

National Archives



Washington, DC 20408

NATIONAL ARCHIVES ORAL HISTORY PROJECT

Oral History Interview

with

Edward J. Gleiman

January 24, 1985

at

Rayburn House Office Building

Washington, D.C.

Interviewed by Rodney A. Ross (National Archives employee)

Basic summary abstract prepared by Donnie Eichhorst (National Archives volunteer)

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Edward J. Gleiman. Washington, D.C. January 24, 1985. Interviewed by Rodney A. Ross.

Gleiman is a counsel for the subcommittee on Government Information, Agriculture and Justice of the Government Operations Committee of the U.S. House of Representatives. He began work for the subcommittee in 1977 when Rep. Richardson Preyer was the subcommittee chairman. Preyer was succeeded as subcommittee chairman by Rep. Glenn English.

Gleiman's interest in archival matters dated from his involvement with background for the Presidential Records Act of 1978. Gleiman discussed the things he learned about the National Archives as a result of oversight hearings held in 1978 and 1979.

During protest activities following Admiral Freeman's directive regarding the decentralization of records Gleiman met with individuals active with the Emergency Committee to Preserve the National Archives.

Eventually Gleiman became converted to the view that the National Archives ought to be independent of the General Services Administration.

Gleiman mentioned both the 1982 oversight hearings, which featured Barbara Tuchman and Alex Haley as witnesses, and the hearings during the 98th Congress on the Smithsonian study.

The interview concentrated on H.R. 3987, introduced on March 7, 1984. This measure, co-sponsored by Rep. Jack Brooks and Rep. Glenn English, provided for Archives independence. Gleiman discussed some of its provisions and explained how the House bill differed from the Senate measure (S. 905).

Gleiman recounted opposition that both the Justice Department and the IRS expressed toward the House bill. He also told of initial House passage of H.R. 3987 (which became S. 905) and of the workings of the House-Senate conferees.

The interview, approximately 100 minutes in length on two cassettes, was conducted in the Rayburn House Office Building. The two parties in the taped conversation can be readily heard.

Abstract of interview with Edward J. Gleiman in Washington, D.C., on January 24, 1985.

Interviewer: Rodney A. Ross

Tape length: Two 60-minute cassettes (both sides of both cassettes)

TAPE 1, SIDE 1

QUESTION: Biographical identification?

ANSWER: "Counsel" on Rep. Glenn English's subcommittee, a designation for all subcommittee staff members with law degrees.

The subcommittee used to be called Government Information and Individual Rights; now called Government Information, Agriculture and Justice as reflection of Rep. English's Oklahoma background and interest in agriculture.

Biography: b. March 23, 1942, in Baltimore, Maryland. Educated in Baltimore public schools, graduating from Baltimore Polytechnic Institute. College: Loyola College in Baltimore (a Jesuit school), majoring in bio-chemistry. Degree year: 1965.

Gleiman attended Johns Hopkins as a part-time graduate student for two years (again in bio-chemistry). He also worked on research at Johns Hopkins and at Sinai Hospital in Baltimore. The work was on hemolytic diseases of newborn infants and involved sophisticated work with blood enzymes.

Gleiman recounted why he decided to change careers. He decided to get into patent law. He started law school at the University of Baltimore at night while working in the Patent Office in Washington. He moved to Washington in 1968 and lived in Virginia and then Maryland suburbs.

Gleiman worked at the Patent Office until 1971. Then he was able to get a detail to the Cost of Living Council at the beginning of President Nixon's wage and price control program. In 1973 he went to work for HEW in a management area. He worked as part of a small team with the Secretary. In 1974 he got involved with privacy legislation, both the Privacy Act and the measure which became known as the Buckley Amendment to the school records access law.

Gleiman began work on Capitol Hill on August 1, 1977. He recounted his previous lack of experience with the concept of records management. His first introduction to the subject was in 1977 with the report of the National Study Commission on the Records and Documents of Federal Officials (which was an adjunct to the 1974 Presidential Recordings and Materials Preservation Act) and the Supreme Court's decision upholding the law.

Richardson Preyer of North Carolina, then chairman of the subcommittee, was extremely interested in this area. Preyer wanted a law dealing with the records of government officials. So, too, did John Brademas and Gaylord Nelson. Gleiman recounted that this was his introduction to Archives-related issues, for he was the principle staff member on the Government Operations Committee with responsibility for the hearings on the Presidential Records Act of 1978.

There followed oversight hearings regarding the National Archives in 1978 and 1979. Gleiman described the probable feelings of Archives officials (Bert Rhoads, Claudine Weiher, Jim O'Neill) toward the subcommittee staff.

The Archives had not been looked at for many years. One problem that stood out was the "finger-pointing" from the Archives to the General Services Administration (GSA) and back again. Neither wished to accept responsibility for activities or objectives not being met.

According to Gleiman the officials of the National Archives claimed they were not in control and that their budget was cut. GSA officials claimed a hands-off policy where the Archives was concerned, but it was known that Arthur Sampson had dipped his oar in the Archives water. Admiral Freeman had some strange ideas; he once sat in an Archives Advisory Council meeting where he told those present that he had been out making history while other Council members had just sat around writing about it, and therefore he knew what was good for the Archives.

Gleiman expressed the feeling that for the Archives to survive as an independent agency it had to correct internal management deficiencies. It had to recognize that all problems were not of GSA's making, and that a good many of them were a consequence of what was going on in the Archives itself.

QUESTION: So this was more than just the fire at Suitland?

ANSWER: Yes, the fire was just one issue looked at early on in the investigation.

We looked at questionable activities related to the Trust Fund, and allegations by certain employees, or former employees, of a massive problem with respect to deterioration of records and that certain document-related treasures (i.e., "skippets") were missing. There were allegations concerning fire safety, temperature and humidity controls, lack of plans for dealing with documents, and favoritism in hiring, especially regarding Trust Fund hiring practices.

It was at this time that the idea of independence for the National Archives first came to Gleiman's attention.

There was a renewed interest in independence with Admiral Freeman's proposal to decentralize records. Gleiman then discussed his ideas about the possible interrelationship between Archives officials and Admiral Freeman on the decentralization question.

The constituent groups of the Archives "were up in arms" and Congress started to get bombarded with letters concerning the Archives. At this time there appeared features by Jack Anderson and by Indy Badahwar in the Federal Times on how bad things were at the Archives.

Gleiman then told of us having been invited to a meeting at Pete Daniel's apartment.

QUESTION: This was the Emergency Committee to Preserve the National Archives?

ANSWER: Yes. Those present included Daniel, Charlene Bickford, Anna Nelson, Ray Smock and others.

QUESTION: "Conversion experience"?

ANSWER: One of the jokes whenever Gleiman and his Archives-interested friends got together involved Gleiman stressing that they had a right to petition their duly elected members of Congress, their duly elected members of Congress rather than Gleiman's subcommittee chairman, Rep. Richardson Preyer.

Nate Reingold from the Smithsonian was another member of that group.

Gleiman discussed how the beginnings of his "conversion" to support Archives independence came about. He had come to the meeting wondering why the Archives should be independent.

Gleiman recounted how it seemed to him that in the mid and late 1970's the Archives was floundering: officials couldn't respond to allegations of document deterioration and there was evidence of wrong-doing with Trust Fund money. (For the latter issue it wasn't a case of someone getting rich, but more a question of using the Trust Fund in a manner that seemed to skirt the appropriations process. Also, there were fire safety and environmental problems. Gleiman then gave his view of how the Archives could have got around the requirement that it work through GSA and still let Congress know of the need for help in certain areas.

Gleiman wondered how it was that the Archives had such budget problems in the 1970's when the Smithsonian was getting more and more appropriated funds.

Gleiman repeated his feeling that had the Archives been independent in the 1970's, 1980 or even 1981 it would not have succeeded.

Gleiman told that just as he had changed his views, people at the Archives realized they had to change their ways. Gleiman then discussed positive changes he had seen, including the development of relationships with key Capitol Hill people.

Gleiman characterized in a positive manner the Archivist, Robert M. Warner. He cited the example of the Archives making Rep. Edward R. Roybal, House Appropriations subcommittee chair, aware of Archives holdings relating to Hispanic history in southern California. In 1981 at the beginning of the 97th Congress Rep. Glenn English became Gleiman's boss; the Archives made Rep. English aware of the types of documents in which he was interested. The Archives did the same for Senators. The Archivist and other senior managers at the Archives succeeded in getting the message about the Archives' importance to members of both the legislative and executive branches.

Constituents of the Archives, like Pete Daniel, recognized that there problems at the Archives that needed correcting, according to Gleiman. Also, the historical community learned how to lobby.

QUESTION: Differences between the Senate and the House vis-a-vis the Archives?

ANSWER: House accomplishments: oversight hearings; introduction of two successive Archives bills. Memory refresher: Report on the Archives independence bill in the House, H.R. 3987.

TAPE 1, SIDE 2

House actions over the past couple of years:

From the standpoint of oversight in the past 98th Congress Gleiman told of a marathon hearing on the "Smithsonian study" being held, with Gerald P. Carmen being the principle witness.

It was the general belief by pro-independence "converts," suggested Gleiman, that Carmen's sole purpose in ordering the Smithsonian study was to slow down the effort for Archives independence. The purpose of the hearing was to discredit the Smithsonian study. Gleiman then elaborated on this point.

There were a couple of legislative hearings, including the March 7, 1984, hearing which Chairman Jack Brooks' subcommittee held on H.R. 3987. Rep. Glenn English testified at that hearing in support of the Archives independence bill. English was the principle co-sponsor of that bill.

QUESTION: Elaboration on what is meant by principle co-sponsor?

ANSWER: H.R. 3984 was introduced on September 27, 1983, by Rep. Jack Brooks, with Rep. Glenn English as the only co-sponsor.

The bill on the House side was drawn in part from the Senate bill (which was alleged to be a straight reorganization), but with some changes. A notable difference involved a different treatment concerning records management. The Paperwork Reduction Act, which was a product of Chairman Brooks' work, split records management authority between GSA proper and the National Archives. Chairman Brooks wanted this split reflected in any independence bill for the National Archives. The Senate bill provided for all records management authority to be returned to the National Archives.

The other area of major difference between the two bills was what Gleiman referred to as the Henry Kissinger provisions. People on the Hill were concerned about the result, or lack of results, stemming from the Supreme Court's decision in the Kissinger case. The bottom line in that case was that although Kissinger had taken documents with him when he left the State Department, the Supreme Court held it didn't have to rule on the question of whether these were Federal records. Basically, the Court said the following: documents were removed; no one asked for them until after they were removed; the Federal Government had no obligation under existing law (either the Freedom of Information Act or the Federal Records Act) to go after the documents on a request from a third party to retrieve the documents and then to make a determination if the documents would have been available under the Freedom of Information Act or if the documents could have been removed under Federal records provisions.

Gleiman recounted that it was Justice Stevens in his dissent who suggested that the loop-hole be closed because under the Supreme Court's decision government officials were in a position to remove documents for whatever purpose they chose.

The Supreme Court decision was based on a 1976 law change. Previously, the Archivist had records inspection authority. In a 1976 amendment to the Records Act that provision was dropped. In looking at the legislative report to the 1976 amendments it's stated that the dropping of this provision was viewed as of no consequence because of the inclusion of other provisions which gave the Archivist the same authority. But when you look at the actual legislation you see that the new provision was never included.

In the course of this discussion Gleiman mentioned that it was John Parisi, the minority counsel to the subcommittee who was employed by Rep. Tom Kindness, who discovered this point in doing his research.

QUESTION: Background on the drafting and introduction of the House bill?

ANSWER: Continuation of discussion on differences between the House and Senate bills.

In addition to giving the Archivist inspection authority, the House bill would simplify the process for the National Archives in retrieving documents wrongfully removed.

Concerning what transpired: Congressman English was interested in reintroducing the Archives independence bill in the 98th Congress. The Senate bill was introduced in early 1983. At Rep. English's direction Gleiman took the Senate bill to the House Legislative Counsel for review and for additions Rep. English wanted and those Rep. Brooks might want.

One provision, which subsequently gained a life of its own as HR 5584, concerned funding for Presidential libraries. This bill passed the House but not the Senate.

There were also differences in style between the House and Senate drafts. Rep. Brooks doesn't like statements of purpose, so unlike the Senate bill this provision was omitted.

The Legislative Counsel revised the bill and gave Rep. English a draft. Rep. Brooks' staff examined a copy of the draft bill. After the Labor Day recess Rep. Brooks indicated he wished to sponsor the bill. Rep. Brooks asked that the Presidential libraries funding provision be removed because in the intervening period a separate bill had been introduced. Gleiman suggested that since the latter provision had the support of the administration, had it remained in the Archives independence measure the Presidential libraries funding measure might have been enacted into law.

Discussion of Rep. English's Archives oversight hearings of March 2 and 4, 1982. Witnesses included Barbara W. Tuchman and Alex Haley. Samuel R. Gammon should get credit for getting the popular historians to testify.

QUESTION: Who organized those particular hearings?

ANSWER: Gleiman was the staff person who organized the hearings. He had help from Page Putnam Miller, Charlene Bickford and Samuel R. Gammon.

In March of 1982 the hearings were covered by the Washington Post on the "Style" section. Ira Shapiro, who in the mid-1970's had been Senator Gaylord Nelson's staff person on the National Study Commission on the Records and Documents of Federal Officials, mentioned to Gleiman that Sen. Thomas F. Eagleton had seen the feature in the Post and that this was what motivated Eagleton to become involved with the Archives issue.

The impetus for the March 1982 hearings was the President's announced 16% across-the-board budget cut.

QUESTION: Was there an Archives independence bill on the floor at that time?

ANSWER: No, those were oversight hearings.

HR. 3987 was introduced in September 1983. Whereas some people had thought that Rep. English's subcommittee would be holding hearings on H.R. 3987 this was not to be the case, since Rep. Brooks' subcommittee on Legislation and National Security handled all reorganization bills.

Gleiman then hypothesized as to why Rep. Brooks may have held off having immediate hearings on the bill. In February 1984 Rep. Brooks held hearings on the bill.

QUESTION: How did agency legislative liaison person, such as Robert A. McConnell at Justice and Tom Persky at IRS, express their feelings?

ANSWER: Justice Department's interest: It is standard operating procedure when a piece of legislation is introduced and referred to subcommittee, the full committee invites comments from interested parties. H.R. 3987 was treated that way. Rep. Brooks sent letters to agencies he thought would be affected - in September 1983. Comments were slow in coming. The Justice Department was not heard from until March 1984 after hearings had been held.

Hill staff members, including Gleiman and John Parisi, and Justice Department officials met in late Spring or early Summer.

Before that meeting the House, like the Senate, had received a letter from Bob McConnell. Gleiman characterized in a negative manner the two letters.

TAPE 2, SIDE 1

Gleiman suggested that Justice Department comments on aspects of the Archives independence bill were not well taken.

The House modified the bill's language to indicate that the Attorney General would retain final litigation authority. If the Attorney General declined to go ahead, the Archivist could report to Congress instances where the Attorney General had declined to pursue the Archivist's recommendations with respect to recovery of records. According to Gleiman, in the view of the Justice Department this was the same as saying the Archivist had final litigation-decision authority. Gleiman characterized his feeling about the Justice Department's position.

Internal Revenue Service's interest: IRS and Tom Persky had a problem with the question of confidentiality of tax returns. There is a disagreement between people at the National Archives and those at IRS over the extent to which tax records need to be protected. The 1976 Tax Reform Act states that tax returns are to remain confidential and then gives a long list of exceptions. Included in these exceptions is the giving of identifiable information to the National Archives. There's a question about the extent the 1976 tax reform provisions would keep historically significant data in identifiable form from going into the National Archives.

Both IRS and the National Archives wanted to maintain the status-quo in a post-independence situation.

Gleiman then went on to discuss the law passed in 1979 or 1980 involving the authority of the Archivist to force the transfer of "dead" records from agencies after 30 years instead of 50 years. Gleiman explained how this law was related to the IRS's concerns about tax-return confidentiality.

Gleiman pointed out that for years the National Archives and Records Service had been regularly storing tax returns for the IRS at Federal records centers. These tax returns are destroyed at the end of the prescribed retention period. There has never been any indication of a problem with the disclosure of tax information by the National Archives for those returns.

Both sides were concerned they might lose ground, so the Senate bill included a provision that nothing in the independence measure should affect the confidentiality of tax records as defined in the 1976 Tax Reform Act. According to Gleiman, finally everyone agreed on the status-quo.

QUESTION: Did other agencies other than IRS and Justice make their views known in a forthright manner?

ANSWER: Gleiman thought that some of the agencies' views were reflected in the Justice Department's comments on the Kissinger provisions, but by and large the answer was no. Not much was heard from the State Department. Supposedly some agencies, like Defense, had sent comments to OMB.

GSA supported the idea of some of the provisions in the House bill. It was Gleiman's understanding that GSA had sent a legislative proposal to OMB to correct certain deficiencies.

Gleiman then returned to the subject of the Justice Department's interest in the bill. House and Senate conferees had met in September 1984 to resolve differences between the bill versions passed by the two bodies. Presumably the Reagan administration agreed with what was done. The day after the conference, however, Bob McConnell sent a letter addressed to every conferee objecting to things that had been worked out the day before.

The Justice Department fought the independence bill to the bitter end. Gleiman characterized his feelings regarding the action by Justice.

QUESTION: During the August 2, 1984, debate in the Committee of the Whole House there was passage of the Senate bill with a title change and H.R. 3987 was laid on the table. Explain.

ANSWER: That's a technical point. In order to go to conference you have to have a bill passed by the House and by the Senate, but both bills need to have the same bill number. Standard operating procedure is the bill number will be given to that version of the body which first acted on it.

The Senate passed S.905 before the House passed H.R.3987. The procedure that took place was that the House passed H.R. 3987 with amendments. It then took from the table S. 905 and struck everything after the enacting clause and in its place pasted the text of H.R. 3987. The reconciliation of the two versions is then achieved in a House-Senate conference.

QUESTION: During the August 2, 1984, debate Rep. English spoke against an amendment in the form of a substitute that Rep. Kindness had offered. Was that exchange spontaneous?

ANSWER: Rep. English's staff knew Rep. Kindness planned to offer an amendment. There had been the possibility of other amendments as well. The Ways and Means Committee had thought about offering an amendment on IRS identical to what was in the Senate bill. That amendment wasn't offered, although there was a colloquy on the House floor on the subject.

Representatives Brooks, English and Horton all were prepared to respond to Rep. Kindness. In response to Rep. English's request Gleiman prepared draft remarks, but Rep. English's reply to Rep. Kindness on the floor of the House was spontaneous. Gleiman then remarked in positive fashion about the ability of Congressmen, with Rep. English as an example, to speak well on the House floor.

QUESTION: I believe that by the time the House and Senate conferees met, 22 of 24 differences had been resolved. Could you explain the pre-meeting resolution process?

ANSWER: Nothing is resolved until the conferees meet. Staff people can recommend to their bosses, but only members of Congress decide how they will go on an issue.

Given the late date of the session, there were several efforts by staff members to put together lists of outstanding issues, differences, or to characterize the differences as major or minor, resolved or unresolved.

QUESTION: Names of staff people involved?

ANSWER: They included Ira Shapiro, Marion Morris, Steve Daniels, Bob Brink and John Parisi.

Gleiman described job responsibilities of Ira Shapiro, Steve Daniels and Bob Brink.

From time to time also in those meetings were Bill Jones, majority counsel for the full committee, and John Duncan, majority staff director on the Senate Governmental Affairs Committee.

Gleiman described the objectives for staff members in those pre-conference meetings.

Somewhere there is a transcript of the conference deliberations. Gleiman described Rep. English's position and told of a colloquy Rep. English had with Sen. William V. Roth, Jr. over the Kissinger provisions.

People at the National Archives early on had been concerned about provisions in the House bill.

TAPE 2, SIDE 2

Rep. English ended up going along with a majority of members in the interest of Archives independence.

Gleiman told how people with the National Archives and with Archives constituent groups hoped to exclude provisions which might draw fire from agencies like the State Department. Yet only because the House retained the provisions in question was it possible for conferees to have colloquies on these issues, and for the Conference Report to cover the issues it did.

The language of the Conference Report is important because it tells what is expected from agencies in cooperating with the National Archives.

QUESTION: Who were some of the Archives people talking to you?

ANSWER: They included Claudine Weiher, David F. Peterson, George Scaboo, Robert Warner and Richard Jacobs.

Gleiman discussed his negative feelings toward the concept of "independence at any cost."

QUESTION: Once Senator Packwood received the letter from Joe Wright at OMB saying that the administration had no basic objections to S. 905 was it assumed the measure would sail through clear and easy?

ANSWER: Gleiman indicated the question dealt with the Senate and he didn't know how it was perceived there.

Also, there was more than one letter to come from Joe Wright. After the first letter came, another one listed objections the administration had. The second letter discussed appointment authority and the fixed term of the Archivist. The letter noted that more detailed administration views would be coming from GSA.

Gleiman recounted the mixed signals which came from OMB and from Justice.

Gleiman then discussed the differences in appointment authority between the Senate and House bills. The Senate had a fixed 10-year term, in order to insulate the Archives from continual political pressure. The House did not provide for a fixed term. Gleiman explained why the Justice Department supported the House's position on this issue.

QUESTION: Anything else to add?

ANSWER: Not really.

GENERAL SERVICES ADMINISTRATION
NATIONAL ARCHIVES AND RECORDS SERVICE

Legal Agreement Pertaining to the Oral History Interview of

Edward J. Gleiman

In accordance with the provisions of Chapter 21 of Title 44, United States Code, and subject to the terms and conditions hereinafter set forth, I,

Edward J. Gleiman
(name)

of Silver Spring, Maryland
(city and state)

do hereby give, donate and convey to the United States of America all my rights, title and interest in the tape recording and transcript of a personal interview conducted on January 24, 1985 at B349C Rayburn H.O.B. in Washington, D.C. and prepared for deposit in the National Archives. This assignment is subject to the following terms and conditions:

- (1) The tape recording shall be available to all researchers upon its being accessioned by the National Archives.
- (2) The transcript shall be available to those researchers who have access to the tape recording, as soon as the National Archives' processing schedule allows sufficient time for transcript preparation.
- (3) I hereby assign to the United States Government all copyright I may have in the interview transcript and tape.
- (4) Copies of the transcript and the tape recording may be provided by the National Archives to researchers upon request.
- (5) Copies of the transcript and tape recording may be deposited in or loaned to institutions other than the National Archives.

Edward J. Gleiman
Donor

Robert M. Harris
Archivist of the United States

1/24/85
Date

February 6, 1985
Date