

## KEYS TO KENNEDY'S SUCCESS

*Kenneth R. Feinberg\**

I think that with Justice Breyer and Tom Susman and Nick Littlefield and others already addressing Senator Kennedy's sort of legislative achievements and style and strategy, let me just make five quick points, in less than ten minutes.

First, Senator Kennedy was one, I think, of a very small number of senators in the twentieth century—late twentieth century, early twenty-first century—that had the political and institutional credibility to legislate. You can put probably on one hand: Kennedy, Daniel Patrick Moynihan, Jacob Javits, Howard Baker, Scoop Jackson. There are some senators that had the credibility—the Kennedy name didn't hurt—the credibility to muster bipartisanship.

And I don't see today in the U.S. Senate quite the list of names that have that ability for political and institutional reasons to accomplish what this small group of senators accomplished. There are some fine senators in the U.S. Senate, but Kennedy and these others I mentioned, I think, were rather unique and could get things done because of their reputation, their credibility, their experience, their powers of persuasion.

Second, do not underestimate Senator Kennedy's longevity. I'm not talking just about seniority, although seniority in the U.S. Senate proves to be very important. But his longevity made him, with his photographic memory, by the way—made him a historical resource.

If there was a debate on some subject, he would not hesitate to remind us, "Go back to 1969. I remember there was a hearing chaired by Abe Ribicoff." Or, "There was a hearing chaired by somebody,

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long gone. But I remember that hearing and there was some discussion that will be valuable now.”

So his longevity and his seniority gave him a clout that some more junior senators didn’t have. And I’m not just talking about seniority; I’m also talking about historical memory.

Third, nobody worked at the job like Senator Kennedy. This was 24/7 for him. He used to tell us, “I don’t need to know this legislation better than anybody in the United States; I just have to know it better than ninety-nine other senators.” And he was constantly working from early in the morning till late at night, seven days a week in order to achieve the end game.

It was not a sabbatical for Senator Kennedy; he was driven by his name, by the history of his family, by the reputation he was determined to validate. It was not the end of a successful career in other things. Being in the U.S. Senate was in Senator Kennedy’s DNA. And being an effective politician and being an effective senator in the institution were critically important to understanding his legislative achievements.

Fourth, to him all politics was personal. The day did not end with a Senate hearing or a floor debate; he would call husbands and wives of senators who were ill, he would help them with their children, he would get access to Mass. General in Boston—hospitalization for a senator’s family member. He would go out of his way to cultivate personal relationships with each senator.

I think Justice Breyer and Nick and Tom and others can vouch for the fact that he made a concerted effort to personalize his legislative agenda. And he would go to Utah or Arizona or Mississippi or Alabama or wherever if he felt it would help develop a more personal relationship with senators who might be important in developing a bipartisan agenda.

Fifth, he was a great believer in giving credit. This is a point that I’m sure Justice Breyer made. Because Justice Breyer saw it firsthand when Justice Breyer had his best job that he ever had—Justice Breyer being chief counsel of the Senate Judiciary Committee. You can have that Supreme Court appointment, it’s all right, but when he was chief counsel of the Senate Judiciary Committee, he had real clout!

So what we found was that Senator Kennedy could afford to and did spread the credit around. He would always invite his Republican colleagues to be front and center at press conferences announcing the introduction of bills or the passage and enactment of legislation. He was a very big believer in there being enough credit to go around, and that was very important to him.

And, finally, I think, he was a firm believer in the idea that he was elected and came to Washington to get things accomplished, not to make sound bites. He always believed that in the long run, the good is better than the perfect. And he always felt—with some historical memory to confirm it—that if you get half a loaf of what you want, once that legislation is ingrained in the public consciousness, and once it is seen as working, the public will demand the other fifty percent.

And therefore—in those golden days when there was health legislation that was enacted in a bipartisan spirit, in the 1990s—I think Nick understood and the senator understood that we can get this now, the American people will see how valuable and helpful it is, we'll get the rest later. You're already seeing that now with the health bill. You're already seeing the polls and the American people beginning to recognize the value of the health legislation that was enacted into law last year.

So I think, that's a very brief summary of how I view, from sort of a distance now, Senator Kennedy's success. Political and institutional credibility, longevity, a work ethic second to none, all legislation is personal, give a lot of credit, the perfect is the enemy of the good.

I think all of these points have been covered already. And I hope this is somewhat helpful in adding just my thoughts. And I again apologize for not being there in person.

Thank you.

