



EDWARD M. KENNEDY ORAL HISTORY PROJECT

Interviewer's Briefing Materials **Sheila Burke Interview, 07/27/2007**

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Miller Center Documents¹

- Sheila Burke Timeline.
- Sheila Burke Fact Sheet.
- South Africa Sanctions Overview Memo.
- Americans with Disabilities Act Overview Memo.
- 1991 Civil Rights Act Overview Memo.
- Kennedy-Kassebaum Overview Memo.

Secondary Source Materials

- Sheila Burke bio, <http://www.georgetown.edu>.
- Rich Lowry, "The 101st Senator: Bob Dole's Chief of Staff Sheila Burke," *National Review*, 07/31/1995.
- Karen Tumulty, "Bring me the Head of Sheila Burke," *Time*, 07/24/1995.

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SHEILA BURKE TIMELINE

Prepared by Rob Martin and Anne Mariel Peters

Miller Center, University of Virginia, 07/24/2007

- 1977** Sheila Burke joins Senator Robert Dole's (R-KS) Senate staff as a health care aide tracking health issues. (*The Boston Globe*, 12/09/1996)
- 1979** Burke becomes a professional staff member on the Senate Finance Committee, on which Dole is a member. (*Time*, 07/24/1995)
- 1980** Burke works as a research assistant at the Center for Health Policy and Management while pursuing her masters at Harvard's Kennedy School of Government. She earns her masters in public administration in 1982.
- March* Dole withdraws his candidacy for president on the 15th.
- 1981** Dole becomes Chairman of the Senate Finance Committee.
- April* On the 7th, Senator Charles McC. Mathias (R-MD), EMK, and six other senators introduce legislation to extend key provisions of the Voting Rights Act (VRA) until 1992. Reagan takes no position on the bill, but expresses reservations over the next two years. Dole, a member of the eighteen-person Judiciary Committee, appears to be on the fence, as does Senator Howell Heflin (D-AL). (*1981 CQ Almanac*, p. 416; Clymer, p. 335)
- October* Negotiations among Senate Majority Leader Howard Baker (R-TN), Senators Howard Metzenbaum (D-OH), Joseph Biden (D-DE), Byrd, Mathias, and EMK fail to produce an agreement for Judiciary Committee action on the VRA. Minutes before normal procedures would have moved the bill to the Judiciary Committee, Byrd objects, fearing that the bill would be masticated by staunchly conservative Judiciary Chairman Strom Thurmond (R-SC). (*1981 CQ Almanac*, pp. 415-418)
- December* On the 16th, Mathias and EMK introduce in the Senate a carbon copy of the successful House version of the VRA extension. The most controversial aspect of the House bill is the prohibition of election laws or procedures that "result" in discrimination, overturning a prior Supreme Court ruling that "intent" had to be proved in discrimination cases. The test in the House bill is called the "results" test. (*1982 CQ Almanac*, p. 375)
- 1982** Burke is named Deputy Staff Director on the Senate Finance Committee, which is chaired by Dole.
- May* On the 3rd, Dole announces a compromise bill on the VRA extension, which he drafted with Mathias and EMK. The "Dole compromise" retains the House bill's "results" test but adds a section specifying how the test could be met. Dole has

also spoken with President Ronald Reagan, who publicly endorses the compromise bill the same day. (*1982 CQ Almanac*, p. 375; Clymer, p. 336)

On the 4th, the Dole compromise is adopted by the Judiciary Committee 14-4. (*1982 CQ Almanac*, p. 376)

June On the 18th, the Senate passes the VRA extension 85-8. Before approving the bill, the Senate overwhelmingly rejects fifteen amendments that Mathias, Dole, and EMK claim would weaken the measure. The Senate sponsors want to prevent all non-technical amendments in order to avoid a conference with the House, where House sponsors have promised to accept the Senate bill if it is passed without substantive change from the Judiciary Committee version. (*1982 CQ Almanac*, pp. 373, 376)

1983

April After millions of letters pour into Congress requesting the repeal of a provision of the 1982 Tax Equity and Fiscal Responsibility Act (TEFRA), the Senate debates a repeal of the law. The provision requires financial institutions to withhold for income taxes ten percent of all interest and dividend income. Metzenbaum, Dole, and EMK lead the floor fight against repeal on the 18th. Dole accuses banks and financial institutions of a deceptive lobbying campaign against the tax. (*1983 CQ Almanac*, p. 262)

On the 19th, Dole realizes that he cannot successfully filibuster repeal legislation offered by Senator Bob Kasten (R-WI) with only 28 votes, and opts for a compromise. (*1983 CQ Almanac*, p. 262)

On the 21st, the Senate votes 91-5 on a compromise plan to delay interest and dividend withholding until at least 1987, if not forever.

May On the 25th, the Senate Finance Committee approves 11-8 a TEFRA compromise plan with additional provisions intended to make the bill more acceptable to the Reagan administration, which opposes the repeal. (*1983 CQ Almanac*, p. 264)

June On the 16th, the Senate approves the Finance Committee's withholding repeal package. Dole votes in favor, EMK votes against. (*1983 CQ Almanac*, pp. 264)

1985 Burke is named Dole's deputy chief of staff.

January Dole becomes Senate Majority Leader.

March On the 27th, the Senate approves a bill (S 998) calling for delayed economic sanctions if significant progress against apartheid is not made in two years.

- April* On the 3rd, the Senate approves 89-4 a resolution introduced by EMK condemning apartheid in South Africa. Dole votes in favor. (1985 CQ Almanac, pp. 85, 9-S)
- May* On the 2nd, the House Foreign Affairs Committee approves EMK's Senate resolution against apartheid, but the resolution never makes it to the House floor. On the same day, the committee approves a bill (HR 1460) that would impose immediate sanctions on South Africa, which can be waived for an initial period of one year and successive periods of six months if the Pretoria government demonstrates progress in deconstructing apartheid. (1985 CQ Almanac, p. 85)
- June* On the 4th, the Senate Foreign Relations Committee approves 16-1 a compromise bill (S 995) that imposes a combination of immediate and delayed sanctions on South Africa. The bill incorporates provisions from a bill offered by Senator Richard Lugar (R-IN), Mathias, and Dole, and a stronger alternative formulated by Senator Chris Dodd (D-CT). Defeated 7-9 by the committee are tough provisions to ban new investment by U.S. firms, the importation of Krugerrands, and technology sales to the Pretoria government. These unsuccessful provisions were taken from a bill sponsored by Senator Lowell Weicker (R-CT) and EMK that is nearly identical to the House bill. (1985 CQ Almanac, pp. 87-88)
- On the 5th, the House votes overwhelmingly to impose sanctions on South Africa. (1985 CQ Almanac, p. 86)
- July* On the 8th, the South Africa sanctions bill comes to the Senate floor from the Foreign Relations Committee. Conservatives try to delay action on the measure, while liberals try to add harsher sanctions to the bill. Senator Jesse Helms (R-NC) raises the specter of a filibuster, but Dole files a successful cloture petition to proceed with debate. EMK and his allies re-group to push for a ban on Krugerrand imports, but drop this demand in exchange for a GOP pledge to oppose amendments that would further dilute the bill. On the 11th, the full Senate votes 80-12 to approve the South Africa sanctions bill. Dole and EMK vote in favor. (1985 CQ Almanac, p. 30-S)
- Burke is reported to be a leading candidate to become the administrator of the Health Care Financing Administration, which runs the Medicare and Medicaid programs, at Health and Human Services. (The Washington Post, 07/29/1985)
- August* Congress cuts the FY 1986 budget by more than \$55 billion, calling for more cuts in federal programs than ever before. The result is a culmination of a seven month struggle between House and Senate, Republicans and Democrats. Byrd leads the Democrats in a Senate floor fight against Dole. Ultimately, however, important Democratic demands are rejected, including an EMK amendment to restore Medicare and Medicaid funding. (1985 CQ Almanac, pp. 449, 451)
- On the 1st, the House overwhelmingly approves the HR 1460 conference report. However, Senators Malcolm Wallop (R-WY) and Helms block Senate action by

threatening a filibuster. Dole files a cloture petition again, setting the cloture vote for September. (1985 *CQ Almanac*, p. 89)

September Dole and Lugar press the White House to accept the sanctions bill or at least adopt some of its provisions. On the 9th, Reagan signs an executive order for sanctions on South Africa hours before the scheduled Senate vote, declaring that he will be forced to veto the sanctions legislation. Dole persuades most Republicans to accept the executive order and not vote for cloture. Dole asks for unanimous consent to put aside the cloture vote, but EMK objects, saying that the executive order is too weak. The vote falls short of ending the filibuster on a 53-34 vote. (1985 *CQ Almanac*, p. 90; Clymer, pp. 380-381)

On the 10th, EMK appears on the *CBS Morning News* and states that the Republican Party must choose between being “the party of Lincoln or the party of apartheid.” In the coming days, Democrats continue to keep the sanctions issue on the floor with repeated votes, angering Dole, who removes the Senate’s copy of the conference report and gives it to Lugar, who puts it in his Capitol hideaway. The bill’s absence means that the Senate can no longer consider it. EMK and Byrd, the Senate’s most able parliamentarian, are furious. When the bill resurfaces two weeks later, the Democratic effort has lost steam. (Clymer, p. 381)

1986 EMK repeatedly threatens to introduce sanctions legislation as amendments to the defense bill and an extension of the federal debt limit, allegedly angering Dole. (1986 *CQ Almanac*, p. 412)

February Burke is named Dole’s chief of staff.

March On the 27th, the Senate begins debate on aid to Nicaraguan “contras,” for which Dole hopes to fashion a bipartisan compromise of seventy to eighty votes, demonstrating strong Hill support for Reagan’s Nicaragua policy. Two amendments by EMK, which would prohibit all U.S. aid to the contras and bar introduction of U.S. combat forces into Nicaragua without congressional approval, are defeated. During floor debate, Dole says, “I would suggest to my friend from Massachusetts that he recently has withdrawn from the ’88 race, and I suggest we let the President proceed.” Legislation allocating \$100 million in contra aid is passed 53-47. (1986 *CQ Almanac*, pp. 401-403, 411-414)

June On the 18th, the House passes HR 4868, imposing a comprehensive trade embargo on South Africa. HR 4868 is given little hope of passing in the Senate.

July On the 24th, Dole and Byrd begin negotiating an agreement that will include both sanctions on South Africa and the \$100 million in aid requested by Reagan to assist Nicaraguan contras.

August On the 1st, one week after Reagan has appealed to Congress to “resist this emotional clamor for punitive sanctions,” the Senate Foreign Relations

Committee approves 15-2 a strict sanctions bill (S 2701) that is largely based on a proposal by Lugar.

On the 5th, Byrd offers a South Africa sanctions amendment to the defense authorization bill, including a cloture petition that would block a contra amendment to the bill. This allegedly infuriates Dole, who counters with his own amendment coupling South Africa and contra aid, thereby linking an issue important to Byrd (South Africa) and an issue important to Dole (contra aid). (1986 CQ Almanac, pp. 412-413)

On the 9th, Byrd and Dole reach an agreement to allow debate on both contra aid and sanctions, including a clause inserted by Dole that will require the Senate to invoke cloture on both sanctions and contra aid before it can pass a bill containing either provision.

On the 13th, the Senate passes a military construction appropriations bill containing \$70 million for contra military aid and \$30 million for non-military supplies. This bill had been cleared by the House on June 25th.

On the 15th, the Senate passes 84-14 HR 4868, imposing sanctions on South Africa, after substituting the text of the Senate measure into the House bill. Lugar claims that the overriding goal was to round up at least eighty votes; this would either persuade Reagan to sign the bill, or provide the means to override his veto. Included in this bill are strict measures forbidding the imports of South African iron, steel, and agricultural products, as well as the export of U.S. crude oil and petroleum products. These provisions were introduced by EMK, and were initially tabled on the 14th. However, after dropping a provision prohibiting renewals of current loans and short-term credits, the measure is adopted despite an effort by Lugar to table it; Dole voted in favor of tabling EMK's amendment, but voted in favor of the overall bill. (1986 CQ Almanac, pp. 366, 43-S)

September On the 26th, Reagan vetoes HR 4868. (1986 CQ Almanac, p. 361)

October On the 2nd, the Senate enacts HR 4868 by a 78-21 vote, overriding Reagan's veto and marking one of the most stunning blows to Reagan's presidency. The override is strongly supported by EMK but criticized by Dole, who contends that South African apartheid is a domestic civil rights issue that cannot be remedied by a "feel good vote." (1986 CQ Almanac, pp. 359, 372)

1987

January Dole becomes Senate Minority Leader.

On the 21st, Senator Albert Gore (D-TN) and EMK tell a small meeting of liberal Democrats that the Senate must move forward on two un-ratified U.S.-Soviet nuclear test ban treaties to improve U.S.-Soviet relations. Foreign Relations

Committee Chairman Pell begins negotiations with National Security Adviser Frank Carlucci, whom Dole and Helms urge not to cut a deal behind the backs of Senate Republicans. (*1987 CQ Almanac*, pp. 211-212)

September On the 24th, Senator Mark Hatfield (R-OR) and EMK propose nuclear test ban legislation as an amendment to the defense bill. The amendment is tabled 61-36; Dole votes in favor of tabling. No test ban legislation is enacted this year. (*1987 CQ Almanac*, pp. 214, 47-S)

1988 Dole is an unsuccessful candidate for the Republican presidential nomination, losing to Bush. Burke is listed in the press as one of the key players in the Dole campaign outside of campaign headquarters. (*The New York Times*, 05/18/1987)

January On the 28th, the Senate passes 75-14 the Civil Rights Restoration Act (CRRA). The law, of which EMK is the chief sponsor, overturns the Supreme Court's decision in *Grove City College v. Bell*, which substantially restricted the reach of four existing civil rights laws. Although the court ruling was one of civil rights, abortion has now entered the debate, as the law could possibly lead to the withholding of federal funds for Catholic teaching hospitals that perform abortions. Dole misses the vote, but speaks out repeatedly in favor of the initiative. (*1988 CQ Almanac*, pp. 64, 68; Clymer, p. 433)

March The Senate unanimously passes EMK's resolution urging Reagan to impose "additional diplomatic, political, and economic pressure" against the Panamanian government and calling for Manuel Noriega's extradition to the U.S. on drug trafficking and racketeering charges. Noriega is reported to possess classified White House and CIA files on the political and personal lives of Helms and EMK, who have been vocal opponents of his regime. (*1988 CQ Almanac*, pp. 551, 554)

On the 16th, Reagan vetoes the CRRA, claiming that it would restrict the freedom of religious organizations. Dole responds, "I think the president made a mistake." (*1988 CQ Almanac*, pp. 67-68)

On the 22nd, both Houses of Congress override Reagan's veto of the CRRA, enacting it into law. EMK votes in favor; Dole is absent again, but later says that he would have returned to Washington to vote against the override if it would have made a difference. (*1988 CQ Almanac*, pp. 63, 68, 13-S)

May On the 17th, an amendment by Dole is passed 86-10 expressing the sense of the Senate that the U.S. should not drop a drug trafficking indictment against Noriega in exchange for his departure from Panama. EMK votes in favor. (*1988 CQ Almanac*, p. 420)

1989

- January* On the 25th, the Senate votes 99-0 to confirm Elizabeth Dole as Secretary of Labor. EMK praises her as “an excellent choice.” (1989 CQ Almanac, p. 398)
- March* After Weicker is defeated for re-election, EMK replaces him as Senator Tom Harkin’s (D-IA) cosponsor of the Americans with Disabilities Act (ADA), which would give the disabled broader protections against bias in public accommodations and employment than other minority groups covered under the 1964 Civil Rights Act. Drafts of the bill go back and forth between Senator Orrin Hatch (R-UT), Harkin, and the White House. (Clymer, pp. 449-450)
- April* Burke withdraws her name from consideration for the position of administrator at Health Care Financing Administration, which runs Medicare and Medicaid, in the Bush Administration. Burke had been the choice of Health and Human Services Secretary Louis Sullivan, but Burke was unable to resolve a possible conflict of interest with her husband’s work at Aetna. (The Washington Post, 03/14/1989)
- May* On the 9th, hearings on the ADA begin with testimonies from disabled Americans.
- On the 16th, Dole testifies in general support of the bill, but expresses fear that some of its provisions might invite excessive litigation. He conveys that the Bush administration wants to support the bill, but that they require more time to “get their act together.” (Clymer, p. 451)
- On the 17th, the Senate passes 63-37 conference legislation that would increase the minimum wage to \$4.55. The law, sponsored in the Senate by EMK, is more generous than that of the administration; Elizabeth Dole had unveiled a program proposing a phased increase of the minimum wage to \$4.25 over three years, which also allowed employers to pay new hires below the minimum wage. Dole votes against EMK’s bill, expressing concerns that President George H.W. Bush may veto and chastising proponents for risking overall wage increases to make a political point. (1989 CQ Almanac, pp. 336, 339, 16-S)
- June* On the 13th, Bush vetoes the minimum wage legislation. The next day, a veto override fails in the House by thirty-seven votes. (1989 CQ Almanac, p. 340)
- On the 27th, negotiations between Senate leaders and the White House on the ADA begin. Administration officials prefer to deal with EMK, as Harkin is currently up for re-election and they want to deny him credit for the bill. John Sununu tells EMK that all rifts can be settled easily if EMK removes his chief civil rights counsel, Carolyn Osolinik, from the negotiating team. EMK calls Osolinik and congratulates her on a job well done. (Clymer, p. 452)
- July* During the month, Senate and White House negotiators meet ten times to discuss the ADA. On the 28th, Senator Dave Durenberger (R-MN), Harkin, Hatch, Dole,

and EMK meet in Dole's Capitol office with Attorney General Richard Thornburgh, Harkin aide Bobby Silverstein, Samuel Skinner, Roger Porter, Sununu, and Osolinik. Sununu reportedly loses his temper with Silverstein, after which EMK turns red in the face and tells Sununu that yelling at staff is unacceptable. A compromise is engineered in which EMK accepts a provision eliminating damages in lawsuits in exchange for administration acceptance of a broad definition of public accommodation. All disagreements occurring in negotiation are kept secret until after the bill's passage. (Clymer, pp. 452-453)

September On the 7th, the Senate approves its version of the ADA. EMK and Dole vote in favor of the bill, which contains a Dole provision to provide federal assistance to private entities to help them meet the law's accessibility requirements. The Bush administration threw its support behind the bill after congressional sponsors agreed to limit remedies for discrimination to those available under the 1964 Civil Rights Act. (1989 CQ Almanac, pp. 244, 35-S)

1990

March On the 1st, Senate and White House negotiators emerge from a month of talks with a proposal for a massive overhaul of the 1970 Clean Air Act (CAA), one provision of which is an innovative cap and trade system for sulfur dioxide emitted from power plants. Negotiators have even secured a no-filibuster agreement from Byrd, who blocked clean air legislation throughout the 1980s. Dole supports the proposal wholeheartedly, deeming it the most important legislation of the year, and pledges to defend the bipartisan bill with Senate Majority Leader George Mitchell (D-ME). (1990 CQ Almanac, pp. 232, 234)

On the 19th, Byrd proposes an amendment to the CAA that would provide generous job loss benefits to coal miners who would be displaced by acid rain provisions in the legislation. Dole opposes the amendment and makes veto threats on behalf of the White House to round up opposition votes. (1990 CQ Almanac, pp. 236-237)

On the 20th, an amendment by EMK is passed that requires the National Institute of Environmental Health Sciences to establish programs to research the health effects of air pollution and to train doctors in treating air pollution-related ailments. The same day, an amendment by Senator John Kerry (D-MA), which would allow the federal government to design implementation plans for cities failing to do so effectively, is killed. Senator Max Baucus (D-MT), Dole, and Mitchell lead the effort to kill the Kerry amendment; EMK votes against killing it. (1990 CQ Almanac, pp. 235, 10-S)

On the 29th, Byrd's amendment is defeated 49-50 in what is widely considered the most dramatic moment of the debate on the bill. EMK votes for the amendment, Dole against it. (1990 CQ Almanac, pp. 237, 12-S)

- April* On the 3rd, the Senate passes the 1990 Clean Air Act Amendments. EMK and Dole vote in favor. (*1990 CQ Almanac*, pp. 231, 13-S)
- July* On the 13th, the Senate approves the conference report of the ADA 91-6. EMK chairs the conference. The most controversial issue in conference is a House amendment allowing HIV-positive individuals to be transferred out of food-handling jobs. Dole is in favor of the amendment despite his dedication to the ADA, disabled rights groups, and AIDS research, but the amendment is eventually dropped by both the Senate and the House. (*1990 CQ Almanac*, pp. 447, 460)
- On the 18th, the Senate passes the Civil Rights Act of 1990, a job discrimination bill sponsored by EMK. Dole supports the administration's bill and accuses Democrats of trying to "put the Republicans on record as being against civil rights" when they force a vote on the bill. (*1990 CQ Almanac*, pp. 462, 466; Clymer, p. 462)
- Bush signs the ADA on the 26th. All of the managers of the bill are invited to the signing ceremony, but Dole is the only lawmaker mentioned by Bush during the ceremony. In his autobiography, Dole cites the ADA as one of his greatest legislative achievements. (Clymer, p. 472; Dole, p. 278)
- August* On the 2nd, Iraq invades Kuwait. Within hours, Kuwait and the U.S. request a meeting of the United Nations Security Council.
- October* On the 1st, the Senate approves 96-3 a resolution supporting U.S. military deployment in the Gulf. Dole votes in favor, but EMK opposes the resolution, calling it "a Tonkin Gulf resolution for the Persian Gulf," even though Mitchell has made it clear that the authorization is not for the use of force now or in the future. (*1990 CQ Almanac*, p. 734)
- On the 16th, the Senate approves 75-21 the National Community Service Act establishing grants for community service programs and volunteers of all ages. The conference legislation, pushed through the Senate by EMK, is opposed by Bush because it provides financial incentives for volunteer work. Dole votes for the bill and proposes a successful amendment to allow people with disabilities to participate in volunteer programs under the act. (*1990 CQ Almanac*, pp. 559)
- On the 22nd, Bush vetoes the Civil Rights Act of 1990. Two days later, the Senate sustains the veto.
- On the 27th, the Senate approves the conference report of the Clean Air Act Amendments 89-10. Dole and EMK vote in favor. (*1990 CQ Almanac*, pp. 229)
- November* The Senate Republican leadership calls for a special session of Congress to discuss troop deployments. Dole's goal is to provide Bush with standing

authorization for military action, and calls the special session a chance for Congress to “put up or shut up.” (1990 CQ Almanac, pp. 720, 737)

December Dole says too many members of Congress are trying to bind Bush’s hands on Iraq, declaring, “The last thing we need are more timid signals from Congress.” (1990 CQ Almanac, p. 743)

1991

January On the 12th, the Senate votes 52-47 for the “Authorization for Use of Military Force Against Iraq Resolution.” Minutes later, the House approves identical legislation. Dole votes in favor, EMK against. (1990 CQ Almanac, pp. 748-749)

On the 17th, a U.S. led military coalition launches a massive air campaign in Iraq dubbed *Operation Desert Storm*. The same day, the Senate 98-0 approves a resolution supporting the president’s actions in Iraq. EMK votes in favor despite his criticism of Bush’s Iraq policy. (1990 CQ Almanac, p. 754)

July On the 18th, the Senate adopts 99-0 a leadership proposal directing states to require health professionals engaged in invasive procedures to be tested for the AIDS virus. The initiative, authored by EMK and sponsored by Dole, is intended to counter an earlier initiative proposed by Helms. Helms’ proposal would impose large fines and prison terms on health workers who know that they have the AIDS virus, yet continue to perform invasive procedures on patients with notifying them. Nevertheless, the Helms initiative passes 81-18. (*The New York Times*, 07/19/1990)

September On the 11th, the Senate approves 99-1 an amendment to the budget for the Departments of Labor and Health and Human Services that requires health care workers exposed to body fluids to be covered by a protective barrier to prevent transmission of disease. The amendment is co-sponsored by Dole and EMK. (*The New York Times*, 09/12/1991)

October On the 24th, after twelve hours of meetings, Danforth, EMK, the White House, and Republican Senate leaders reach a compromise for a no-quota civil rights bill that would address employment discrimination. Dole had delayed floor action on Danforth’s bill while pressing for meetings with the White House, which were eventually held between White House counsel C. Boyden Gray, Danforth, Dole, six undecided Republican senators, Sununu, and EMK in Dole’s Capitol hideaway. In addition to arranging the meetings, Dole also played an active role in negotiating the compromise. Democrats claim that the crucial White House concession was agreeing to jury trials for damages sought in sex discrimination cases, although Sununu insists that this was not a major concession. (*The New York Times*, 10/25/1991, 10/26/1991)

On the 25th, Bush claims that the compromise civil rights bill validates him as a supporter of civil rights without sacrificing his opposition to hiring quotas. EMK praises Bush “for rejecting...the advice of those who have been urging him to divide the nation over race,” but Mitchell claims that the administration only offered a compromise for fear of a veto override. (*The New York Times*, 10/26/1991)

On the 29th, an amendment by Dole to the Civil Rights Act of 1991, which would establish a Glass Ceiling Commission to recommend ways to lift barriers to women and minorities in job advancement, is passed 96-0. EMK votes in favor. (1991 CQ Almanac, pp. 257, 30-S)

On the 30th, the Senate approves 93-5 the Civil Rights Act of 1991, which allows monetary damages for job discrimination based on sex, religion, race, or disability. Dole and EMK vote in favor. (1991 CQ Almanac, pp. 252-261)

November Bush signs the Civil Rights Act of 1991. EMK is the only Democratic lawmaker to attend the signing ceremony, as others have boycotted it due to three phrases in Bush’s draft speech that they found problematic. Only one of the phrases remains, advocating a narrow interpretation of the bill; it was written by Dole. (1991 CQ Almanac, p. 261)

1993

January President William J. Clinton appoints his wife, Hillary, to head a Task Force on National Health Care Reform, with the goal of writing legislation to be submitted to Congress by April 30th. The task force is coordinated by Ira Magaziner. (*The New York Times*, 08/29/1994)

June On the 10th, White House officials reveal that Federal Circuit judge Stephen Breyer is Clinton’s most likely nominee to succeed Byron White as Associate Justice of the U.S. Supreme Court. Breyer was formerly an EMK aide and Chief Counsel to the Judiciary Committee, and enjoys broad bipartisan support. Dole says that he is leaning towards Breyer, as does Hatch. (*The New York Times*, 06/11/1993)

On the 14th, Federal Appeals Court Judge Ruth Bader Ginsburg is nominated as Associate Justice. Senator Daniel Patrick Moynihan (D-NY) quietly backed Ginsburg until it was revealed that Breyer did not pay Social Security taxes for his house cleaner and he failed to impress Clinton in a highly publicized personal interview. Dole had continued to support Breyer, claiming that Breyer should not be disqualified as a candidate for not paying Social Security taxes for an employee. (Clymer, pp. 526-527; *The New York Times*, 06/14/1993)

July In a letter to EMK, President of the Red Cross Elizabeth Dole voices clear support for Clinton’s National Service bill, which her husband opposes, stating that the

Red Cross looks forward to the passage of legislation that would “enlarge the means by which individuals can make a difference in their communities.” EMK is managing the bill. (*The New York Times*, 06/27/1993)

On the 30th, EMK offers an amendment to Clinton’s National Service bill that would restrict spending on the program to \$1.5 billion over three years. The proposal placates Republicans, and is adopted by unanimous consent. (*1993 CQ Almanac*, p. 403)

August After overcoming Republican delaying tactics, the Senate amends and passes 58-41 the House version of the National Service bill on the 3rd. EMK votes in favor, saying, “National Service is what the effort to reinvent America is all about.” Dole votes against the initiative. (*1993 CQ Almanac*, pp. 400, 402, 30-S)

September On the 8th, the Senate passes the conference report of the National Service bill 57-40. EMK votes in favor; Dole votes against. Dole complains that the bill will add to the deficit, saying, “It isn’t paid for.” (*1993 CQ Almanac*, p. 33-S)

November On the 16th, the Senate passes 69-30 a bill sponsored by EMK that would make it a federal crime to intimidate abortion clinic workers or women seeking to obtain an abortion by force or threat of force. EMK reworked the original bill to accommodate suggestions from the Department of Justice and, to win over Republicans, broadened the bill’s protections to include facilities that provided counseling on abortion alternatives. Dole agrees to vote in favor after the penalties are reduced. Dole says he has no doubt that EMK will preserve this position in conference committee. (*1993 CQ Almanac*, pp. 354-356, 48-S; Clymer, p. 535)

On the 19th, the Senate begins debate on a compromise version of the Handgun Waiting Period bill, otherwise known as the Brady Bill. Under the agreement, Mitchell and Dole offer a five day waiting period for handgun purchases, funds for a national computer database of criminal records, and pre-emption of state and local waiting periods once the national instant-check system is in place. The next day, the Senate passes the Brady Bill 63-36 after a Republican filibuster is broken. Dole votes against the bill, wanting additional provisions, but EMK votes in favor. (*1993 CQ Almanac*, pp. 302, 51-S)

On the 24th, the Senate adopts the conference report of the Brady bill by voice vote. Biden, Metzenbaum, and EMK lead the Democrats in conference committee. (*1993 CQ Almanac*, p. 303)

1994

May On the 12th, the Senate clears the conference report for EMK’s legislation combating violence at abortion clinics 69-30. Opponents argue that the measure is so broad that it could be used to punish legitimate, non-violent protesters, and that

the maximum penalties, which are larger than the ones EMK had committed to in the Senate bill, are too high. EMK votes in favor, Dole against. (1994 CQ Almanac, pp. 357, 20-S)

June

The Senate Labor and Human Resources Committee, chaired by EMK, votes 11-6 to approve a bill modeled on the Clinton health plan. EMK's committee duels with Moynihan's Finance Committee for primary jurisdiction of the bill. (1994 CQ Almanac, p. 320)

On the 11th, while speaking at the RNC's Northeast regional meeting in Boston, Dole says that he will oppose any health care legislation requiring employers to insure their workers. (*The New York Times*, 06/12/1994)

On the 29th, Dole announces a Republican health care plan that would alter insurance laws and provide \$100 billion in subsidies for the very poor over five years, claiming that this plan would not lead to "big, big, big bureaucracy," new taxes, or cost controls, all criticisms of the Clinton plan. The Dole plan does not have universal coverage as a goal. (1994 CQ Almanac, p. 340; *The New York Times*, 07/03/1994)

August

On the 2nd, Mitchell and a bipartisan group of senators propose legislation that Mitchell says will achieve coverage for ninety-five percent of Americans by 2000. The proposal is backed by Clinton, who says he cannot accept lower universal coverage provisions than those in Mitchell's bill. Dole notes that it is late in the year for a new proposal, and says he has problems with the bill's standard benefits package and limits on how much more the elderly could be charged than young people. The full Senate begins debate on the 9th. (1994 CQ Almanac, p. 321; *The New York Times*, 08/20/1994)

On the 19th, a group of senators led by John Chafee (R-RI) and John Breaux (D-LA) offer a bipartisan compromise on national health legislation. (1994 CQ Almanac, p. 321)

On the 25th, the Senate starts its August recess and Mitchell withdraws his bill. A battle over the Administration's crime bill has tied up the health care legislation, which is essentially killed by the inability of either House to rally both liberal and conservative Democrats. (1994 CQ Almanac, p. 321; *The New York Times*, 08/29/1994)

1995

Winter

Conservative attacks against Burke begin appearing in the media after activist Paul Weyrich advises Dole to fire Burke in the Heritage Foundation's *Policy Review* article, "How Presidential Candidates Can Woo Conservatives." The conservative attack against Burke becomes headline news by the summer of 1995. (*The Washington Post*, 07/21/1995)

- January* Dole becomes Senate Majority Leader. Burke is elected secretary of the Senate, which she takes on in addition to her responsibilities as Dole's chief of staff. Burke later steps down in June to resume her full-time duties as chief of staff. (*National Review*, 07/31/1995)
- August* On the 2nd, the Senate Labor Committee approves 16-0 a proposal by Kassebaum and EMK to bar insurers from denying coverage for more than twelve months to people with diagnosed medical problems, as well as providing for the creation of medical savings accounts (MSAs). (*1995 CQ Almanac*, pp. 7-24)
- 1996** Dole runs for president of the United States.
- January* Clinton calls for the enactment of the Kennedy-Kassebaum bill in his State of the Union address on the 23rd. (Clymer, p. 572)
- On the 25th, Kassebaum and EMK argue for the introduction of their health insurance reform legislation. EMK urges Dole to bring the bill to the floor, claiming that senators "who profit from the abuses of the current system... have placed secret holds on the bill in an attempt to kill it." (Clymer, p. 572)
- On the 31st, ABC's *Nightline* program asks Dole while campaigning for the presidency in New Hampshire why he will not call up the Kassebaum-Kennedy bill. Dole responds that there are a lot of holds on it and that he does not know why. One week later, he agrees to call up the bill after forcing his GOP colleagues to allow a Senate vote. (*1996 CQ Almanac*, p. 6-28; Clymer, p. 573)
- March* By late March, Dole has secured the Republican presidential nomination, and reportedly switches his focus to Congress in an attempt to show that he can succeed where Clinton has failed. This makes Dole vulnerable because Democrats can now stall or force votes on his amendments. (Clymer, p. 573)
- On the 26th, Dole withdraws a promise from Republican Whip Trent Lott (R-MS) to allow Democrats to offer an amendment to an army base redevelopment bill, creating some new park areas. Dole reportedly fears that Democrats will attach an amendment for minimum wage legislation to the bill, which is precisely what Kerry and EMK do after Dole makes a rare parliamentary slip. (Clymer, p. 574)
- April* On the 16th, Dole pulls an immigration bill co-sponsored by EMK after being angered by Democratic attempts to introduce amendments on the minimum wage and Social Security. (*The New York Times*, 04/17/1996)
- On the 18th, EMK claims that the MSA provision advocated by Dole, which allows individuals to pay into high-deductible health plans to accrue tax-deductible savings for medical expenses, will result in larger premiums for everyone. Dole wants the Kassebaum-Kennedy bill to pass, but wants to steer it

towards MSAs. Kassebaum offers the motion to kill Dole's MSA proposal as Vice President Al Gore stands ready to break a tie. Dole is defeated once, 53-45, and a second time, 52-46. (*1996 CQ Almanac*, p. C-43; Clymer, p. 575)

On the 23rd, the Senate votes 100-0 to approve the Kassebaum-Kennedy bill. (*1996 CQ Almanac*, p. 6-28)

Dole proposes a Senate set of conferees on the Kassebaum-Kennedy bill who had backed his MSA provision, but EMK objects. EMK comes to the press gallery and says that Dole told him on the floor that he was not that crazy about MSAs, but that he needed them for political reasons. The House and Senate eventually compromise on an MSA pilot program. (*1996 CQ Almanac*, p. 6-34; Clymer, p. 576)

May On the 2nd, EMK proposes a bill creating a national historic park in New Bedford dedicated to whaling and the Nicodemus Historical site in Kansas to commemorate newly freed slaves who settled there. Dole gets the bill passed. (Clymer, p. 576)

On the 9th, a proposal by Dole to substitute a gasoline tax reduction for the minimum wage increase is killed after a Democratic filibuster. EMK remarks that the Senate is stuck in the "Doledrums." (Clymer, p. 574)

On the 15th, Dole announces that he will resign from the Senate next month. Clymer speculates that congressional Democrats have thwarted Dole's hope of running as the presidential candidate who is able to score legislative wins that matter to ordinary Americans. (Clymer, p. 574)

June On the 11th, Dole resigns from the Senate to campaign for the presidency. Dole cites EMK and their collaboration on the ADA in his farewell speech as EMK watches from the crowd. After the speech, EMK shakes hands with Dole and bids him goodbye. (Clymer, p. 576)

August The Senate approves the conference report of the Kennedy-Kassebaum bill.

On the 21st, Clinton signs the Kennedy-Kassebaum legislation. The same day, Clinton signs legislation mandating a ninety cent increase in the minimum wage. (*1996 CQ Almanac*, p. C-43)

November Dole is defeated by Clinton for the presidency.

Burke leaves Dole's office to join Harvard University's Kennedy School of Government as Executive Dean.

SHEILA P. BURKE FACT SHEET

Prepared by Rob Martin

Miller Center, University of Virginia, 07/23/2007

Positions w/ Dole and the Senate Finance Committee:

- 1977: joins Dole's Senate staff as health care advisor
- 1979-1982: professional staff member on Senate Finance Committee (Dole is member)
- 1982-1985: Deputy Staff Director on Senate Finance Committee (Dole is now chairman)
- 1985-1986: Dole's Deputy Chief of Staff
- 1986-1996: Dole's Chief of Staff

Issues in which both Dole and EMK were active:

- 1982 VRA extension and the "Dole compromise" (collaborated)
- 1983 Tax Equity and Fiscal Responsibility Act (collaborated to fight a proposed repeal of one of its provisions; Dole supports and EMK opposes eventual compromise deal)
- 1985 and 1986 Anti-Apartheid legislation (both supported some of earlier bills but later disagreed on tougher sanctions and veto override)
- FY1986 budget to cut spending, including on Medicare/Medicaid (opposed each other)
- 1986 Contra Aid (opposed each other)
- 1987 U.S. Soviet nuclear test ban treaties (opposed each other)
- 1988 Civil Rights Restoration Act (both supported; Dole does not vote on veto override)
- Anti-Noriega/Panama legislation (both supported)
- 1989 minimum wage hike (opposed each other)
- 1990 ADA (collaborated)
- 1990 Clean Air Act (both supported)
- 1990 National Community Service Act (both supported)
- 1990 Civil Rights Act (opposed each other)
- 1991 Civil Rights Act (work together to reach successful compromise w/ no quotas)
- 1990/1991 Gulf War legislation (opposed each other)
- 1991 bills on Labor and Health and Human Services budgets (both supported)
- 1991 AIDS testing guidelines (both supported an amendment to block Helms)
- 1993 National Service bill (opposed each other; Elizabeth Dole supports with EMK)
- 1993 Brady Bill legislation (opposed each other)
- 1993/94 abortion violence bill (opposed each other)
- 1994 national health care (opposed each other)
- 1996 Kennedy-Kassebaum Health Insurance Portability (Dole tries to slow down; presidential campaign politics a factor)

Issues on which Dole blocked or moderated EMK:

- South African sanctions, minimum wage hikes, 1990 and 1991 Civil Rights Act, National Service Bill, abortion violence bill, 1996 Kennedy-Kassebaum; most defense and national security issues, such as Contra aid, U.S.-Soviet nuclear test ban treaty, and the Gulf War.

U.S. SANCTIONS ON SOUTH AFRICA

Prepared by Anne Mariel Peters

Miller Center, University of Virginia, 04/03/2006

In October 1986, Congress approved an override of President Ronald Reagan's veto of a bill to impose sanctions on apartheid South Africa. The override was the culmination of a two-year long congressional-executive struggle over sanctions and dealt a serious blow to the Reagan administration's policy of "constructive engagement" towards South Africa. As bipartisan support for sanctions grew during 1985, Reagan stood firm on the position that no sanctions legislation should be passed, opting instead to impose his own sanctions through executive order, a move that Senate Majority Leader Bob Dole (R-KS) encouraged Republicans to accept. However, sanctions legislation was passed by Congress in August 1986, and Reagan subsequently vetoed the legislation.

During the Cold War, U.S. policy towards South Africa was two-pronged; it expressed concern about the Pretoria government's policy of apartheid, but it also sought to maintain good relations with a valuable anti-communist ally. The U.S. had steadily increased pressure on South Africa since the John F. Kennedy administration, peaking with the pro-human rights platform of Jimmy Carter. However, when Ronald Reagan became president, he almost immediately relaxed pressure on the South African government, choosing instead to engage in "constructive engagement," whereby more congenial negotiations would be used to encourage South Africa to abandon apartheid. By 1985, constructive engagement faced broad congressional opposition, including from key House Republicans who feared that Reagan's policy would undermine the ability of the Republican Party to attract black voters. This opposition came to the forefront in December 1984, when protesters staged daily rallies outside of the South African embassy in Washington and there was a resurgence of violence in South Africa.

On April 3, 1985, the Senate approved 89-4 a resolution introduced by EMK (S J Res 96) that condemned apartheid in South Africa. Dole voted in favor. On May 2, the House Foreign Affairs Committee approved S J Res 96 by voice vote. On the same day, the committee approved a bill (HR 1460) that would have imposed two immediate sanctions on South Africa, which could be waived for an initial period of one year and successive periods of six months if the Pretoria government demonstrated progress in deconstructing apartheid. The sanctions were:

- Ban on new bank loans to Pretoria government.
- Ban on U.S. computer sales to South Africa that may have increased the ability of the government to track political dissidents and enforce apartheid.

In addition, the House bill would have imposed the following additional sanctions:

- Ban on new investment by U.S. firms in South Africa.
- Ban U.S. purchases of Krugerrands, South African gold coins.

On June 5, the House approved HR 1460 after soundly defeating seven Republican measures to dilute the bill. Although some House Republicans claimed that the measure was too tough for

them to support, fifty-six Republicans ended up supporting the bill. Only three amendments were added, the most important of which was an amendment by Rep. John Conyers (R-MI) to ban the sale of nuclear power technology and equipment to South Africa.

In 1985, the Senate Foreign Relations Committee approved two sanctions bills 16-1, much to the surprise of the Reagan administration. S 998 was approved on March 27, calling for delayed economic sanctions if significant progress against apartheid had not been made in two years. S 995 was approved on June 4; this bill incorporated much of S 998, but made some of the sanctions immediate. S 995 was a compromise of the original bill offered by Senate Foreign Relations Committee Chairman Richard Lugar (R-IN), Senator Charles McC. Mathias (R-MD), and Dole, and a stronger alternative (S 1228) formulated by Senators Chris Dodd (D-CT), Mitch McConnell (R-KY), and William V. Roth, Jr. (R-DE). Defeated 7-9 by the committee were harsh provisions to ban new investment by U.S. firms, the importation of Krugerrands, and technology sales to the Pretoria government. These unsuccessful provisions were taken from a bill sponsored by Senator Lowell Weicker (R-CT) and EMK that was nearly identical to the House bill. As approved by the committee, S 995 contained the following provisions:

- Ban on new bank loans to the Pretoria government.
- Ban on sale of U.S. nuclear technology to South Africa.
- Ban the sale of U.S. computer goods to some South African government agencies.
- Require most U.S. firms in South Africa to comply with the Sullivan Principles, a code of conduct for U.S. businesses operating in South Africa that alleviated apartheid conditions in their own factories and workplaces.

The Senate passed S 995 on July 11 by an 80-12 vote; EMK and Dole voted in favor. Floor manager Lugar faced numerous obstacles as conservatives tried to delay action on the measure and liberals endeavored to add harsher sanctions. Dole filed a successful cloture petition to proceed with debate after Senator Jesse Helms (R-NC) attempted a filibuster. EMK and his allies re-grouped to push for a ban on Krugerrand imports, but dropped this demand in exchange for a GOP pledge to oppose amendments that would further dilute the bill.

On August 1, the House approved the conference report on HR 1460. However, Senators Malcolm Wallop (R-WY) and Helms blocked Senate action by threatening a filibuster. Dole filed a cloture petition again, and set a vote for September 9. During the first week of September, Dole and Lugar pressed the White House to accept the sanctions bill or at least adopt some of its provisions. Hours before the Senate vote on the September 9, Reagan issued an executive order for sanctions on South Africa and declared that he would be forced to veto the sanctions legislation. The executive order imposed the following provisions:

- Ban the importation of Kruggerands.
- Ban the importation of South African-made weaponry.
- Ban the export of computers and computer software to South Africa.
- Ban loans by U.S. banks or companies to the South African government or any of its subsidiaries.
- Ban the export to South Africa of nuclear power equipment not related to humanitarian purposes.

Dole persuaded most Republicans to accept the executive order and not vote for cloture. Accordingly, Dole asked for unanimous consent to put aside the cloture vote; EMK objected, saying that the executive order was too weak, yet Democrats fell short of cloture with a 53-34 vote. Democrats subsequently sought to keep the sanctions issue on the floor with repeated votes, angering Dole, who removed the Senate's copy of the conference report and gave it to Lugar, who locked it in his Capitol hideaway. The bill's absence meant that the Senate could no longer consider it; EMK and Senate Minority Leader Robert Byrd (D-WV) were reportedly furious. When the bill resurfaced two weeks later, the Democratic effort had lost steam.

On June 18, 1986, the House passed HR 4868, which contained a harsh substitute sanctions bill proposed by Rep. Ronald Dellums (D-CA). The bill, which was given little hope of passing in the Senate, would have:

- Imposed a comprehensive trade embargo on South Africa.
- Required the 284 U.S. firms operating in South Africa to leave within six months of enactment.
- Banned the sale of Krugerrands in the U.S.
- Denied U.S. landing rights for South African airlines.

In 1986, EMK repeatedly threatened to introduce sanctions legislation as amendments to the defense bill and an extension of the federal debt limit, angering Dole. On July 24, Dole and Byrd began negotiating an agreement that would include both sanctions on South Africa and the \$100 million in aid requested by Reagan to assist Nicaraguan contras. On August 1, one week after Reagan had appealed to Congress to "resist this emotional clamor for punitive sanctions," the Senate Foreign Relations Committee approved 15-2 a strict sanctions bill (S 2701) that was largely based on a proposal by Lugar. On August 5, 1986, Byrd offered a sanctions amendment to the 1987 defense authorization bill, including a cloture petition that would block a contra aid amendment to the bill. This infuriated Dole, who countered with his own amendment coupling sanctions and contra aid, thereby linking an issue important to Byrd (South Africa) and an issue important to Dole (contra aid). By August 9, Byrd and Dole reached an agreement to allow debate on both contra aid and sanctions, including a clause inserted by Dole that would require the Senate to invoke cloture on both sanctions and contra aid before it could pass a bill containing either provision.

On August 13, the Senate passed a military construction appropriations bill containing \$70 million for contra military aid and \$30 million for non-military supplies (this bill had been cleared by the House on June 25). On August 15, the Senate passed 84-14 HR 4868 after substituting the text of the Senate measure into the House bill. Lugar claimed that the overriding goal was to round up at least eighty votes; this would either persuade Reagan to sign the bill, or provide the means to override his veto. Included in this bill were strict measures forbidding the imports of South African iron, steel, and agricultural products, as well as the export of U.S. crude oil and petroleum products. These provisions were introduced by EMK, and were initially tabled on August 14. However, after dropping a provision prohibiting renewals of current loans and short-term credits, the measure was adopted on August 15 despite an effort by Lugar to table it; Dole voted in favor of tabling.

The Senate legislation sought to influence the Pretoria government to:

- Suspend the state of emergency that began in June 1986, and to respect the right to equality of all races.
- Release African National Congress leader Nelson Mandela and his colleagues from prison.
- Remove legal restrictions on the organization of political parties.
- Establish a timetable for dismantling apartheid.

Key provisions of the Senate bill included:

- Ban the operation of South African-owned airlines in the U.S., and U.S. airlines from landing or taking off in South Africa.
- Ban the importation of items produced by South African state-owned industries; textiles and uranium products; iron and steel; coal; agricultural products; and sugar products.
- Bar new U.S. loans to South African businesses owned by non-blacks, and to the Pretoria government.
- Ban exports of crude oil and petroleum products to South Africa.
- All of the sanctions imposed by Reagan's executive order.
- An amendment by Helms calling on the South African government and the ANC to renounce violence. Lugar and Dole supported the Helms amendment, yet EMK claimed that it would alter the bill's original purpose.

On September 12, the House cleared the Senate bill 308-77, eliminating the need for a conference bill.

On September 26, Reagan vetoed the South Africa sanctions legislation. On September 29, the House voted 313-83 to override Reagan's veto of HR 4868. On October 2, the Senate followed suit, voting to override 78-21 and thus enacting HR 4868 (PL 99-440) and marking one of the most stunning blows to Reagan's presidency. The override was strongly supported by EMK but criticized by Dole, who contended that South African apartheid was a domestic civil rights issue that could not be remedied by a "feel good vote." Dole was only one of six Senate Republicans who originally voted in favor of HR 4868 and subsequently switched his vote to support Reagan's veto.

THE AMERICANS WITH DISABILITIES ACT

Prepared by Anne Mariel Peters

Miller Center, University of Virginia, 04/25/2006

The Americans with Disabilities Act sought to remedy extant civil rights legislation that did not extend protection against discrimination in public accommodations, private sector employment, and the provision of state and local government services to disabled individuals. The legislation met opposition from business groups concerned about costs of accommodation, and was also controversial because of its implicit coverage of individuals with HIV/AIDS. EMK co-sponsored the bill, saw it through the Labor and Human Resources committee, and chaired the conference. A consistent supporter of the bill, Dole took a lead in facilitating negotiations between the Bush administration and a bipartisan group of senators.

The first version of the Americans with Disabilities Act (ADA) was introduced in April 1986 by Senator Lowell Weicker (R-CT). In 1988, Weicker introduced the bill again with Senator Tom Harkin (D-IA), who had succeeded Weicker as chairman of the subcommittee on the handicapped in 1987. No serious legislative effort was made to push the bill through in 1988, although its existence served as a rallying point for disabled advocacy groups. After Weicker was defeated for re-election in 1988, EMK replaced him as Harkin's chief cosponsor in 1989. In March and April of 1989, drafts of the bill went back and forth among the White House, Harkin, and Senator Orrin Hatch (R-UT). Although President George H.W. Bush had long supported the ADA concept, his administration was hesitant to support the bill because of the massive changes in accommodation and hiring practices that it would entail; these were also the primary concerns of the business community. The strongest administration critics of the bill were chief of staff John Sununu and Secretary of Transportation Samuel Skinner.

The ADA bill (S 933) was introduced on May 9, 1989, and hearings in the Senate Labor and Human Resources Committee (the only committee with jurisdiction over the bill) began immediately. On the 16th, Dole testified in general support of the bill, but expressed concern that some of its provisions might invite excessive litigation. He conveyed that the Bush administration wanted to support the bill, but that they required more time to "get their act together." On the 22nd, the Bush administration sent Attorney General Richard Thornburgh to testify; EMK designated Thornburgh's testimony as a full committee meeting, over which he presided. In his opening statements, EMK explained the bill in the context of civil rights, and emphasized that the bill's accommodation requirements would not adversely affect small businesses. Thornburgh conveyed administration concerns with the bill's cost, scope of public accommodations to be covered, and the precision of the terms "undue hardship" and "reasonable accommodation."

On May 27, negotiations between Senate leaders and the White House on the ADA began. Of the bill's cosponsors, administration officials preferred to deal with EMK, as Harkin was up for re-election and it was believed he would likely try to take credit for the bill. Early on in the negotiations, Sununu told EMK that all rifts could be settled easily if EMK removed his chief civil rights counsel, Carolyn Osolinik, from the negotiating team (EMK subsequently called Osolinik and congratulated her on a job well done).

During the month of July, Senate and White House negotiators met roughly ten times to discuss the ADA. A breakthrough meeting occurred on the 28th, when Senator Dave Durenberger (R-MN), Harkin, Hatch, Dole, and EMK met in Dole's Capitol office with Thornburgh, Harkin aide Bobby Silverstein, Samuel Skinner, Roger Porter, Sununu, and Osolinik. Sununu reportedly lost his temper with Silverstein, after which EMK turned red in the face and told Sununu that yelling at staff was unacceptable. After this exchange, a compromise was engineered in which EMK accepted a provision eliminating damages in lawsuits in exchange for administration acceptance of a broad definition of public accommodation. All disagreements occurring in negotiation were kept secret until after the bill's passage. The Bush administration threw its support behind the bill after congressional sponsors agreed to limit remedies for discrimination to those available under the 1964 Civil Rights Act. In public accommodations cases, the attorney general would only be allowed to seek compensatory (not punitive) damages and civil penalties of up to \$50,000 for the first violation and \$100,000 for subsequent violations. Initially S 933 would have allowed the victim to sue for both compensatory and punitive damages.

On September 7, 1989, the Senate approved its version of the ADA by a 76-8 vote. EMK and Dole voted in favor of the bill, which also contained a Dole amendment to provide federal assistance to private entities to help them meet the law's accessibility requirements. Major provisions of the Senate bill included:

- **Employment.** Prohibited an employer from discriminating against a qualified individual with a disability with regards to job application procedures; the hiring or discharge of employees; compensation; advancement or job training; and other terms and conditions of employment. Individuals using illegal drugs were barred from being considered disabled, and the U.S. government, U.S. government corporations, and private membership clubs were exempted from the law.
- **Public Services.** Prohibited discrimination against a person with a disability in the provision of services by any state or local government agency.
- **Public Accommodations.** Barred discrimination on the basis of disability in the full and equal enjoyment of goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation. Failure of covered entities to provide accommodations for the disabled within thirty months of enactment would be considered discriminatory.
- **Telecommunications.** Required the Federal Communications Commission to ensure that communications relay services were constantly available for the deaf within and across states; also required common carriers to provide relay services either individually or through designees.

The House passed its version of the ADA (HR 2273) on May 22, 1990 by an overwhelming majority of 403-20. Support for the bill was so strong in both chambers that a House-Senate conference would probably not have been required but for the House bill's inclusion of a controversial amendment permitting employers to transfer employees with contagious diseases out of food-handling jobs (known as the Chapman amendment). Lawmakers claim that the amendment was aimed towards people with HIV/AIDS, and the White House opposed it. Dole was in favor of the amendment despite his dedication to the ADA, disabled rights groups, and AIDS research. The amendment was eventually dropped in the conference,

which EMK chaired. The conference report was passed by the House 377-28 on July 12, and on July 13, the Senate approved the conference report by a 91-6 vote. EMK and Dole voted in favor.

Bush signed the ADA (PL 101-336) on July 26, 1990. All of the managers of the bill were invited to the signing ceremony, but Dole was the only lawmaker mentioned by Bush during the ceremony. In his autobiography, Dole cites the ADA as one of his greatest legislative achievements.

CIVIL RIGHTS ACT OF 1991 CHRONOLOGY

Prepared by Janet E. Heining, October 19, 2005

Miller Center, University of Virginia

Background: The Supreme Court's decision in *Wards Cove* reallocated the proof burden making it more onerous for the plaintiff to prove discrimination. Under the 1971 *Griggs* decision, to establish a case of unintentional discrimination, the plaintiff had to present evidence of a disparate impact resulting from an employment practice. Then the burden of proof shifted to the employer who could rebut the claim with a business necessity defense that the employment requirement had a manifest relationship to the employment in question. The 1989 *Wards Cove* decision required the plaintiff to show disparate impact through evidence of a statistical imbalance in the composition of the employer's workforce compared to the qualified labor pool. The employee also had to isolate and identify which specific employment practices were responsible for the statistical disparities. Under *Wards Cove* the employer could rebut discrimination claims by offering a business justification for the use of the challenged employment practice. The employer did not have to prove his defense; it was accepted unless the plaintiff could disprove its legitimacy. Moreover, the justification did not have to have a "manifest relationship" to the job as per *Griggs*. Under *Wards Cove*, a wider range qualified as business necessity justifications.

Legislative proposals to address this triggered debate over whether an employer could set up a qualification (i.e. business necessity justification) for employment that had nothing to do with the ability to do the job. Opponents insisted that the legislative proposals would cause employers to "hire by the numbers."

1989	5 Supreme Court decisions altered prior interpretations of federal employment law affecting burdens of proof requirements involving "disparate impact" discrimination and "mixed motive" discrimination under Title VII of the Civil Rights Act of 1964. The effect was to negatively affect the ability of victims of discrimination to obtain remedies for intentional and disparate impact discrimination.
February 1990	H.R. 4000 introduced by Hawkins with 122 original cosponsors (eventual 183); S. 2104 by Kennedy with 37 original cosponsors (eventual 49). Danforth became a cosponsor on 5/17/90.
July 18, 1990	S. 2140 adopted with amendment by Senate vote of 65-34
August 3, 1990	H.R. 4000 adopted by House vote of 272-154
October 22, 1990	S. 2104 (after conference) vetoed by President Bush.
October 24, 1990	Senate failed to override veto by 66-34.
January 1, 1991	H.R. 1 introduced by Brooks with 175 cosponsors. Provided for burdens of proof when allegation of unlawful employment practice is based on disparate impact. Declared when employment practice is alleged to have

mixed motives, unlawful employment practice is established when discriminatory basis was a motivating factor, even though other factors also contributed. Allowed certain types of compensatory damages and punitive damages (with caps) for intentional discrimination.

- June 4, 1991 S. 1207, S. 1208, S. 1209 introduced by Danforth with 8 cosponsors—referred to Labor Committee. S. 1207 dealt with “mixed motives” and provided limited types of relief (not damages). S. 1208 dealt with disparate impact and declared mere existence of statistical imbalance is not alone sufficient to establish a *prima facie* case of employment discrimination. Defined “required by business necessity” to mean that challenged practice must 1) in cases of *selection*, bear manifest relationship to requirements for effective job performance and 2) in case of other practices, bear manifest relationship to a legitimate objective of employer. S. 1209 dealt with compensatory and punitive damages (with caps) for intentional discrimination.
- September 24, 1991 Compromise bill S. 1745 introduced by Danforth with 6 cosponsors (Chafee, Durenberger, Jeffords, Cohen, Hatfield, and Specter). Became P.L. 102-166.
- S. 1745 defined “required by business necessity” as must: 1) in case of practices used as job qualifications or to measure the ability to perform the job, bear a manifest relationship to the employment; and 2) in the case of other practices, bear a manifest relationship to a legitimate business objective of employer. This language was broader than in S. 1208 because it affected more than just selection process (promotions etc.).
- Provided burdens of proof when allegation of unlawful employment practice is based on assertion of disparate impact.
- Used similar language to H.R. 1 on discriminatory intent and mixed motives.
- October 22, 1991 Cloture invoked 93-4 on S. 1745.
- October 30, 1991 S. 1745 passed Senate, as amended, by 93-5.
- November 7, 1991 S. 1745 passed House by 381-38.
- November 21, 1991 S. 1745 became Public Law No: 102-166.

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KENNEDY-KASSEBAUM BILL

Prepared by Anne Mariel Peters

Miller Center, University of Virginia, 03/16/2006

In August 1996, Congress passed the Kennedy-Kassebaum health insurance bill after a battle over provisions for medical savings accounts, which were favored by Senate Majority Leader Bob Dole (R-KS) and House Republicans as a stimulus for private-sector health insurance competition, yet opposed by President Bill Clinton and congressional Democrats for their potential use as tax havens for the wealthy. The final bill provided for both individual and group insurance portability and established a four-year MSA pilot program.

After the failure of his national health insurance plan in 1994, President Bill Clinton shifted his focus to supporting a narrower bipartisan health insurance initiative being developed by retiring Senator Nancy Landon Kassebaum (R-KS) and EMK. On August 2, 1995, the Senate Labor Committee approved 16-0 the Kennedy-Kassebaum initiative (S 1028) with the following key provisions:

- Group health insurance portability: Limited to twelve months the period in which a group insurer could refuse or limit coverage of a new enrollee for a health condition that was diagnosed or treated in the six-month period before the enrollment.
- Individual health insurance portability: Required insurers offering individual coverage to issue an individual policy to anyone who met three criteria: (1) had coverage for at least eighteen months; (2) was not eligible for coverage under any group plan; and (3) has exhausted COBRA coverage.
- Following a 9-7 partisan vote on an amendment proposed by Senator Bill Frist (R-TN), language encouraging the creation of medical savings accounts (MSAs) was inserted. The creation of MSAs would allow individuals with high-deductible insurance plans (catastrophic plans) to make tax-deductible contributions to a special medical savings account. The account was to be used to pay for medical expenses, and employees could save what they did not use. Concerned that they could be used as tax havens for the wealthy, EMK opposed MSAs, which Republicans touted as a means to encourage private-sector competition.

It took months to bring S 1028, which subsequently became the target of interest groups, presidential campaigns, and partisan politics, to the Senate floor. The health insurance industry, which was crucial to the defeat of the 1994 Clinton initiative, vehemently opposed individual insurance portability. Clinton called for the passage of Kennedy-Kassebaum in his 1996 State of the Union address. And Senate Republicans concerned about group-to-individual portability requirements placed holds on the bill.

In the meantime, the House passed its own version of the bill (HR 3103) by a party line vote of 267-151 on March 28, 1996. The House bill included the following key provisions:

- Group insurance portability
- Individual insurance portability

- Provisions for MSAs
- Exemption from state regulations for small businesses forming insurance pools

Dole did not persuade his GOP colleagues to lift their holds on the bill until February 7, 1996, when debate was scheduled for late April. On April 23, the Senate approved the House bill 100-0 after substituting an amended version of S 1028, a vote that masked the degree of controversy over the inclusion of MSAs in the bill. Dole had led the fight for MSAs in the Senate, going against the wishes of Kassebaum and EMK, who had already built a broad coalition for the bill on the basis that no provision for MSAs and no additional amendments would be added. On April 17, Dole proposed a broad amendment that included the controversial MSA program and an array of politically desirable tax provisions designed to lure other senators from Kassebaum's no-amendment strategy. However, Kassebaum and EMK succeeded in stripping the MSA provision from the Dole amendment 52-46, with Vice President Al Gore present in the case of a tie vote. Five Republicans, including Kassebaum, joined Democrats in opposing the MSA provision. Dole tried to persuade Republican colleagues to switch to his side, but after winning over Frist and Senator William Cohen (R-ME), Dole gave up. The Senate voted 98-0 to accept the rest of Dole's amendment, with the exception of revenue programs intended to fund the MSAs. Key provisions of the Senate bill included:

- Group insurance portability
- Individual insurance portability
- Dole amendment, minus MSAs and MSA revenue programs
- Mental health parity provision

Dole had a second chance to insert MSAs into the bill during conference committee, although White House Chief of Staff Leon Panetta and Gore informed him that Clinton would veto the bill if it contained MSAs. When Dole sought approval of his proposed conferees in late April, EMK objected, accusing Dole of "stacking the deck" in favor of MSAs; Democrats then used procedural motions to block Dole from appointing conferees, insisting that Dole appoint conferees who reflected the Senate position on MSAs. Kassebaum, according to her spokesman, deferred to Dole on this issue due to his status as majority leader. In addition to the MSA provision, other difficult issues included mental health coverage provisions only in the Senate bill, and small business health insurance pools and a medical malpractice cap only in the House bill.

Just before Dole's departure from the Senate on June 11, Kassebaum reached a compromise with House Ways and Means Chairman Bill Archer (R-TX). The compromise included:

- A scaled down MSA program in exchange for an expansion of the program, subject to congressional vote, three years later
- No cap on malpractice awards
- No incentives for small-business health insurance pools
- No mental health parity provision

The Kassebaum-Archer compromise was met coldly by Democrats, and EMK expressed disappointment that Kassebaum had “bowed to the pressure of... the House Republican leadership.”

After Dole left the Senate to focus on his presidential campaign, Senator Trent Lott (R-MS) took his place as majority leader. On July 25, EMK and Archer unveiled a new compromise, the focus of which was a pilot MSA program that would expand after four years, subject to congressional vote. This requirement for congressional approval of MSA expansion was a victory for EMK, who also won several other provisions considered crucial for consumer protection, including restrictions on catastrophic coverage deductibles and limits on annual contributions to MSAs. Lott subsequently appointed conferees, and negotiations began.

After dropping the mental health and medical malpractice provisions, the Kennedy-Kassebaum bill (HR 3103/ S 1028, formally “The Health Insurance Revisions Act of 1996”) was passed by the House on August 1 and by the Senate 98-0 on August 2, 1996. Key provisions of the bill included:

- Group insurance portability
- Individual insurance portability
- MSA pilot program: The MSAs were to be made available to a limited population of roughly 750,000 for four years, beginning January 1, 1997. After that, Congress was to vote on whether to expand eligibility to everyone. Included in the pilot were workers at companies with fewer than fifty employees, self-employed workers, and the uninsured.
- Required enrollment: Required group insurers to enroll employees who initially declined coverage because they were covered under another group plan that they had since lost.
- Exclusions based on health: Prohibited insurers from refusing coverage because of an employee’s health status.
- Availability of group coverage: Required insurers that sold policies in the small group market to offer health plans to all employers in that market.
- Guaranteed renewability: Required insurers to renew most policies, with cases of fraud and non-payment exempted.

On August 21, 1996, Clinton signed the bill.