They come in from one of the education associations, go back and work for the teachers, and go to work for interest groups like banks or other industries.

Martin: Oh, sure.

Susman: But that's the most obvious of the revolving door in and out at Kennedy's office. Sure, there a number of us who went straight with law first; Nick, Carolyn [Osolinik], Jim for a little while, and Buddy Wides for a little while. Not a whole long big list. Now that I think about it, a lot of the women who were assistants, secretary or clerical assistants, went out into lobbying. Part of it is they were always overqualified. Our secretaries would be women with college degrees. They wanted to work on the Hill, they wanted to work for Kennedy. They were really smart and so they didn't stay a long time. They didn't type all that fast.

Martin: But they could parlay that into jobs later.

Susman: They could parlay it into jobs later. They would move from doing strictly secretarial work to legislative correspondence and legislative type work because they were good.

Martin: After you left the staff, you said you got a few phone calls here and there, especially on Indian affairs. Did you get called upon to supplement the staff for a while?

Susman: For a little while, mostly to provide institutional memory. Mostly, you know, the Senator has been invited in to see such and such. Senator [Jeff] Bingaman wants Senator

Kennedy to come over to his office for a photo op with the All Pueblo Council. They would ask me, "Didn't he have something to do with that?" I'd say, "Well, yes actually, that was our Albuquerque hearing and I had witnesses from the All Pueblo Council back in nineteen seventy such and such." Or with hearings, sometimes I would get a call from Flug on this subject. We would say "Yes, yes."

When the argument was made that some Supreme Court Justice was filibustered, or maybe it was a Court of Appeals judge or something like that, that that had never happened before—the fact is that Fortas' nomination to be Chief Justice was filibustered. That was kind of the institutional memory. Now on the other side of that is I have never accepted employment targeted just at Ted Kennedy.

Martin: Targeted just at the broadly connecting?

Susman: Yes, well look, what if we have a client of Ropes & Gray who would like to go in to see the Senator. I do this for CEOs of the hospitals in Massachusetts. We work with them and this is fine, I can do that. Or someone says, "We want you to work on patent reform and that involves the House and Senate Judiciary Committees and obviously Kennedy is going to be important, of course." But especially within the last 15 years or so, there are a lot of lobbyists, an exponential growth of lobbyists, a lot of specialization. We're putting together a team. So and so is going to do Senate leadership, Jack Abramoff is going to do House leadership. I worked in two groups with two coalitions with Abramoff. They say, "You know, this is an important education issue, we'd like for you to do Kennedy." And I say no. A, I don't want to be seen in Kennedy's office as somebody who sells access to Kennedy and B, I don't want to be seen outside as somebody who is a specialist in access to Kennedy.

Martin: I would imagine you would have to be pretty careful about that.

Susman: Yes. That was easy to be careful about because I'm in a big law firm. I can turn clients down.

Martin: Do you shuffle them around, he'll take somebody else?

Susman: They'll find someone else. I also had an educational organization a few years ago that was looking for a lobbyist to work the education committees in the House and Senate. You know, Senate Education, Democrats would be key. And I learned later that Jay Urwitz and Nick Littlefield and I were the three that they were interviewing; all former staffers who all had worked in that area generally. It was just kind of funny.

Martin: They know who you are.

Susman: Yes, that happens in this town.

Martin: And it makes some sense. You know those issues and you probably know people on the staff who would be easy to talk to. Can we dial back in time about campaigns?

Susman: Yes, sure.

Martin: You would have been present for the ’70 Senate campaign, the ’76, and then I think you did some time with the ’80 campaign.

Susman: Yes, I did. In the ’70 campaign, we still had a separation between church and state. The Congressional staff didn’t venture directly and crassly into the campaign arena. It was just a coincidence that we had a hearing on a natural gas shortage in New England in an election year. That just was pure coincidence. The joke was that Kennedy was especially responsive to his constituency one out of every six years. That’s not such a joke. Through the years, it’s not just because I worked for him but compared with other Senators; [Edward] Brooke, [Paul] Tsongas, [John] Kerry—Kennedy’s office always has done better casework and been more responsive to Massachusetts constituents, without any exception.

Martin: Just because it has a better foundation?

Susman: I think so because they care, they’re good. We’ll probably have to delete this from the transcript, but I’ve never been entirely sure why John Kerry isn’t more effective in handling Massachusetts affairs, because he’s a very smart and talented and experienced guy. It’s not just that I buy into my own myth of Kennedy staff being the best on Capitol Hill, but maybe there’s something to that. I’ve lost my train of thought now.

Martin: You were talking originally about whether or not he does pay more attention during the sixth year.

Susman: We actually, for a long time, had a guy in the main office who kind of did Massachusetts issues, Massachusetts business; he was the liaison. They didn’t come to lobby the substantive staff by and large. We dealt with state issues and national issues. It wasn’t as sophisticated as it is now. If you were lobbying on an energy bill, you would comb the back hills of western Massachusetts to find someone who could bring you to Kennedy’s office. That’s done now. That wasn’t done as much then, and the Democratic and Republican lobbyists, you didn’t know the difference. The special interest groups, you knew who they were and they represented issues and you could learn from their issues. It didn’t make a difference who you're talking to: conservative or liberal of Republican or Democrat.

So staff didn’t do much in campaigns other than try to make sure that if we covered issues and something came up, we would respond. If an issue in Massachusetts relating to some contracting employment thing or consumer deception came up then we’d look into it. I think I met with a group of Massachusetts collection agents because I did the FTC [Federal Trade Commission]. We obviously tried to listen and be accommodating and be helpful, more so in election years because the Senator was more focused on the state in election years. But I don’t think Kennedy’s staff would ever be disrespectful. We probably got famous for not being very responsive to state interests, in the earlier years. I think he’s much more now actually.

Martin: Yes, especially after ’94. My understanding is that the Mitt Romney scare refocused his attention.

Susman: Well, that's very likely. I really just don't remember '76. Who did he run against?

Martin: I actually don't know who he ran against.

Susman: I don't remember either. In the '80 campaign, I had never worked on a political campaign.

Martin: So you never went to the state during campaign time in '70 or '76?

Susman: No.

Martin: Did you ever actually go back to the state, other than this committee?

Susman: Sometimes for meetings and things when we were working on issues, but not very often. Mainly because if he had something going on there he had staff up there already. So unless it was an AdPrac hearing or unless I was invited up to do something without him. In fact, I don't know that I was ever up with him in Massachusetts. I was with him in New York, but in Massachusetts there were other people handling that.

In '80 I was over on the Judiciary Committee and when he started on the campaign trail for the Presidential primaries, things just slowed down to a near halt. Breyer was still there and he would run the show. We had a staff director there. So I went over to the main office for a while. Initially I think I took Mark Schneider's group of issues. Was he still there? No, he was gone by then. Was he still there?

Martin: We can look at that later.

Susman: In any event, I took a group of issues from an LA [legislative assistant]. Back then Carey was on the plane all the time with the Senator so I sat in his chair and I was a traffic cop, "When will he be back for a vote and how do we pair him on something?" When the issues people on the campaign needed to connect with the issues people, I would be that go-to guy. It's like the Maytag repairman, kind of boring there. The staff would go over to the campaign office for briefings regularly.

Martin: To make sure you're on the same page.

Susman: Yes, the same page. Peter Edelman ran issues at the campaign and I think Steve Smith was sort of the organizer, and Paul Kirk was there. So the senior staff would go over there and sit around with the senior campaign staff and talk about what's going on, what's hot. At some point I just said, "Send me in, coach." They were looking around and I said, "I haven't had a vacation in two years. I'll be more than happy to take a few weeks off the payroll to go work in a state."

Little did I know that the state that they sent me to was the state where they probably didn't need anybody, which was Georgia. There was actually a little blurb in *Newsweek* about being dropped behind enemy lines, Kennedy's finally sending someone into Georgia. That was a wonderfully

interesting experience for me. It was like living off the land because I had to stay in somebody's house. I had to borrow a car. I used a law office until we had a campaign headquarters set up for just a few weeks, but part of it was that we didn't have any money.

Martin: Was this late in the campaign that you had joined in?

Susman: No, no, this was before the Georgia primary. It was February or March, some time in there. I think Bobby [Kennedy] came through once. Katherine [Kennedy] came through once, but the Senator never came there. On the primary election day, we were so proud that we got one delegate. I think Bobby or Joe [Kennedy] was running Mississippi and they didn't get any, so I was proud. I checked back and things were still slow in Washington and so I went from Georgia to Houston. I'm from Texas, I grew up in Houston and so there I really could live off the land, you know, I had a lot of friends in the community. The Kennedy family members had come for fundraisers, and I got more involved in the organizing. We had money so we had signs that we could put up and bumper stickers and events and things of that sort.

Martin: Now in the Georgia situation it's just because the campaign didn't delegate much funding or that the campaign didn't have any money at the time?

Susman: They had to allocate. The guy I think who was making some of those decisions on allocation was Charlie Cook, a guy whose savvy has been proved through the years, right?

Martin: Yes, yes.

Susman: The thought was that in Jimmy Carter's home state, we couldn't ignore it completely but we didn't want to invest anything in it. I got to a point where I could spend what I raised. I learned a lot about the "black market" of campaigns, where you give people a bunch of letters and they'd go out the next day and you don't know whose mail machine they were run through but they never showed up as a campaign contribution. You know, you man the phones in some office, trying to get people out for something or other and—

Martin: So you have friends who are helping you.

Susman: Yes. I made some really close friends during my time down there, like the novelist Stuart Woods, who's very famous these days. He pumps out two or three best-selling books a year now. He was in public relations and he had been a Bobby Kennedy fan and called up and said, "I'd like to be helpful to the campaign," and I said, "How about being in charge of press?" That's sort of the way it was done, and so he did. I have some wonderful stories from that because Stuart got me on talk radio, drive home, and there was a Libertarian host. I prepared by reading all the issue sheets and making sure I was fully briefed on all the information. I got in there in front of a microphone with the earphones on and we talk a little bit and I got to tell them about Kennedy's doing things in Georgia and it's great and we are concerned about whatever the local issue was.

The first question from the first caller was, "How can you work for that man that killed that girl and then lied about it?" Now, I knew his position on all sorts of esoteric national issues, and I've

never been at a loss for words and I remember my answer was, "He never lied about anything. That's the most investigated incident ever. Even Nixon investigated what Kennedy was doing. They never found anything to contradict what he said about it." The second question was on gun control. I said, "Look, the Senator comes from Massachusetts, his two brothers were killed. You've got to respect it. You may not agree with it. I don't think he's made any suggestion he's trying to take away your guns down here in Georgia, but he thinks that one way of dealing with a crime problem is fewer guns on the street." It was at that level of sophistication, but really interesting for me. I was seeing politics at the retail level.

Martin: When you're having to be sort of press spokesperson as well.

Susman: Exactly. As I say, we were living off the land. It was more interesting for me because there wasn't a hierarchy. I was the state coordinator and I was also everything else. Well, not everything else. I had a press guy, I had a state chair who was a lawyer in town, and I had a student coordinator because he had volunteered to do that. And we had put together some community groups. The unions were helpful, the teachers were very helpful.

Martin: Any interaction with the Carter campaign?

Susman: None.

Martin: Did they ignore you?

Susman: Yes. In fact, I hadn't realized what a grudge had been held from that until I was down in the Carter Library a few years ago. I was there with Steve Breyer. Steve and his wife and I were being taken through and [James Earl III] Chip's son [James Earl IV] Skip Carter, a grandson of Jimmy, was helping us and showing us through. We got to the '80 campaign and you look around, at the stuff on the primaries and the convention. Kennedy's name is nowhere.

Martin: So they erased Kennedy from that piece of history.

Susman: I said, "Geez, I hate to be a historical revisionist on you but weren't there primaries with Ted Kennedy?" Skip said, "You know, some of his family still believe that Ted Kennedy was the reason for Jimmy Carter's loss." Not the hostages, not his incompetence as President. In any event, it wasn't until then, many years later, that I realized just how deep-seated that animosity ran.

Martin: Do you think the decision to put a staffer in Georgia contributed to the animosity?

Susman: Wouldn't I like to think so?

Martin: That you personally got under Carter's skin.

Susman: I have a relatively big ego but I think I know better. It was a holding action, it was smoke and mirrors, and you could see the mirrors wobbling. We did what we could do. We had a presence. Kennedy wanted a presence in 50 states. We had a couple of events and we had some

family members come in to give speeches. We met with the gay rights community and we met with student groups. We did what we could do there. It was perfectly respectable, I thought.

Martin: How much coordination or discussion did you keep with the campaign as it went along?

Susman: Some, but not a lot, because I knew my priority. I mean I knew what a low priority I was. They were chasing down Michigan, Florida, New York, and California. In fact, I got paid with one of the artworks from the campaign. They had a bunch of artists do works to raise money and at the end, I was reimbursed with one. I had to go to Houston on my own ticket. They just didn't have the money.

Martin: Do you have any sense why the campaign lasted as long? I mean it was a pretty significant decision for Kennedy to go through the convention.

Susman: You know, this was Kennedy. Why has he lasted so long on all of these issues? He wasn't going to quit until they turned out the lights. The theme at the convention was "free the delegates." We all had these big badges with robots on them, with a red stripe across, the whole object being that delegates at the convention ought to vote their conscience, they ought to hear the speakers. That was his sail against the wind. It was phenomenal. I worked the floor during the convention in New York. That speech was worth the price of admission.

Martin: But he didn't get any delegates, I mean it didn't work.

Susman: You're right, it didn't work, but I don't think he ever embarrassed himself in that process. Sure, he didn't get that many. Carter's been a much better former President than he was President, but I think Kennedy just felt this was the time in terms of his own candidacy. It wasn't an election year for him, so he could keep his Senate seat, whereas four years later would have been too late.

Martin: One of the things that you'd said earlier, in the decision leading up to the '80 campaign and your decision to join the campaign at a certain point, was that things had stalled on Capitol Hill, in part because Kennedy left.

Susman: Oh, absolutely.

Martin: It's an interesting point. Do you think it was easy for him to leave the set of issues that he was dealing with on the Judiciary Committee?

Susman: Yes, absolutely. If you just look at the number of participants in the primaries through the years, I don't know that there was anyone else in '80. Occasionally there was a third party candidate like [H.] Ross Perot. When were the seven?

Martin: Eighty-eight, I think.

Susman: Eighty-eight. But I mean until then... I think one of the things that accounts for so many members going in is because it's a way for them to get a national bully pulpit. If I were

Barack Obama's advisor or uncle or whatever I would say, "Absolutely, go for it." I would have said a few months ago, "Sure, you're not that well known, you've never done a national campaign. You're going to have to some time, this is a good time to do it. Let's see, let's test the water." And like I say with Chris Dodd, he heard so many great Kennedy stories from the campaign trail that he said, "I can do this, I'm going to give it a try." It ain't half bad getting around the country with Secret Service transportation and support. At least if you have enough money to have some staff and to be invited to debates and things of that sort, it gives you a chance to develop your own positions and to get out there. I think Kennedy returned to the Senate—and each one does—you return to the Senate better known, with higher visibility than when you left on the campaign trail.

Martin: Yes, I was wondering whether that would have a positive effect on one's Senatorial career, the flirting with the Presidential aspirations and then after the campaign, does it give him a bump? Although at the same time he had a national profile to start with.

Susman: Yes, he did, but he could never have reached the same number of people and built up the grassroots support that he had. A lot of the great political organizers from the '80s and '90s were people like [Paul] Tully, [John] Podesta, and [William] Carrick. They all worked on the Kennedy '80 campaign.

Martin: Do you have any sense who were his main advisors leading up to the decision to run?

Susman: Whoever it was didn't give him very good advice early on, because there was the famous Roger Mudd interview that he flubbed pretty badly. From my perception, Paul Kirk and Steve Smith were two, and Eddie Martin. Those would have been probably the key guys. I never dealt with the political side in his office but he may have had some Massachusetts advisors—he seemed to have some pols in the retinue through the years. I don't know if they loomed as large after Chappaquiddick because I think probably it's hard not to think that that was one of the problems of Chappaquiddick.

Martin: Was?

Susman: Was, meaning that he was there with his cronies. There was nobody who would tell him, "Don't do that, I'll take her home. Don't drive." Whatever it was that he did wrong, and I don't know that we're ever going to learn any more of what happened, but he was probably not getting the kind of advice that would have served him in good stead. Again, dissent and differing views were never repressed in any way on the staff. He may not follow them and, as I say, that's a signal that you're going in the wrong direction. Some staff people learn faster than others that their views aren't being accommodated or attended to by the Senator, but you learn in time.

Martin: You had said earlier when we were talking that there wasn't much of a distinction or there weren't that many political people on the staff, like they were mostly policy people.

Susman: The AA was clearly likely to be a political person, Dave Burke and Eddie Martin, although Ken Feinberg was aberrant in that respect and so was Rick Burke. I mean Rick was a mechanic, combination sycophant and mechanic who rose far above his ability.

Martin: One of the things that people talk about is if you're a member of the Senate, a couple of things that you want to do is rise in the ranks in the Senate, pass good legislation and of course keep your job, get reelected. Was there anyone other than Kennedy himself who was in charge of him positioning himself within the Senate? Who would have been the advisor?

Susman: I think Paul Kirk.

Martin: Kirk would have been that.

Susman: Yes. Of course when Kennedy got elected to Whip, Paul had been his advisor going into that.

Martin: Sort of internal to the Senate political advisor?

Susman: Yes.

Martin: Interesting.

Susman: And probably Dave Burke. I wasn't there then but Dave a was smart, very astute guy.

Martin: I wanted to just touch on one more topic before I call it a day. I appreciate your patience.

Susman: No, that's fine, it's exciting.

Martin: The set of issues that you were working on in the last couple of years before Kennedy went on the campaign trail, a couple of big ones when he becomes Chair of the Judiciary Committee. He's starting to rework the Federal Criminal Code. Judicial selection becomes an issue, especially when Carter has his commission. I wanted to get through a couple of those things and see where you come into this picture.

Susman: Well, the Criminal Code was Ken Feinberg's shtick. He continued to work on that when he was AA, he continued to work on it when he was in the Antitrust Committee. S-1, you know, reflected the unholy alliance between Kennedy and McClellan, and the Criminal Code still hasn't been.

Martin: Yes, it gets dropped at the—

Susman: Judicial selection, it may be that we created a monster but we did it. We had hearings on diversity, we had hearings with the ABA [American Bar Association] talking about their process. I worked on the first committee questionnaire. We hired independent investigators. We got access to the FBI files. The [James] Eastland way of handling that would be the FBI would come in and either show him the file or brief him, and he would then call the Senator who was the sponsor of the nominee into his office and they'd pour some scotch at the end of the day, and

Eastland would say, "You want a vote on that?" And that was the end of it and the nomination would then languish or not be sent up again or whatever.

We started a process that involved an investigative accountant Carmine Bellino, who went through the financial records of all the nominees. Jim Mitchie or Walter Sheridan looked at their FBI files and prepared a summary of issues. Elaine Shocas was doing staffing on the hearings. That was an issue under my jurisdiction in the full committee. That came to a head when a District Court nominee Homer Thornberry was defeated.

Martin: Yes, that was his name.

Susman: That was an aberrant case because Senator [Robert] Morgan should have known not to bring someone up for a vote when he doesn't know how the votes were going to come out. So I thought that was kind of dumb on his part, and he of course later attacked Breyer after that and tried to hold up Breyer's nomination to the First Circuit. We invited interest groups in to provide views— women's groups, civil rights groups—to give views on the nominees, and opened the process. I think that was one of the better, more notable achievements during Kennedy's two years as the Judiciary Committee chair.

Martin: You had raised the Morrissey case earlier.

Susman: Oh yes, Morrissey.

Martin: Kennedy's sort of an odd person to be carrying this torch, given that—

Susman: Well, that was 20 years earlier, let's get off it now. I think he always learned from mistakes. I remember he had little gems of wisdom every once in a while that you may not expect. He learned a lot in his career. Taxes were very important. He was very suspicious of tax avoiders and evaders. I suppose in retrospect I should have some question about this, but I remember the Senator saying that was one of the things his father always said. I guess translated in the light of hindsight it would be, "Whatever else you do, pay your taxes." But it was certainly, "Pay your taxes. Don't ever screw around with the IRS [Internal Revenue Service]." I think that after the Court battles in the early '70s, that was over and done with. It's kind of like Chappaquiddick, which came back to haunt during Watergate a little bit. There's a generation out there who's never heard of it now.

Martin: What I was wondering about was whether this is to some degree going full circle and fixing some of those problems that he experienced firsthand.

Susman: Oh, I see what your question is. Was he likely to have been more amenable to a more transparent and exacting process for nominees because of his own experience? And the answer is, I don't know. Again, most of the processes and the hearings and the guidelines and the questionnaires and the battle we had over private clubs, I mean that was all staff initiated and he carried forward with it. I never got a sense that he was paying penance in any way. That was just good government.

Martin: Sure, sure. Any sense that he—I guess one of the things that's interesting here is how this process gets initiated because it is such a strong break with Senate protocol.

Susman: It's a new chairman on the committee. Again, in taking over the Judiciary Committee, I remember we were planning to do the administrative process type issues, good government issues, civil rights. The judges came under my responsibility. I can't remember what else I did. I'm sure I did something else during those years in terms of full committee hearings and oversight and things of that sort.

Then you had something that you wanted to nurture some issues on and make sure that—of course a lot of that then became administrative. How do we get a quorum and how does Kennedy handle a stupid amendment that Senator So-and-so wants to do? The other Senator catches Kennedy outside the hearing room and you think, *Whoops, I'd better get out there really quick so the Senator will understand*.

Martin: Don't agree.

Susman: Right. So a lot of it is just the powers of the chair translated into an awful lot of responsibilities of the chair. I don't think that the initiative process in the full Judiciary Committee was any different than it had been previously, which is based on—I love your term, staff entrepreneurship, where the staff comes up with good ideas and it gets tested. I mean this whole thing about clubs. I think Kennedy was not necessarily enthusiastic the first time around on judges not being members of clubs, but the civil rights groups really liked that idea, and the women's groups.

Martin: They were concerned about exclusive clubs.

Susman: Right. Clubs that discriminate, and we made nominees resign from clubs, unless they could show that there was change or that they had attempted to affect change. One of the things I should note is Kennedy and women's issues is an interesting subject. I didn't work firsthand on them but I remember the Equal Rights Amendment when it came up and Kennedy hadn't sponsored it and wasn't supporting it.

Martin: I think he voted against it.

Susman: Did he vote against it? OK.

Martin: I believe so.

Susman: You know, and he took a lot of grief for that. I doubt very seriously if his opposition or lack of commitment came from hostility to women's progress any more than his support in embracing it through the later years came from waking up one morning and having a sudden revelation. I think his thoughts evolved about it.

We had noticed through the years that he had a glass ceiling in his own office. We tried outreach to African Americans but it wasn't all that easy to do. I remember because in the nomination of

[Lewis] Powell to be a Supreme Court Justice—I'm pretty sure it was Powell—where Kennedy asked the question, "What are your views on whether we should have a constitutional amendment guaranteeing women equal rights?" And Powell said, "Well, Senator, I really haven't thought about that issue." Kennedy said, "You haven't thought about that issue? You brought up two girls in your household and you're married, and you haven't thought about that issue? You never talk about that with your family at all?"

I remember that because I suspect that was one of those *aha* moments on Powell's part, where he figured whoops, he's got to be a little careful about that. But that illustrated to me that Kennedy really had thought about that. I mean this was something that was at that point more important to him, and there was an evolution there. Of course eventually he certainly hired a lot of women and promoted them within his staff. I think that was absolutely genuine on his part.

Martin: Do you think it's a situation where he's updating what is consistent with being liberal, that in the '50s and the '60s being liberal is basically labor issues, government involvement, and then it sort of envelopes race, gender, and identity?

Susman: I think it is not likely that he thought about it in those terms, but that certainly makes sense to me. It's also because his liberal constituencies moved their focus.

Martin: They're putting things together that probably hadn't been put together that way.

Susman: Right, so that the civil rights community was interested in women's rights and supported the various titles for equal rights and equal access for women, and the labor unions began. Those were the traditional Kennedy constituencies. He's always been very faithful to those traditional liberal constituencies.

Martin: Last question.

Susman: Yes.

Martin: Civil rights acts, you have no involvement here?

Susman: No, I really couldn't think of any. I don't know that there were any in the '70s.

Martin: Well, you have a renewal in '70 and '75.

Susman: Of the Civil Rights Act.

Martin: The Voting Rights Act, I'm sorry.

Susman: Oh, the Voting Rights Act.

Martin: I misspoke.

Susman: I did not. I think that was Jim Flug in ’70, I’m sure it was, and I don’t know who it would have been in ’75.

Martin: It could have been Burt Wides.

Susman: I don’t think Burt was with him. He may have been. It could have been Burt Wides or it could have been Carey, because Carey worked that issue. The 19-year old vote was sort of Carey’s thing.

Martin: That’s right, which was connected with the ’70 one.

Susman: Right.

Martin: Why do you think the judicial selection might have turned out to be a monster, or the process?

Susman: Now I’m personalizing it. My wife, four years ago, was nominated to the Court of Federal Claims, which is a Federal Article I Court, a minor court on the great scheme of things, but it involved the Judiciary Committee confirmation process. I was sitting there with her filling out the forms.

Martin: So you’ve seen it from the other side.

Susman: I’ve seen it from the other side. Then she got hung up in the process when Senator Leahy got in a fight with the White House, and it took her about ten or eleven months more than it should have to be confirmed, ultimately by unanimous consent. You know, she’s practicing law. What happens to your clients during that time? What happens to your secretary, what happens to your partners? Life was hell, just hell. Now, looking back on it, she it loves it. She’s a great judge, and it’s all terrific. When her nomination came out of committee, the Republicans had the majority. She had worked for [Robert] Dole, you know, on the campaign. Leahy had told me that he would support her and that there would be no problem, and then he didn’t. I was bugging Kennedy unmercifully you know, as a matter of—

Martin: Personal lobby.

Susman: Personal. He talked to Leahy and I got a call back that Leahy just didn’t want to do it. I would have liked Kennedy to be a little more aggressive than he was, but he only has 8,000 former staff people too, but I’ve never asked him for a thing.

Martin: Why wouldn’t—I mean, this is sort of an interesting Senate situation. Why would Leahy care? I mean your description of it, it’s not like the Federal Court of Appeals.

Susman: Because there were four nominees at the same time and Leahy wanted one of his choice. They had given [Orrin] Hatch one of his choice during the Clinton Administration and Leahy just felt what’s fair is fair. They had already confirmed one or two Republicans and with four nominations he wanted one. My wife Susan [Braden] happened to have been one of those

and was swept into the middle of the battle with the White House, and the White House never blinked. And so the Republicans took over the Senate and Hatch got her out.

Martin: Interesting.

Susman: All right.

Martin: I think that we're good for today. I appreciate your time.

Susman: My pleasure.

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