DATE: April 26, 1990

INTERVIEWEE: IRWIN WOLKSTEIN

INTERVIEWER: Michael L. Gillette

PLACE: Mr. Wolkstein's residence, Baltimore, Maryland

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W: --Social Security legislation and in the coverage of Social Security and disability benefits. At a certain point when disability legislation was in effect relatively complete, coverage complete, there was kind of an agreement at one point--and a statement by Bob Ball was part of it and others too--that the next big issue in Social Security was going to be health insurance. That was way back in the fifties, like 1956, 1957. And we began to study health insurance and what it might be like, study the issues, study everything we could about it. And there was a lot of activity more or less *pro forma* we used to think, not very strong. There were bills around but it didn't look likely that anything was going to be enacted. But it became more and more important in terms of consideration. Went to 1960 when there was an actual vote on the floor of the Senate as I recall and I was involved with some of the people who were working on it. There happened to be a [Patrick Vincent] McNamara committee. There was a committee on aging and there were some people who worked with him, staff people--a man named Spector and Harold Shepherd; I don't know whether you've run into those names--that were involved and they needed help. We/I supplied some of that help to them. The agreement was that we could help them with some of their problems.

- G: Was this in terms of helping to devise a policy or a legislative package or-
- W: It was to help them devise a piece of legislation. They had a piece of legislation they were working on and they needed technical help. It was agreed, even though the issue was not on all-fours politically with the people in charge of the government at that time, that we would give them technical help. I got to be relatively friendly with them. And there were others. There was this whole operation going on there and it became something of some importance in the presidential campaign and was on the agenda beginning in the early sixties as something that would be adopted but that's the nature of the way I became involved.
- G: In the sort of aid, help, information that you were providing, was it largely a question of how to fund it or was it a question of how to implement it in a setting where it would work?
- W: We did a lot of things in a relatively small unit. It grew larger in the sixties than it had been prior to then but our expertise was how to develop a piece of legislation all the way through to put an idea into a legislative act. That's a skill that people don't understand very well because you have to foresee what a program will be like and create a legislative framework to permit a reasonable operation of this idea, a reasonable implementation of that idea. It involved finance. It involved everything but we didn't figure out what the costs would be. That was in somebody else's bailiwick. The most important person on the calculation of costs and how you financed them was probably Bob Meyers. He had a whole staff working with him too.
- G: Did you get into the politics of passing the legislation? In other words, did the program that you drafted reflect the political realities?

W: It took into account political realities in the early sixties one way or another. It was all kind of peculiar. We worked on everything. All of the arguments that were offered and how you counter them, and how you respond and how you deal. A person from the Senate campaign committee got to be a person who called me all the time.

But at any rate, we were involved in all sorts of things including the politics. We didn't go out to campaign. One of the fellows in my office who is now working for the American Hospital Association as head of their Washington office, Paul Reddig, he was among the people who went out on one of Wilbur Cohen's groups that went around the country. He was an advance man for Wilbur Cohen's political operation at one point. We were involved in everything--writing speeches and doing all those things.

- G: Speeches that were given in the Congress or--
- W: In the Congress and other places, that's right.
- G: Did you see Kennedy's election as a major impetus for health insurance?
- W: No question. That was part of the campaign issue. They decided at the early days after the election not to emphasize health insurance as the major first step after legislation as a honeymoon period. That was not what they decided to work on during the honeymoon period. They took a very easy thing that anybody could get enacted and took a very long time about moving it which was a problem of getting the country going economically. Maybe it's every president who has this kind of notion--everyone except [Jimmy]

  Carter--that what you had to do is give people the impression that under this president you have an economy that is on the up trend and surging; employment is up and income is up and unemployment is down. Well, that's what they sought to do in the early days; expended the honeymoon period on that particular kind of legislation as its emphasis. In

- the original election, Kennedy was pro. He was a big supporter, and of course that was very different from the Republicans who had been in prior to that date.
- G: How did you efforts expand or change under his presidency?
- R: Well, the operation grew. We became close. We were supervised by people like Wilbur Cohen who were very interested and anxious and the issue--it took on a whole thing. We had an administrative bill for the first time, worked very hard to construct a bill. We weren't just kibitzers on this thing. We became the initiators and drew up a bill and drew up a whole lot of things. The whole operation grew greatly in terms of staff as well as activity.
- G: Did you see the chief obstacle as being Wilbur Mills or the Ways and Means Committee or do you think you would have equal problem in the Senate at the time?
- R: The major obstacle was Wilbur Mills; at least that's what was thought. A lot of conversation was going on on how many votes there were in the Ways and Means Committee but it was widely thought that only one vote was important and that was Wilbur Mills' vote.
- G: Was there any Republican support within Ways and Means?
- R: There was always a question of whether you could get in particular one Republican. That was a man from Tennessee, [Howard H.] Baker. That was the only one that really people thought might be a swing from the Republican side. There were a number of Democrats that were very likely to be swung by Wilbur Mills.
- G: How about the Senate Finance Committee, how did it stack up?
- R: Well, the Senate Finance Committee was always a conservative committee. The Senate was much more liberal than the Finance Committee.

- G: Did you have any significant support within the Finance Committee?
- R: That's where--a senior Democrat in the Senate Finance Committee who was a supporter was Senator [Clinton Presba] Anderson and that was the reason that I was expected to work relatively closely with that office.
- G: Describe your association with this office during this period.
- R: I might say I was on the floor of the Senate on two occasions and kept off once during debates where Senator Anderson was the major spokesman for the legislation. I functioned in effect as his staff man. That's among the things but I used to spend a lot of time in that office trying to work out with them what--particularly Howard Bray and a woman who was theoretically his secretary but really was the kind of office manager. They were very friendly and easy to work with . Howard Bray is probably still around Washington. He was running the Fund for Investigative Journalism for some time, may still be.
- G: Well, was Anderson's office then sort of your headquarters for the pro-Medicare--
- W: For the action in the Senate. He was the major person that was identified to lead the work in the Senate but he was not well. He was a person whose powers had diminished because he had a number of impairments.
- G: How did the Medicare effort change when Johnson succeeded Kennedy after the assassination?
- W: It seemed to Johnson as well as many others that--maybe it wasn't Johnson, but more [Barry] Goldwater [who] made Social Security, by some connection Medicare, a key matter in the election. There was a landslide against Goldwater. I'm not sure if it was pro-Johnson or against Goldwater, but he was--that combination was one that led to

obviously a landslide and a great many Democrats elected to the House and Senate. A big increase. A majority. And it became quite clear that the Democrats had such control over the House that the kinds of things that Wilbur Mills had thought were the right things to do before no longer were the right things. It turned out I guess that he retained power--he just said, "Now that that election is over"--I seem to have the impression that he was saying now he'd going to be part of the pro side of it. The votes were close enough though that if he had remained against it's not so clear that he could not have, if he had decided, beaten it.

- G: Why do you think he changed his stance on this?
- W: I don't know. I can only tell you what I gather. From what he said he thought that the people had spoken in the election and the majorities in the House and Senate were such that now it was not an issue anymore. Now it was going to be enacted and it was just a question of what form it would be, what kind of shape, what kind of provisions there would be in it.
- G: Now the Senate did actually pass a bill in 1964 [the Social Security Act of 1965, which included Medicare?], didn't it?
- W: That's right. And that's one of the things that--I can't tell you why in the conference where I was, they had rejected it. And that was Wilbur Mills and he got the votes at a point when people were surprised. Wilbur Cohen had said before that they had found the kind of formula under which everybody would agree to it and himself was surprised. But later on [he] told me he knew why that had occurred, what the deal had been. You know in all these things everybody thinks of deals, that somebody had made some kind of an arrangement or some *quid pro quo*. And what that arrangement was, I just don't know.

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G:

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And he might have been able to tell you such a story, maybe he did. But he never told

me.

Tell me about the passage of the 1964 bill in the Senate and your own role, first advising

the legislation--

W: I was kept off the floor in 1964 by an objection from Long.

G: Russell Long?

W: Yes.

G: Why did he object?

W: He was just trying to be an impediment. You know you ask for--in order for someone

who is not normally qualified to be among those present there has to be a unanimous

consent and Anderson requested it and thought it was routine and then there was an

objection on some ground like Bird wasn't present and maybe he would have objected.

So he was going to enter this--this was Long.

But he thought it was an impediment to Anderson in the debate.

G: Did you have a role in drafting the legislation?

W: In 1965--I just remember all the things. There were always amendments. What should

you do with an amendment? First the legislation as it was originally drawn up, the whole

operation in the committee with how you may have put in Part B. Part B we drew up in

very short order in response to a request from Wilbur Mills to match John Byrnes. I don't

know whether you know all that.

G: No.

W: Anyway the--

G: To match John Byrnes, how so?

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W: The old Medicare legislation was in effect coverage of hospital benefits essentially, purely without the major addition of physicians services. That was the kind of form it had taken post-1960. In fact, in 1960 as well. In the consideration--like I said, when Wilbur Mills took on this role of trying to move something through he decided to give everybody in the committee who wanted to propose an alternative an opportunity to be heard and to have consideration. He always aimed at not having a majority but he aimed for having unanimous support for his proposal. That was what he thought was the ideal, it's the nature of his politics. And they rejected the AMA [American Medical Association] proposition in which Curtis was the major person.

G: Carl Curtis?

W: No. Tom.

G: Tom Curtis.

W: Anyway, Tom Curtis--Carl at that point was in the Senate. Tom was the major representative for the AMA in that committee. Anyway, he was up and Wilbur Mills took him apart with his proposition and why it wasn't any good. Then John Byrnes came up and made this big pitch about how much more benefits he had, how it was better care. And at one point finally Mills decided he didn't quite know how to handle a defeat of the other proposition because it has these nice attributes, better benefits. So he said, "How about if I put those benefits in my bill? Will you then come along?" And John Byrnes was very smart--he's around Washington. You might find it of interest to talk to him because I think he's probably one of the few people who might be actually willing who might remember and know a lot of things. Many of these politicians I don't think take enough interest in the substance to really give you much of an answer to anything that

you might ask in a real sense. They might give you an answer but it may not have any meaning. I think that John Byrnes might well say something different. Nevertheless that question began to be pushed and harder and harder. "How about if I put in all the advantages, all the benefits you've got in your bill in my bill?" And while John Byrnes would not respond to how he would behave under those circumstances, Wilbur Mills gave us the order to come back the next day with a proposal that would include those benefits. So overnight we drew up--I principally drew up--a Part B provision. It was kind of interesting.

G: Who worked with you on that, anyone else?

W: Well, we had a staff. It was people, but it was an issue of how you could manage this in a real sense. Many bills were drawn largely--it was modeled on a federal employee's bill called--not a bill but . . . Under the federal employees legislation there are several forms and Aetna Insurance was one of the principle forms. It's no longer in there. They finally withdrew. But it was modeled on the Aetna Insurance plan. People who did it, given this instruction were the House legislative council--a couple of very smart people worked there. Larry [Lawrence E.] Filson was primarily the person who worked on this sort of thing and he drew it up. And it was not a bill for enactment. He probably thought that he had to do a good, credible job. It wasn't done the way an administration bill would be done. They didn't ask for a whole lot of help with regard to making it technically perfect in various ways.

G: This was the one that you were working on?

W: No, that was the original John Byrnes bill. When we took it, we had issues like--it was voluntary. Well, how do you make it voluntary and nevertheless get the enrollment?

Well, you had to draw something up. We said, "Well, the only way you could do it would be to follow the kind of rules that are used, the kind of approaches that are used in employment arrangements. How do you get in effect full enrollment? You do it by providing for a very favorable premium through an employer subsidy in effect or employer writing of the whole cost is really often done. We suggested, thought up at that point the notion of a fifty per cent government contribution toward the premium so that it would be attractive to both the good and the bad risks. We knew there was a very variable risk among the aged for benefits of that sort and to provide benefits to the very old for whom the costs would be very large and charge the same premium to all would mean very much overcharging the young in effect.

So at any rate, we thought we could overcome the hurdles that would be involved if we had a substantial government subsidy and we proposed a fifty per cent subsidy. That was our idea, my idea to do this. And they went to Wilbur Mills and said to him, "How about if they don't pay for the whole thing themselves? If we do it that way, would that be all right? Would that still meet his"--it met his test. It's that sort of thing that we were involved in. We left out benefits that were in the Byrnes bill that would have been very hard to administer like drugs which still today seem to be a problem, tired it in catastrophic and it became very controversial in catastrophic and was one of the reason I think that finally it disappears because there were a lot of things about it that were very costly.

G: Did you give much consideration to limiting doctor's fees or anything of this nature?

W: I think that one of the things that Wilbur Mills seemed to set out was that in adopting this provision he would do it in a way that would make the AMA as pleased as possible

which in effect said, "Don't limit physicians' fees." He didn't want to limit them at all. I guess I got myself involved and people talked with him a great deal, with Wilbur Mills on the fact that even in Blue Cross/Blue Shield they had problems and they gave--the way they had taken care of the problem was by requiring participating physicians to accept as full payment whatever the schedule was or whatever the price was that was paid. He had never wanted to do anything like that but we ended up getting him to accept the assignment provision so that physicians could, each on his own, make a decision on whether he would accept it in full or not. That was the best we could do. It was not necessarily the best you would wish to do at that time but trying to work out something that would in effect just pass on the money to the physician with no protection at all to the beneficiary which was kind of the thing it was argued was often at least in part the result of a payment in some circumstances in Blue Shield. It was just kind of if you paid a small amount and you allowed the physician to charge whatever he liked, you just added that to whatever he previously charged--new payments out of this thing. "How could avoid that," became the issue and it was a very serious issue, but not one we won very much out of except the assignment provision. We did get that. It was not in--when you say what's legislation and how do you draw something up, are politics in it or are somebody else's view in it? Well, all those things are in. You say, "What does this person need? How does he think?" What can you do that will gain you something that you think is good for the aged, good for the community and at the same time preserve the objective of this other party that's in there? Wilbur Mills was a very important party to this whole thing.

G: Were there any other changes that are components that he had a hand in?

W: You'd have to say he had a hand in almost everything. More or less what I've referred to in Part B is probably the biggest thing that he was involved in. I remember Wilbur Cohen saying after that came up being in touch with the White House. I don't know who it was at that point, probably Marvin Watson was probably the principle person he would have talked to but there were others. He was involved with the White House all the time during this period when things were really very active in terms of formation. He was pleased to have this broadening of legislation in this fashion and so was the White House.

G: How about the patient's deductible? Was this something that you--

W: That went way back. You always had this question, and it's kind of a compromise.

Labor was very important in sponsorship of the legislation. They were always opposed to deductible, co-insurance. That was not the control that they thought was the appropriate control, and it's kind of a compromise. But Lyndon Johnson is reputed to have said to people that he believed that a deductible was important, a gate-keeper kind of deductible. Not to have all these people crowding the hospitals casually. As I say, I don't know of anything where I've seen it in writing but I just remember having him quoted to me as being concerned in this fashion.

So you have different kinds of things. There was always a question of saving money. You had a big affect on financing. You weighed all these things. What would be the effect on admission? How do you put all things together? All these things somehow in combination. It's a very common-deductibles and co-insurance are very common in commercial insurance. It's typical in legislation to have a kind of compromise situation, a reflecting of views of all kinds of different people. And I think that's really what was involved. We wanted a--we tried to select a deductible that was

small enough not to constitute a barrier of significant sort to admission or use of services yet one that would save some money and, two, avoid a problem that some people thought of of initial overuse.

- G: Was the age eligibility something that was discussed a good deal when you were drawing up the legislation or was sixty-five pretty much the--
- W: No, it was somehow or other accepted at sixty-five. The big issue is what do you do about people at sixty-five who are working, and can you figure out some way that would avoid bringing onto the rolls the workers and still cover those who are not workers. And we went through a whole series of efforts to try and draw up an effective arrangement that would make the selection among these different groups so that you would preserve the working group for normal insurance and still cover those who were not working. We never had a satisfactory arrangement, and it's remained a kind of a problem right almost--it's still a problem essentially today, trying to segregate that particular element because they've now got provisions for which is primary, the private insurance or Medicare. They have some circumstances in which private insurance remains a primary.
- G: The inclusion of such things as psychiatric care and other forms of treatment that were not in what one normally considers medical care--
- W: Well, psychiatric care always was part of medical care. It was always very difficult to handle and it was added in the Ways and Means Committee at the behest of a congressman from West Virginia who became kind of a spokesman for the mental hospital interests. He put on enough pressure so that it was added and we went through a lot of things saying they didn't have a real good proposal. He said, "Nobody has good

proposals. You're the ones who make up all the proposals anyway." I still remember that. "Well, you make up a proposal on how to handle it. If the mental hospital people can't do it, you do it." So we figured out something that we could do because it is a serious illness.

There are all kinds of problems related to the fact that active care is often now provided, and to pay for warehousing didn't seem to be a very useful way to spend the money out of this program, and that sort of thing. So we tried to write a provision to cover an element of active care.

- G: Anything else on the specifics of the draft that you worked on?
- W: I don't know that there's anything of major consequence that I ought to refer to.

I'll tell you one little thing that's kind of interesting just because of somebody who is involved and talking. In 1964 in the Ways and Means Committee--I guess it was 1964--when they didn't come out with anything from the Ways and Means Committee in terms of support they spent a lot of time working on the subject. I told you we used to spend day after day going to Washington and sitting in the room there, the big Ways and Means room, and the committee would be working. [Congressman Daniel]

Rostenkowski called me over one day when Wilbur Cohen was pursuing the details of how you should construct this legislation, what should the provision be and how should it work. He called me over and he said, "When they get through there are going to be two names on this bill." There was the Kerr-Mills bill and all kind of things, joint names. He said, "There's going to be two names on this bill when they get all through"--just watching him. "It's going to be Wilbur Mills--his notion was great humor at that point because he was going to take over that whole operation. It was King-Anderson--I don't

know if you remember that. It was the King-Anderson bill. "When he get through there's going to be two names on it though"--watching it happen. Then of course they didn't act on it at all in the Ways and Means Committee. (Laughter)

- G: Anything else on taking the elder care or the Byrnes proposal and incorporating the idea into the hospitalization bill that Mills had--
- W: Well, it was engrafted on top. To say it was done successfully and people thought it had worked out, we had a whole set of things about what should you take out of first and what should you put into the second. It was kind of a troublesome thing to put together and it has remained that way. But it seems to be that way in all the private insurance. Blue Cross/Blue Shield is separate and administration has been difficult, to have consistent determinations for hospital care and the physician who is providing the services.
- G: How actuarially sound was this bill?
- W: You know you always have this problem and Wilbur Mills was always worrying about,
  "Did you put in enough money? Would it ever be enough money? And how would you
  all work it?" There was an effort made to provide an honest estimate of what the costs
  would be--that was Bob Myers and the tendency was to be very careful and conservative.

  In that sense you did it as well as you could. Afterwards you look back at what
  happened and why it happened--in fact I did a history at one point, not very many years
  ago, on this subject at a Ways and Means Committee request. Are you familiar with that
  conference?
- G: History of the costs of Medicare?
- W: Yes. I have a copy of that piece if you--

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G: How did the Republicans react to your version of the doctor's insurance?

W: They opposed it but it was a party-line vote when it went down. The vote on the bill in total was favorable but party-line, it was opposed. They tried to in effect defeat the proposition, the whole proposal but when it was finally--but more or less the final vote was favorable. On the floor it was favorable but not by a very large majority which is kind of interesting to me. In those days the Republicans were not by any means overwhelmingly in favor. They were a majority opposed.

G: Now, in the Senate, Senator Long introduced a substitute that required contributions by recipients based on income, do you remember that?

W: No, I don't remember at this point.

G: And Bird had one to lower the retirement to sixty years of age.

W: A lot of the things would not have been--I don't think they were very important or people thought of them as likely of great import. It was just such strong support for the administration position that was dominant throughout the whole operation.

G: Did you have a sense of the AMA's lobbying against the measure?

W: They almost accepted the fact they were defeated. It was kind of an interesting circumstance altogether. We met with them a great deal on a number of occasions after enactment about how it all had worked out with the enactment of Medicaid with it and where this would lead and how it might lead and where things would stand. They seemed to be persuaded they had done perhaps fairly well with Wilbur Mills. It's come out about as good as you could have hoped they thought at that particular point in the politics of that situation.

G: Because it did not put a cap on--

W: They had gotten a great deal out of it. The welfare elements of the program were important. They had filled gaps. They could really feel pretty much at ease that this was kind of an answer to the current problem that left them in a pretty good situation.

G: When did this change of attitude occur, do you recall?

W: I could not tell you but there must have been--it must have been what occurred post-election time, the Johnson election, when they must have thought really this spelled the conclusion to this debate. They had lost and they were soundly defeated and the Democrats were riding high with all kinds of people who were indebted to Lyndon Johnson, and his ability to run the politics of it was so widely known. It just looked like it was a juggernaut; they could get what they wanted. And they came out pretty well.

G: Any insights on Johnson's own role in getting the legislation through?

W: I do not have any. I could not tell you. Maybe the most interesting things--one I thought was so terrific--had to do with civil rights where they decided they were going to use this as a vehicle for desegregating hospitals and nursing homes. We heard the fact that he himself had dealt with an awful lot of the people who might have been opposed to that role and created a circumstance in which it was accepted that they would not be impediments to that kind of conclusion. I worked a great deal with him. I went to the White House for some of those people about--Marvin Watson's office on a couple of occasions. And I was calling them up with the results of how we made out with hospitals agreeing to the civil rights provisions. They were very, very much involved in that.

G: You personally were?

W: Yes. Somehow or other they got me into that. You got out of one piece of hot water into

a second. But that was one of the big things.

G: Now who did you meet with at that White House?

W: Marvin Watson. Just him.

G: There weren't representatives from the hospitals there.

W: He called up Texas from there.

G: To discuss the compliance?

W: Yes.

G: Was it non-compliance or was it--

W: It was a question of compliance. Because we went through things about who had complied and what the problems were. It was a very interesting thing. Do you know Ted Marimer? That name mean anything to you?

G: No.

W: He was an assistant in HEW [Department of Health Education and Welfare] at the time.He's a professor and writes on this subject. I don't know where he is now. It wasWisconsin at one point. I don't know where he is at this point.

Anyway, one time he went with me because he wanted to see what it was like.

G: Anything on Wilbur Cohen's role in the passage of Medicare?

W: Well, he was very heavily involved. We would--that's kind of interesting how staff works with a supervisory groups. We had some important issues. When we had important issues we would meet with him and he would give us his view on how we should go when there was more than one way and that was the major thing on issues, like proposed amendments on the floor of the Senate in 1965 or other time, what do you take and what don't you take. You'd have a conversation with him. Some things you'd take

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and some things you wouldn't. He was very active, very interested and very capable of handling all of these things quickly and easily. I think they found the whole operation worked well. We all very pleased with the way it had been done in subsequent years. We talked with people from the House Legislative Council. They were all very satisfied that we had managed to think of so many of the things that would occur in administration so that they didn't have to go back with a whole lot of corrections and problems. It went relatively smoothly. It worked well. That's about the size of it.

End of Tape 1 of 1 and Interview I

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