



INDIANA UNIVERSITY PRESS

Birch Bayh Made a Difference Author(s): Robert Blaemire

Source: *Indiana Magazine of History*, Vol. 115, No. 3 (September 2019), pp. 219-228

Published by: Indiana University Press

Stable URL: <https://www.jstor.org/stable/10.2979/indimagahist.115.3.03>

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <https://about.jstor.org/terms>



Indiana University Press is collaborating with JSTOR to digitize, preserve and extend access to *Indiana Magazine of History*

JSTOR

Birch Bayh Made a Difference

ROBERT BLAEMIRE

ABSTRACT: Robert Blaemire began working for Birch Bayh, then the junior senator from Indiana, while a freshman in college, and he remained on Bayh's staff for the next thirteen years. Blaemire reflects on Bayh's accomplishments during his Senate years, which included authoring the 25th and 26th Amendments to the Constitution; creating Title IX to prohibit discrimination based on sex by educational institutions receiving federal funds; and authoring a number of important pieces of legislation, including the Juvenile Justice and Delinquency Prevention Act. Bayh's body of public service, Blaemire notes, was "remarkable and made a huge difference" in the lives of Americans.

KEYWORDS: Birch Bayh, Indiana, U. S. Senate, Constitutional amendments, Title IX

When I wandered into the U.S. Senate office of Indiana's Birch Bayh in fall 1967, I could never have imagined my future and the history I would witness. I was enormously lucky to have a front seat at many seminal events of the 1970s, and to Senator Birch Bayh, I am eternally grateful.

I was a freshman at the George Washington University in Washington, D. C., hailing from Hammond, Indiana. The first day after my parents

Robert Blaemire began working for Senator Birch Bayh while a freshman in college and remained on his staff for the next 13 years. After Bayh's election defeat in 1980, Blaemire formed a political action committee, the Committee for American Principles, to combat the influence of the New Right in American politics. In 1982, he began a long career providing political computer services for Democratic candidates and progressive organizations. An early participant in the rise of big data, he owned and managed Blaemire Communications for 17 years. Born in Indiana, he lives in Bethesda, Maryland, and has two sons and a daughter-in-law.

INDIANA MAGAZINE OF HISTORY, 115 (September 2019). © 2019, Trustees of Indiana University.
doi: 10.2979/indimagahist.115.3.03

dropped me off, I decided to visit the Bayh office and try to find a job there. I was able to meet Senator Bayh on that first day and, within a few weeks, was asked to help out on a project as a volunteer. The excitement I felt at that time was hard to describe. I had never seen a senator before, much less met one.

Birch Bayh was then a 39-year-old junior senator in his first term in office. I don't remember when I first heard his name but could remember, when I was thirteen, having a sponge in our bathtub labelled "Homer Caphart for Senate," advertising the man Bayh would defeat in 1962. I may have heard his name prior to the 1964 plane crash when he dragged Senator Ted Kennedy from the wreckage, but I can't be sure. As one of so



Birch and Marvella Bayh with President John F. Kennedy in the West Wing Colonnade of the White House. As the incoming junior senator from Indiana, Bayh met with the president on November 15, 1962. Bayh was an admirer and supporter of both John and Robert Kennedy.

Cecil Stoughton, White House Photographs, John F. Kennedy Presidential Library and Museum, Boston

many young Americans inspired to get involved in politics by the presidency of John F. Kennedy, I would have remembered the Bayh name because of its linkage with the Kennedys. I didn't know it rhymed with "guy" and probably thought it was pronounced "bay."

Nonetheless, by the time I arrived at his office, I knew more about him. As a freshman senator, he had already authored an amendment to the Constitution, a rare occurrence for any senator, much less one as green as he was. The 25th Amendment would become a critical part of the Constitution, invoked twice in the first seven years after its ratification, the result of the still-yet-to-happen Watergate scandal.

By February 1968, I was on the Senate payroll and performing many tasks one might expect of an 18-year-old: running errands, folding and stuffing the mail, filing letters and documents. The events of that year were earthshaking. Having had a chance to meet Senator Robert F. Kennedy during my first weeks in D. C. and standing in the crowd outside the Senate Caucus Room as he announced his presidential candidacy, I was excited about his campaign and went to his headquarters to offer my services when I returned home to Indiana for the summer. The assassination of Martin Luther King Jr. in April and the subsequent riots in D. C. and around the country were upsetting, to say the least. Shortly after the assassination, I flew home for spring break. The pilot told us to look out our windows and we could see 14th Street on fire because of the rioting. Landing in Chicago, we could again see fires from the plane's windows; Chicago was experiencing riots, looting, and many burning buildings. The world seemed to be coming apart at the seams.

I saw my first major peace demonstrations that first year in college, as the Vietnam War dragged on and the opposition to it grew. I paid attention to Bayh's deliberations, as his feelings about the war slowly changed—a difficult situation given his close alliance with President Lyndon B. Johnson. The day after Robert Kennedy was assassinated in June, a package of his campaign materials arrived at my home. One of those posters is still framed on the wall of my home. After the Kennedy killing, I learned about the gun control legislation Birch Bayh sponsored, sparking a level of opposition to him in Indiana that never went away. But we were proud that he was taking a stand because he felt he was right, regardless of the cost. His opposition to the Vietnam War that year was a similarly brave stance.

Returning to George Washington for my sophomore year, I experienced the intensity inside the Senate office as Birch Bayh faced re-election and the



Senator Birch Bayh addresses the Democratic National Convention in Chicago, 1968. As a freshman senator in 1967, Bayh had already authored what became the 25th Amendment to the U.S. Constitution, and was a rising star in the Democratic party.

Library of Congress, Prints and Photographs Division

election grew near. I rode with three other staffers in the Bayh automobile where we all participated in last-minute campaigning. On election night, I was able to celebrate his successful re-election in his hotel suite, meeting for the first time his wife, Marvella, and his son, Evan, then only 12 years old.

Before the semester was over, the senator's secretary asked me if I was interested in arranging my class schedule so that I could drive the

senator to and from the office. That role allowed him an extra hour of working time in the car each day. But the sweetener was that I would have full-time use of his car. So while I now had a car for my own use, I also would be spending considerable time with the senator every day. That was beyond belief.

Over the next months, I began to spend increasing amounts of time with Marvella and Evan as well. Marvella took me to my first French restaurant for lunch. Evan shared my love of baseball, and we worked together to try and turn him into a pitcher. Later, Evan would turn to basketball, and I'd attend his middle school basketball games with Marvella and Birch, sitting in the stands with the parents of Evan's classmate Marvin Bush—George H. W. and Barbara Bush.

We could not know in 1969, the first year of the Nixon presidency, that Birch would soon assume a role in the Senate that would give him national prominence. A Nixon nominee to the Supreme Court, Appellate Court Judge Clement Haynsworth, demonstrated ethical insensitivity in a series of court cases involving companies in which he held stock, and from which he should have recused himself, since his financial interests could appear to be enhanced by the decisions made from the bench. His refusal to acknowledge this led to growing opposition in the country, as did appellate court decisions he had made that were considered anti-labor. The task of organizing opposition to him on the Senate Judiciary Committee fell to Birch, something he found extremely distasteful.

For me, the Haynsworth matter was very exciting. The national press and news media increasingly focused on the debate in the Senate and on the young senator—hailing from a state that Richard Nixon had won overwhelmingly—who was leading the opposition. When the Senate voted down the Haynsworth nomination, Bayh's profile grew larger. Only a few weeks later, however, President Nixon nominated Judge G. Harrold Carswell for the Supreme Court vacancy, a man who was quickly perceived as far worse than Haynsworth.

I knew from the time I was spending with Bayh that the last thing he wanted was to get involved in opposing another Supreme Court nomination. As the controversy developed, it became clear that if he didn't step forward, Carswell would be confirmed, and Birch often said that he would be remembered as the man who put Carswell on the court because of his leadership defeating Haynsworth. He showed incredible skill in marshaling the forces of civil rights and organized labor leadership to compel the Senate once again to defeat a nominee for the court. Two Supreme Court

nominees were defeated, both because of the leadership of the same senator. It had never happened before and has not happened since.

Bayh mused at the time that, for all the plaudits he was receiving, he was also generating opposition across the country and in Indiana. I remember him telling me that he always wanted to make friends and allies; it was antithetical to everything he felt to take stands that created so much anger and opposition from so many people. Yet he had come to understand that if you stood up for what you believed, that was bound to happen.

Now Birch found himself fully in the glare of the national spotlight. Democrats across the country urged him to seek the presidency and oppose Nixon in 1972. As 1970 moved into 1971, a nascent presidential campaign was being put together, and Birch was leaning toward a decision to make the run. As the organization grew and became more efficient, the fundraising was proving successful as well. And then a personal crisis occurred that changed everything.

I drove Marvella to the hospital to have an examination for a lump that had appeared on her breast. While Marvella, Birch, and I sat in the hospital room talking, the doctor entered and I exited to leave the Bayhs alone. He told Marvella that she had cancer and recommended a mastectomy. Marvella had her surgery and would enter into a regimen of chemotherapy and radiation. The day after the surgery, however, Birch held a press conference to announce the end of his presidential campaign. He needed to spend time at home with his wife.

As painful as this experience was, not being a candidate may have been the best thing that ever happened to Birch Bayh. Looking back on the 1972 re-election of Richard Nixon, it's hard to believe that Birch would have won. Instead, he aggressively pursued his legislative goals in the Senate. He had already experienced a substantial success in 1971 as the author of the 26th Amendment, lowering the voting age to 18. He became, in the process, the only person since the Founding Fathers to have authored more than one constitutional amendment.

In 1972, Birch was promoting a third constitutional amendment, the Equal Rights Amendment, which would outlaw discrimination on the basis of sex. Concerned that it might not be ratified, he added to the Educational Authorization Act of 1972 a prohibition of sex discrimination by educational institutions receiving federal money. This became known as Title IX; its passage has had an overwhelming impact on American society, and it would stand among Birch Bayh's most stellar accomplishments.

Little did we know during that 1972 presidential campaign, that the seeds were being planted which would grow into the biggest political scandal in American history, Watergate. The investigation into the activities of the Nixon campaign and White House became the dominant story of 1973, as the Senate held nationally televised hearings and a Nixon impeachment seemed likely. When the existence of Nixon's enemies list was revealed, the country was riveted. Those of us on Bayh's staff were thrilled to find that Birch was on that list. Adding to Nixon's difficulties was his vice president, Spiro Agnew, who resigned in 1973 following an investigation into illegal activities.

When Birch had authored the 25th Amendment, ratified in 1967, the principle concern was presidential inability. When President Kennedy was shot, the prospect of his physical survival without the mental capacity to serve as president in the nuclear age was of primary concern. The fact that many vice-presidential vacancies had occurred in our history was important as well, and the amendment had established a process to fill those vacancies.

President Nixon had chosen Michigan congressman Gerald Ford to fill the vice-presidential vacancy. Under the 25th Amendment, Ford was able to accede to the office, the first time that either a president or vice president was not elected by the American people. As the Nixon troubles grew and it was becoming apparent that his impeachment and conviction were likely, Republican leaders went to the White House to tell him he had to go.

Without the 25th Amendment, the office of vice president would have been vacant, and the next-in-line to the presidency would have been House Speaker Carl Albert—a Democrat. It's easy to imagine these Republican leaders wanting Nixon gone with Ford in the wings. But if he wasn't the vice president, would they have been prepared to turn over the administration to the opposition political party? The 25th Amendment provided a path to avoid that dilemma and helped create a smooth transition. And when New York governor Nelson Rockefeller was chosen to replace Ford as vice president, the amendment was invoked a second time, and the country had two unelected national leaders.

During that year when Nixon resigned and Ford became president, Birch Bayh was running for re-election in Indiana. I had the good fortune to travel with him in that campaign. It is hard to imagine how rigorously he campaigned. For 153 days, with three days off, we travelled 90,000 miles without leaving the state. It was the most exhausting experience I have ever had, something I would never trade away but would never repeat either.

Before the end of his second term, Bayh added another landmark achievement, the Juvenile Justice and Delinquency Prevention Act along with the Runaway Youth Act. Bayh's legislative efforts during that third term were more than impressive. After defeating Indianapolis mayor Richard Lugar in the 1974 campaign, he successfully led to passage the Civil Rights of Institutionalized Persons Act, the Pregnancy Discrimination Act of 1978, Foreign Service grievance procedures, and initial funding of the D. C. subway system; he nominated the first woman to become a U. S. Attorney and hired the first woman to become chief counsel of a Senate subcommittee. He was instrumental in the creation of the Federal Emergency Management Agency (FEMA) and the Foreign Intelligence Surveillance Act (FISA). His efforts to promote the authorization and funding of public works in Indiana virtually changed the face of large parts of the state. His efforts on behalf of alcohol fuels made him the face of gasohol in the country.

As chair of the Subcommittee on Constitutional Amendments (later the Subcommittee on the Constitution) as well as of the Subcommittee on Juvenile Delinquency, Bayh's national profile had grown even more. And in late 1975, he began to organize another campaign for the presidency. While his campaign was not successful, Georgia governor Jimmy Carter was elected president; having a Democratic administration proved enormously helpful to Bayh's legislative efforts. During the Carter presidency, Birch became chair of the Senate Intelligence Committee, and his voice in national policy, foreign and domestic, seemed to increase with each passing day.

In late 1978, Marvella Bayh's cancer returned, and she passed away in April 1979. I was honored to be among her pallbearers; the funeral service was held at Washington's National Cathedral, attended by the president and vice president, as well as most of the U.S. Senate and a long list of Washington and national notables. Had Marvella survived, Birch would probably not have run for a fourth term in 1980. With her passing, it soon became obvious that his desire to make a difference in the country would compel him to run again. Evan was a law school student, and Birch would not have the traditional tug and pull of a family to keep him from his Senate duties.

The 1980 campaign loomed ahead and it was hard to be optimistic. The country was facing double-digit inflation, double-digit unemployment, double-digit interest rates, long lines at the gas pump, and American hostages in Iran. Carter's popularity was at a low ebb, and Democrat senators like Birch faced a difficult election environment. As it turned out, twelve Democratic senators were defeated in 1980 along with President Carter.

Birch, defeated by Republican Dan Quayle, would turn his attention to the practice of law. He found it hard to be bitter about his defeat, he said, because the people of Indiana had given him 18 years to do exactly what he wanted to do. How many people could say that?

A few weeks after the election, Senator Russell Long of Louisiana, chair of the Senate Finance Committee, called Birch to his office. Long had been the chief obstacle to Birch's efforts to change patent law so patents developed by partnerships between the federal government and universities or small businesses could be brought to market by those universities or businesses. The Patent and Trademark Law Amendments Act, Senator Long said, would be his parting gift to his friend Birch. That parting gift, which became known as the Bayh-Dole Act, would have an enormous impact on American society, generating trillions of dollars to the economy by the creation of new companies and the development of new inventions, such as in-vitro devices. One company developed by a federal/university project—which prior to Bayh-Dole would have been brought to market only by the government—was Google.

Birch also turned his attention to building a new family. In late 1981, he married Katherine "Kitty" Halpin, and they welcomed son Christopher the following year. My 13-year tenure in the Bayh office ended with Birch's election defeat. Our friendship continued, and once, after a dinner with our wives, Kitty asked my wife whether I'd consider writing his biography. I have been a history buff throughout my life and a serious reader of biography but had never written a book. I also had my own company to run at the time and was unable to commit the time to such a project. Instead, I began introducing Birch to authors who might undertake a biography. He decided that he would write his own story, although I was skeptical and felt he wouldn't get that done.

Early in 2012, I was at an event with Birch and told him I had interviewed my parents on video over a period of seven years. The resulting seven-hour video had them telling their own stories, as well as those of my siblings and me. My father had since died and the videos had become priceless. "Wouldn't you," I asked him, "want me to do that with you?" He looked at me for a long moment and said, "I'd be willing to do that."

We embarked on a series of twelve interviews over the next two and one-half years, thirty hours in all. During this period, I was able to secure a contract from Indiana University Press to write the biography and expanded my video interview project to include another thirty hours of interviews with former senators Evan Bayh and Richard Lugar, current senators Orrin

Hatch and Patrick Leahy, former congressman Lee Hamilton and a long list of former staffers and political allies.

The senator's death on March 14, 2019, brought an outpouring of tributes paid to him. I am hopeful that *Birch Bayh: Making a Difference*, the book I wrote, will also be received as a tribute. Few of us ever have the chance to know a great man or woman. I am blessed that I knew and loved this great man who gave me a front row seat to so many of the major stories of our time. I believe history will support my view that his service was remarkable and made a huge difference in the lives of our people. He said many times that he entered politics because he wanted to make a difference. I think it's clear that he did, in the life of our country and in my life as well.