

## INSIDE AND OUTSIDE THE SENATE

### Interview #6

Wednesday, May 16, 2007

**RITCHIE:** We had gotten up to Senator Hatfield's retirement, and it was then you went to Baker Donelson. I was looking at your biography online, and I noticed that the firm identified you as a "public policy advisor," but didn't define what that was. I thought we could start with that.

**KENNEDY:** Well, a "senior public policy advisor" in the parlance of the Baker Donelson law firm is the phrase that Senator Baker and others came up with in lieu of the word lobbyist. I mean, everybody throughout town in the lobbying business has different euphemisms for what they do, but that's our title for lobbyist.

**RITCHIE:** How would you define the responsibilities of the position? What actually did it involve?

**KENNEDY:** Well, as it does in all of these situations, it involved helping existing clients of the firm navigate the shoals of the legislative process and hopefully finding new clients for the firm that needed some assistance in that regard. I found, in my first tenure at Baker Donelson, and in my current one, that most of what that entails is providing counsel and advice, and information about what the Congress is doing, likely to do, not doing, not likely to do; when various things might happen; who sits where; who's influential in certain decisions and who's not. And not very much of the work, at least for me in my experience, has been actual lobbying, that is, coming to congressional offices and meeting with members and staff, seeking a particular legislative outcome.

**RITCHIE:** Does someone else in the firm do that, or do the clients do that themselves?

**KENNEDY:** All of us do it to some extent, but I think all of us have had a similar experience, that most of what you spend your time doing is advising the clients. Yes, most of the clients then, armed with that information, are better able to go lobby themselves. Certainly when I was on staff up here, I was more receptive to, if you will, and more appreciate of someone who came and plead their own case and didn't have to

get somebody to do it for them. Now, some people are better positioned than others to do that. Some of my clients at Baker Donelson have included some small and some not-so-small non-profit entities, who are not as knowledgeable or sophisticated in the ways of Washington. Sometimes they need a little more direct on-site help than others. But the big folks, the Boeings and the Lockheeds and the Nuclear Energy Institute and all that crowd, they know how to come here and argue their case.

**RITCHIE:** Did you specialize in any particular type of clients or requests?

**KENNEDY:** No, not really, because most of my tenure in the Senate I was working as the staff director of the Appropriations Committee, be it in the majority or minority. At the full committee level one tends to learn a little bit about a lot and not a whole lot about any one particular thing. With the possible exception that you do learn a whole lot about legislative procedure. And, of course, you learn that the appropriations process one way or another affects everything the government does. So I had a variety of clients and a variety of industries, all of whom either had something at stake in the appropriations process or wanted to try to influence the executive branch one way or another in the appropriations process. That included a regulated electric utility, it included a pharmaceutical company, it included the American Trucking Association, it included the American Newspaper Association. I mean, it's a pretty broad range of folks.

**RITCHIE:** It was about that time in the late '90s that earmarking was taking off. Did your clients come to you to figure out how to get an earmark?

**KENNEDY:** No, the only client that I had in my first stint there at Baker Donelson that was very focused on getting federal dollars was the international organizing committee for the Special Olympics Games held in and around Durham, North Carolina in 1999. They were a very nice client to want to help, and in the end they received \$12 million worth of federal money, which helped them enormously to put on very successful games.

**RITCHIE:** Was it a matter of finding the right sponsor in that case?

**KENNEDY:** Yes, and it was a combination of things. It was knowing where to go, the appropriate places to look for some federal support, and the guy that was the

executive director was knowledgeable in this process. He may have worked on the Atlanta Olympics. But in any event, he knew where various programs existed that had lent this kind of support before. It also helped considerably that Senator [Lauch] Faircloth of North Carolina was on the Appropriations Committee at the time, and the games were going on in his home state, and he was up for reelection. It was a confluence of events that produced a very successful outcome.

**RITCHIE:** It makes a big difference if it's happening in a senator's state.

**KENNEDY:** Indeed.

**RITCHIE:** Having spent so much time on Capitol Hill, and now stepping away from it, how different did the Congress look once you were downtown?

**KENNEDY:** Well, it didn't look that much different to me, I don't think. But one thing I began to appreciate almost immediately was when you are here you take for granted how easy it is to get information about what's going on. Off Capitol Hill, it can be very difficult. The institution become impenetrable. The things that you took for granted become very hard to come by.

**RITCHIE:** Is it the personal connections, that you see people who are in the know and they keep you informed?

**KENNEDY:** It's that. Part of it is that you are part of the process. On the part of folks who just left the Hill there is a reluctance to pick up the phone and pester the folks you were just working with, because you know they're busy and they've got other things to do. But having said all that, the digital age has changed that significantly. The accessibility of the information now is better than it used to be, and happens much more quickly. A conference report gets filed and boom it's on the House Rules Committee web page and everybody gets to see it.

**RITCHIE:** I suppose your years of experience up here also helps you to read a conference report, to find what was buried within it.

**KENNEDY:** That's true. It's useful to know where to look.

**RITCHIE:** Especially with appropriations, it's always fascinating to see what comes out of conference, since a lot wasn't there when it went into conference.

**KENNEDY:** And for real connoisseurs of process there's always a certain interest in looking to see what they've come up with this time. In this Congress, when the first Iraq war supplemental emerged from the House Appropriations Committee, in Mr. Obey's report accompanying the bill there was this one sentence: "The committee has included language relative to spinach." Period. And of course that turned out to be a provision of law providing federal assistance to the spinach growers, primarily in California, who had been disadvantaged because of the E Coli scare. That's all they were constrained to say about it in their report.

**RITCHIE:** Working in a firm like Baker Donelson, did you also get involved in campaign fundrasing? People who are seeking help from Capitol Hill are often expected to provide help in some way.

**KENNEDY:** Not very much, quite honestly. It increased a little bit over the years that I was there. But it had more to do with the clients. I mentioned earlier that one of our clients when I was there in my first tenure was a regulated utility in the Pacific Northwest. As folks from that company would come to town and I would take them to meetings in various offices, those offices made the connection between me and the company, so over time I started to get faxes, "You're invited to..." Ninety percent of those things I would ignore. That's still the case in this tenure as well. Every now and then the firm would have a small event, a breakfast or a lunch for somebody, but not very often. There's not a whole lot of that.

**RITCHIE:** Baker Donelson is an interesting firm because it's got people from all sides. Wasn't Linda Daschle working there?

**KENNEDY:** Yes, indeed.

**RITCHIE:** Was this Senator Baker pulling in people that he knew? You mentioned that he called about you specifically. Was he the person setting up the shop?

**KENNEDY:** Yes, certainly. The Washington office of the law firm, which when the Washington office was established the firm was called Baker Worthington, is very much Senator Baker's creation. He set out from the beginning to have it be a law office and to have a public policy practice. The public policy group is populated primarily—not exclusively—with non-lawyers, which has worked out fine. I think he also was attentive to making it a bipartisan firm. Party affiliation is not uppermost in his mind, but I think he did not want our public policy enterprise to be regarded by others as a gaggle of people who used to work for Republicans.

**RITCHIE:** I suppose if part of the process is getting doors to open, it's good to know people behind a lot of different doors.

**KENNEDY:** And I think it's a tribute to Baker and his standing in Washington, and throughout the country for that matter, that when Linda decided that she wanted to leave government, leave being deputy administrator of the FAA, that she wanted to come to the Baker firm. Clearly, her associations are with the Democratic Party, but she recognized in Baker someone with standing in Washington that transcends party affiliations. She wanted to do that too. I don't think she wanted to be in a pigeonhole of just one particular party affiliation.

**RITCHIE:** You did this work from 1997 to 2003. What made you decide to come back to Capitol Hill after having escaped for a while?

**KENNEDY:** Well, as I think we may have discussed in one of the earlier conversations, I learned at some point after I left here the first time that I needed to spend some more time in the system in order to be assured of health benefits as a federal retiree.

**RITCHIE:** Under the old Civil Service System.

**KENNEDY:** Right, so I knew that at some juncture I would be coming back. When Senator [Bill] Frist became majority leader, and followed Senator [Tom] Daschle's good example of picking someone with a law enforcement background to be Sergeant at Arms, it occurred to me that that's a good decision but somebody like Bill Pickle, who is Sergeant at Arms after having had spent thirty years in the Secret Service, may not know all that much about the Senate. So I approached Howard Liebengood, who was Senator

Frist's chief of staff in his personal office. One thing led to another and I get selected to be Deputy Sergeant at Arms, which was a terrific job, and it took care of the little problem of having enough time to qualify for health benefits.

**RITCHIE:** You say terrific, but it had to be a complicated job, because the Sergeant at Arms operation is huge.

**KENNEDY:** It is huge. The Sergeant at Arms is the single largest employer in the United States Senate. As you know, every office is an independent hiring authority, but the Sergeant at Arms has got approaching nine hundred people working for him and spends a couple of hundred million dollars a year. He's sort of the quartermaster of the Senate. He provides all kinds of services in addition to the—these days—primary role of security. The Sergeant at Arms takes care of a host of things that makes senators' lives and the operations of their offices a lot easier on a day-to-day basis. It was not unlike being the COO of a not-so-small business. It was fun.

**RITCHIE:** How did you divide things up with Mr. Pickle?

**KENNEDY:** Well, we very quickly hit it off and worked out a very enjoyable and I think productive relationship. He was very much the CEO. Things didn't get to his desk unless they absolutely had to. He was very much the principal security officer and the principal protocol officer. I was more responsible for the day-to-day management of the place, in which task I was enormously helped by the assistant Sergeants at Arms in the organization and by the directors of the various elements in the organization. There are about twenty of them. They are the real worker bees who make the place go. Unlike any other organization in the Senate that I know of, the Sergeant at Arms is pretty hierarchical. Those folks down there, the mid-level managers were really the ones who got the work done. Everything else just percolated up.

**RITCHIE:** One of the big changes around here in the last fifteen years or so has been the Congressional Accountability Act. Did you find that that impacted on the type of work you were doing?

**KENNEDY:** Oh, yes. At the time we had an outstanding man as the head of the

Sergeant at Arms' human resources office, Doug Fertig. Doug had come to the Senate from the city of Alexandria, I believe. Anyway, he was the head of human resources, and he was the guy who brought to me personnel issues. Because of the Congressional Accountability Act, the grievance procedures and the job classification procedures and all kind of other things were much more formalized that they ever had been, and I think more so in the Sergeant at Arms office than perhaps in the Secretary of the Senate's office or any other place in the Senate. Again, they're the biggest organization. The employees of the Sergeant at Arms range from Ph.D.'s working in the Computer Center to blue-collar folks moving furniture around and running woodworking machines or printing presses down in Postal Square. It's a very disparate employee base with different kinds of issues. From time to time, disciplinary actions had to be taken. From time to time, the Sergeant at Arms got taken to court. I think there's still at least one case that actually predates my tenure in the Sergeant at Arms' office that is somewhere out there in the federal judicial system.

**RITCHIE:** We just had a case where a staff person sued a senator who fired him. The Senate employment counsel argued one side of the case and the Senate legal counsel argued the other side of the case.

**KENNEDY:** Right, it's been argued before the Supreme Court.

**RITCHIE:** They haven't rendered a decision yet.

**KENNEDY:** Right. It's going to be interesting.

**RITCHIE:** They'll probably find a technicality to slide by on.

**KENNEDY:** I'm sure they're going to want to stay out of it as much as they possibly can.<sup>1</sup>

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<sup>1</sup>On May 21, 2007 the Supreme Court held that it lacked jurisdiction in the case of *Office of Senator Mark Dayton v. Hanson* because the District Court's order that a trial be held had not stated any grounds for its decision and therefore could not be characterized as a constitutional holding.

**RITCHIE:** The other huge change was that September 11<sup>th</sup> changed the whole security issue on Capitol Hill. That's a major part of what the Sergeant at Arms does. Did you get involved at all in security issues, or was that Mr. Pickle's?

**KENNEDY:** Well, it was Mr. Pickle's call, because he had the experience in that world. I was with him every step of the way and involved in the various decisions that were made, primarily with the Police Board, which is a joint House-Senate entity. It's the House Sergeant at Arms, the Senate Sergeant at Arms, and the Architect of the Capitol. Those three individuals sit down every other week or so and consider various security issues and operational issues with the Capitol Police and how people ought to be deployed, and whether or not certain streets ought to be open or closed, with the approval of the Senate Rules Committee and the House Committee on Administration what sort of thing is going to happen on campus to improve security and the like. If I made a contribution in those discussions from time to time it was to offer a perspective from the point of view of somebody who has served in the Senate for a long time--this to remind Mr. Pickle that this is the Senate, this is not the White House. There are certain things that come to be accepted as standard practice downtown that the Senate will not tolerate, in terms of security, and who can go where, and who can do what.

**RITCHIE:** It's the great conundrum of being in the most open of all federal buildings and the visitors being constituents and potential voters.

**KENNEDY:** That's exactly right. It is a conundrum. The Congress of the United States has spent tens of millions of dollars, and that's not counting the Visitor Center, on various security measures up here on Capitol Hill that I think is sort of fighting the last battle. All these barriers have been put up against vehicles, and that's all well and good. And yes, that may deter certain things. But it has not made this campus by any means invulnerable or impenetrable. Anyone who is dead set on doing harm to this institution can do so. I don't think there's anything that we'll ever be able to do about that.

**RITCHIE:** And the Capitol will always be a symbol, which means it will always be a target.

**KENNEDY:** That's right.



**RITCHIE:** Well, did you find yourself dealing with the Appropriations Committee in terms of the Sergeant at Arms' appropriations?

**KENNEDY:** Oh, yes. Mr. Pickle was only too happy to dispatch me to deal with the Appropriations Committee, because the Sergeant at Arms' office, like everybody else, is dependent upon the judgment of the Appropriations Committee on how much money is going to get appropriated. So I was frequently in the offices of the Appropriations Committee, pleading our case and attempting to interpret back to Mr. Pickle where we stood and why.

**RITCHIE:** My sense, though, is that the legislative appropriations side of it is probably a little easier than the executive branch appropriations.

**KENNEDY:** Oh, it is. But it is also a very small world. There are only a few people who are really focused on it, pay attention to it, and care about it. Just a couple of decision makers. When you get that one influential decision maker who likes something, or they don't, that can make a big difference. Senator Ben Nighthorse Campbell was chairman of the Leg. Branch subcommittee in '03 and '04, in his last two years here in the Senate. It was because he was so very interested in it that the U.S. Capitol Police got a mounted unit, guys on horseback. The then chief of Capitol Police, Terry Gainer, was delighted with it. Lots of people were because it's widely known in the law enforcement community that a mounted unit is very, very effective in crowd control. It is a "force multiplier," as the defense guys like to say. So for a couple of years there, the Capitol Police had a mounted unit. Then the leadership changed on the subcommittees and the next chairman in the House didn't like horses, so now they are gone.

**RITCHIE:** So you really have to know the personalities of the senators who are on the committee, and their peccadillos.

**KENNEDY:** I remember the first time that Mr. Pickle testified as Sergeant at Arms before the Leg. Branch subcommittee. I was there with him, and Chief Gainer was there, he would be testifying later on the agenda about the Capitol Police. Before the hearing, Pickle and I walked up to the dais and we were saying hello to the staff people, one of who said to me, "How does it feel to be on the other side of this?" I said something like, "It's a little different. I understand that you guys are in charge. You'll be

making the decision. But on the other hand, the people on this side of the dais all have guns.” But it was then, is now, a very happy relationship. The Sergeant at Arms tries to be attentive to the committee and vice versa.

**RITCHIE:** Well, and especially because your office was providing services to the senators, one was protection and the other was technical services, and it clearly benefitted when funding for those services was increased.

**KENNEDY:** That’s right, and the committee is mindful of that fact. The committee has the role of making sure that what’s getting appropriated is proven and justified, and is going to be spent wisely, and is not a penny more than is actually needed. But the committee is also mindful that if it provides insufficient money for something that the Sergeant at Arms is going to be doing, you’re absolutely right, that ultimately impacts on senators’ offices.

**RITCHIE:** It strikes me that both the Secretary of the Senate and the Sergeant at Arms offices are in the same boat in the sense that their job is make the institution run smoothly so that no one actually notices what they’re doing for them, so the legislators can focus entirely on the legislation and not have to worry about the day-to-day administration of the institution. It’s only when some part of those organizations doesn’t function well, or gets some bad publicity, or doesn’t fulfill the mission they are charged to do, that all of a sudden the Senate notices they are there.

**KENNEDY:** Right. And then the Secretary and the Sergeant at Arms have at least one hundred folks who think they could have done it better.

**RITCHIE:** But considering how many people work up here, it seems to work fairly efficiently in that there aren’t that many flaps about the day-to-day operations.

**KENNEDY:** No, I don’t think so. I think as much as anybody, the police face the brunt of complaints, because it seems to me that when there are hiccups they seem to be problems with perimeter security. People get their feathers’ ruffled about how they are treated when they come through the doors or through the detectors, or what they have to do if they get challenged. As you know, there are a lot of prima donnas around here.

**RITCHIE:** The Capitol Police force also grew enormously and you have a lot of people who aren't as familiar with the lay of the land.

**KENNEDY:** True.

**RITCHIE:** We used to have the same policemen at the door who were there every morning and who knew everyone by sight. Now there's less continuity, deliberately in some respects, officers are rotated to different posts. So distinguishing between a member of Congress and a staff person and a tourist sometimes doesn't come as readily.

**KENNEDY:** Right.

**RITCHIE:** That's a reflection of how the whole security apparatus has mushroomed.

**KENNEDY:** It really has.

**RITCHIE:** Well, in 2005, you went back to the Appropriations Committee. What was it that drew you back?

**KENNEDY:** Well, the way that evolved, actually it was in May of 2004 or thereabouts—I guess it was earlier than that, probably April of 2004 I got a call from Senator Cochran's personal office chief of staff, Mark Keenum, who asked if I could come over and see him. I went over and sat down in Mark's office and without a whole lot of to-do, he said, "Senator Cochran is anticipating being the next chairman of the Appropriations Committee and wonders if you'd be interested in being staff director again." Which I honestly had not anticipated him saying. So I stumbled around a little bit and eventually said, "Yes, I think so, but give me some time to think about this." Because I said to him I really hadn't thought that I'd be back up here in the Senate for much more than a couple of years. I was thinking that at the end of the 108<sup>th</sup> Congress, having done my time in the Sergeant at Arms office, gotten the time I needed for some benefits, I would go back to the private sector somewhere, Baker Donelson or someplace else.

So the family went off for the boys' spring break and spent a week at the beach. My wife Patricia and I talked about it. It really wasn't that hard of a decision to make. I mean, it's a wonderful job, I knew that. I knew that the job had changed since I last had it, and I also knew that I would be working for somebody different. It wasn't going to be Mark Hatfield anymore. I had gotten to know Senator Cochran when he first came on the committee in 1981, so I had been around him and had gotten to know him over the course of a number of years. I thought it would be great to work with him. So I came back from that trip in the spring of '04 and said, "Yes, sir." I said it to Mark Keenum, "Yep, I'm ready to do it." Then I had the meeting with Senator Cochran to make it official. Then both of us tried as best we could not to say anything about it for the next series of months. Up until January of 2005, not until Senator Cochran officially became chairman of the committee was there anything publicly said about my coming back to the committee, although word did percolate around.

**RITCHIE:** That marked the first time that a chairman of the Appropriations Committee had to step down because of the term limits that the Republican Conference had created. Senator Stevens had maxed out on his six years to be chair of the committee. What do you think about this idea of limiting service of a chairman. Does it make a lot of sense? Is it disruptive? Does it take away experience or does it share power? What do you think of term limits in general?

**KENNEDY:** In general, I don't like them. I believe I understand the thinking behind them, in that you don't want folks to sit in one place for too long. But I think in some ways term limits can unduly empower staff—the principals change and the staff are always there. I think more significantly, it's a really fundamental change for the Senate of the United States, which anybody who has ever known it knows it has been based on by-God seniority. We both remember the dance between Senator Lugar and Senator Helms, and how Senator Helms passed up the opportunity to chair Foreign Relations in the early '80s so he could stay on Agriculture for another Congress, while he was up for reelection, so Senator Lugar got the gavel. Then lo and behold in the next Congress Senator Helms asserted his seniority and I well remember that the Mark Hatfields, Lowell Weickers, John Chafees, Bob Staffords of the day all said, "We're with Helms, because if these things get to be popularity contests those of us who occasionally wander from the true Republican path are never going to have the opportunity to get a gavel." I think they were right about that.

I think the term limits proposal is another bad idea that came from the House and got imposed on the Senate—at least the Senate Republicans. Mind you, the Senate Democrats have not bought into this. It's part of the age-old struggle that has gone on primarily in the House but also here in the Senate between the leadership and the committee chairs. And that power flows back and forth. In the House, in recent years, it's flowed towards the leadership. They decide. They pick and choose. A Newt Gingrich can elevate a Bob Livingston to be chairman of Appropriations, and leave Joe McDade sitting there wondering what happened. But in the Senate, it hasn't been so. This business of term limits, while not going quite so far as to have the leadership just handpick people, it gets closer to that model.

**RITCHIE:** Actually, it was just a musical chairs situation, because Senator Stevens moved to chair the Commerce Committee.

**KENNEDY:** And he bounced [John] McCain.

**RITCHIE:** Who took another chairmanship. Most everyone who chaired a committee still had a committee to chair, it was just a different committee.

**KENNEDY:** Right.

**RITCHIE:** How different was it to work for Thad Cochran than it was to work for Mark Hatfield?

**KENNEDY:** Well, it wasn't dramatically different. First off, they're both consummate gentlemen. They're just very decent, fairminded people who care about folks. They're both deliberate, rational men who render considered judgments about things. They don't run pell mell. Neither one of them is a media hound in any sense. They're not interested in message. Both were very attentive to the needs of their states and their constituencies. I'll have to say that I found Senator Cochran to be the lowest maintenance senator that I've ever encountered. He is perfectly capable of standing up on his own two hind-legs and taking care of business. He is very comfortable on the floor with the floor procedures, and he doesn't need a script. He always likes to have prepared remarks when he goes to the floor to manage a bill or opens a markup or whatever, but he always invariably makes changes to it. He reads it and writes in longhand the way he

would rather say it. Not to say that Mark Hatfield was not capable of doing these things on his own, but he tended to rely more heavily on me and other staff to guide him through certain situations. But it was an absolute delight and I thoroughly enjoyed working with Senator Cochran.

**RITCHIE:** Had you found that the Appropriations Committee itself had changed at all in the interim, from the time you left in '97 till when you came back in 2005?

**KENNEDY:** Yes. It had gotten bigger in terms of staff. There were a lot more staff people than there had been. There was more direct involvement of individual members with staff hiring than there had been. There was more attention and time being devoted to earmarks than there had been. That's about the sum and substance of it.

**RITCHIE:** It is the largest Senate committee in terms of staff and budget, I think.

**KENNEDY:** It's probably right up there. I don't know if it's the largest. Others have always been in contention for that. What used to be known as Government Operations used to be pretty big. Judiciary used to be pretty big. But you're probably right.

**RITCHIE:** There are something like 125 staff members on the committee.

**KENNEDY:** That sounds right.

**RITCHIE:** Are people becoming more specialized? Is more being divided up among the subcommittees as opposed to the full committee?

**KENNEDY:** No, I think it's just a perception of increased workload. I mean, the federal government is bigger than it used to be, and the committee now considers more money than it used to. If you have a defense appropriations bill that is half a trillion dollars a year, it's probably best to have eight or nine people working on the subcommittee staff than four. Just the sheer volume of information that has to be dealt with needs to be divided up.

**RITCHIE:** In the last couple of decades the Senate has gotten a lot more partisan. Did you find that worked its way into the committee, or was the committee still working on a bipartisan basis for the most part?

**KENNEDY:** I think the committee still works on a bipartisan basis. That always has been one of the things that I've enjoyed about the Appropriations Committee because it's always been more about trying to make government function in a useful, productive way and not trying to score points. When Senator Hatfield was chairman, he enjoyed a terrific relationship with Robert C. Byrd. When Senator Cochran was chairman they enjoyed that same relationship. One thing that I should have said in comparing the two, Senator Hatfield and Senator Cochran, was that they were both very much regular order kinds of guys, and were attentive to and cared about procedure, and that means something. I think in that respect, the committee is still very much the way it used to be, some fifteen, twenty years ago. The committee has been driven off that path by the leadership more often in recent years than I might have liked, but that's not my decision to make. But I think that if given its druthers the committee is still very much a bipartisan enterprise that likes to function in a regular, predictable way.

**RITCHIE:** I thought it was interesting in 2006 when the committee seemed to be functioning effectively. It was going to get its appropriations bills out on time, Senator Cochran had pledged that. They had them all ready to go, and then none of them came up on the floor. At the end of that Congress, Senator Domenici was bidding farewell to the majority leader, and he said that he loved Bill Frist as a man but he can't pass an appropriations bill to save his life. I had never heard a farewell address that was that critical before!

**KENNEDY:** Yes, Senator Domenici was saying something that I think a lot of people wanted to say. He had the candor to say it. I couldn't possibly and won't want to try to speak for Senator Cochran, but I think it's fair to say that he was enormously frustrated with the leadership last year, when he did a remarkable job in getting all of the appropriations bills out of his committee before the August recess. No less an observer of these things than Robert C. Byrd noted that fact and complimented him on doing that in comments in the committee markups. He took pains to say how this was a good thing and this was the way it ought to be, and that Senate Cochran was doing a fine job. And then the bills just sat there on the calendar. It was very frustrating.

One of the things that contributed to the frustration was that the leadership, Senator Frist and Senator [Mitch] McConnell, had asked Senator Cochran to please be attentive to the requests and concerns of Republican members of the Senate who were up for reelection in '06, people like Rick Santorum, and Mike DeWine, and Conrad Burns, and Jim Talent. He said, "Yes, of course I want to be responsive to what they want to do." So in the committee's consideration of the FY '07 appropriations bills, he made every effort that they bills as reported were responsive to those. And then they just didn't go anywhere. So on the one hand he was being asked by the leadership to do these things, and then on the other hand he was being told by the leadership, "Well, we can't bring up these bills. The Democrats will offer amendments that will be troublesome and problematic, and there will be difficult votes." I remember a meeting in the majority leader's office when that argument was advanced and Senator Cochran retorted by saying, "If any senator's reelection depends on how they vote on any particular amendment on an appropriations bill, they don't deserve to get reelected." He felt pretty strongly about this.

Towards the end, there, as the summer dragged along and nothing much was happening, there was a meeting in the majority leader's office, again with Senator McConnell, Senator Cochran, and Senator Frist. The majority leader turned to Senator Cochran and said, "Well, Mr. Chairman, what's your plan to wrap all this up? How do you want us to proceed?" Senator Cochran said, "Well, *you're* the majority leader, you call up the bills. People will offer amendments, and we'll vote, and we'll decide, and we'll pass, and we'll go to conference, and we'll move on." Again, just regular order. There's nothing fancy about this. It didn't have to be tricky. Just proceed. That's very much his mind-set. That's the way the Senate works its will. Don't be afraid of raising issues, and casting votes, and making decisions. That's what the people are here for.

**RITCHIE:** But they never did?

**KENNEDY:** They never did. I suppose, and I guess I would be one of them, there are those that would argue that the failure of the Congress to conclude that business, its most basic fundamental business to provide appropriations for the operations of the government, in some way I am confident that contributed to the defeat of Republican incumbents.

**RITCHIE:** Well, it fed into the argument that it was a "Do-nothing Congress."



**KENNEDY:** Right. Do-nothing and incompetent.

**RITCHIE:** So what was left was a continuing resolution to keep the government operating.

**KENNEDY:** Right.

**RITCHIE:** Which is sort of what the Democrats had left the Republicans when their last majority had ended. Maybe that's a telltale sign.

**KENNEDY:** That's true. That's true.

**RITCHIE:** In the 2006 election the Republicans lost the majority. Did you think about staying with the committee or did you decide that it was time to go?

**KENNEDY:** Well, no, there's an old saying on the golf course that it's better to be lucky than good. As it happened, by the time the election came along, I had already left. The individual who had been serving as the managing partner of the Baker Donelson office left the firm to take a position in the federal government. When I learned about this, I called up Linda Daschle, who is still with the firm, because I still had it in the back of my mind that someday I would be leaving the Senate again, and one of the places I might go was back to Baker Donelson. So I asked Linda what gives, and what does this mean for the Washington office at large, and particularly for the public policy group? She said she didn't know all that it meant or implied but that she herself was not interested in the position of managing partner, and would I be interested? One thing led to another and by July the board of the firm had decided to make an offer that I felt like I wasn't able to walk away from with a son about to go to college this September.

I went to Senator Cochran and explained all this to him. He was every bit as gracious as we would expect him to be. He put it very simply. He said, "Well, I'll be sad to see you go, but I won't be mad at you if you do." That was sort of that. The committee finished its business by the end of July, and then there was the August recess, and on September 1 I resumed at Baker Donelson, this time as managing partner of the Washington office, and got credit for a whole lot of prescience that I didn't deserve at all when two months later there was the election and the Senate majority flipped, which

people did not really expect to have happen.

**RITCHIE:** What's the difference between being a senior partner and being managing partner?

**KENNEDY:** Oh, I don't know. Every organization needs to have somebody that can say no from time to time. That's why an office needs a managing partner, in that from time to time I get to be the one that says no. A whole lot of people in the organization can say yes. There's certain managerial, management, personnel things that are attendant to running an office like that. Senator Baker has been very considerate in saying, "You're the managing partner. You're running this place." Anything that goes on in his head that concerns the Washington office he talks to me about it, which is sort of an interesting reversal. On a day-to-day basis, what I do now and what I did before is not that different. I spend more time on management issues than I thought I would, but most of my time is still devoted to public policy matters.

**RITCHIE:** Well, you've had a remarkable run of dealing with the Congress since you came as an intern in 1972. I wanted to get your impression about how the Congress and the Senate in particular have changed over that time period. What do you think are the major changes you've observed in the institution?

**KENNEDY:** When I first came, thirty-five years ago, the institution had been under a Democratic majority for a good long while and being the youngster I was at the time it felt like to me it had *always* been such. Lo and behold, eight years later, in the 1980 election, when it changed, everybody was just stunned. Perhaps this is just the product of experience of years, but it seems to me that there is more of a sense in the Senate now than there was that it can change, and in fact it has changed a fair amount here in the last twenty years, in terms of going from majority to minority status. So that's changed.

There are more independent operators in the Senate than there used to be. Again, this might be a difference of looking at it as a twenty-five-year-old and as a fifty-nine-year-old, but there's less deference paid to folks who have been around for a while than there used to be.

Television, of course, has made a huge difference. I guess I'm of the old school that thinks it has not improved the situation. I think they'd be better off if the Senate were not televised, but that is water long ago under the bridge and it's not going to get reversed. Certainly, for those outside the building, it has made an enormous difference. For the education of the general populace about what the Senate and the House do, broadcasting their proceeding has been a great thing. But it has also, as everybody knows, it's opened the door, given the opportunity, for a lot more grandstanding, and demagoguery if you will, and playing to the camera instead of the body. One of my pet peeves is certain senators who when you watch them on television, they speak to the camera, they don't speak to the presiding officer. It's no longer a debate in the body, it's a conversation with an outside audience. Even Robert C. Byrd does this sometimes, speaks directly to his C-SPAN audience.

And I'd have to say it's more partisan. I think that is attributable also to television—the immediate accessibility, the immediate ability to speak to people beyond the walls of the chamber, and make political statements to whatever interest group is out there that you want to try to get the attention of.

**RITCHIE:** How would you rate the senators? Do you think the senators today are as well-informed about issues, like appropriations issues, as they would have been in the 1970s?

**KENNEDY:** No. No, I think because there are so many more distractions than there used to be. The pace of the Senate is much faster than it used to be, and people don't have as much time as they used to have, I don't believe, to sit in one place and think about what's going on, and learn about what's going on, and read. It's more staff driven than it used to be. Clearly there are a lot more staff than there used to be. But again I think in one of our earlier conversations we talked about a display on the first floor of the Capitol in '97 or '98 or thereabouts. It was after Mark Hatfield was gone, and Sam Nunn, and Nancy Kassebaum, and Alan Simpson, and everybody was talking about, "Oh, my goodness, the place is just falling apart. It's not what it used to be." The Senate Curator put up a display about Isaac Bassett, and amongst his effects that were in the display was an entry from his journal or diary in which he was bemoaning the state of the Senate [in the late nineteenth century] that all the great ones were gone, Webster, and Clay, and Calhoun. So the great ones come and go.

**RITCHIE:** I think there's a universal tendency to think that the people you first encountered here were giants.

**KENNEDY:** Oh, sure.

**RITCHIE:** And that those you were dealing with when you were leaving were more human size.

**KENNEDY:** Right.

**RITCHIE:** Maybe the current senators will look like giants to a future generation.

**KENNEDY:** That's right. That would be an interesting project for you, actually. Forget about talking to us old guys and go out there and round up some of the junior LAs and ask them about their perspectives, because you're absolutely right. When you come here as a bright-eyed twenty-four or twenty-five-year-old, wow, there's people that you read about in your political science and history courses in college. There's Mike Mansfield. And there's Scoop Jackson. And there's Jack Javits. And there's Ed Brooke and Mark Hatfield, and so on. That's pretty impressive stuff. I guess this is just a product of age, but one of the differences about working with Senator Cochran from working with Senator Hatfield was Mark Hatfield was old enough to be my father, and in many ways became something of a father-figure to me and other people in the office. Senator Cochran is more of a contemporary. He and I just personally felt more at ease with one another than I ever did really with Mark Hatfield, just because of that age difference.

**RITCHIE:** I had an interviewee once who said that when she came to the Senate she was young and the senators were old, and when she left, she was old and the senators were young.

**KENNEDY:** Well, that's right. When I started looking around and counting the number of senators that are younger than I, I thought, "Well, maybe it's time to go."

Well, it is probably time to go.

**RITCHIE:** I was going to ask you if there was anything that I haven't asked about that you think that we should have covered.

**KENNEDY:** No, but—oh, I do want to get on, maybe not this afternoon, because I do need to leave and I don't want to unduly impinge upon your time, but if we can have another session, however brief, there's probably a couple of things that I want to get in the record.

**RITCHIE:** Good. We can have an epilogue. But this has been fascinating, and I thank you very much.

**KENNEDY:** Well, you're very good at doing this. The trick is always to get people to talk about themselves, and you can do that.

**End of the Sixth Interview**