

INTERVIEW III

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INTERVIEWEE: ROY MILLENSON

INTERVIEWER: Michael L. Gillette

PLACE: Mr. Millenson's office, Washington, D.C.

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M: --each year sent down several education messages, not just the bills which these guys send down. They were messages [inaudible].

Would you have the reports on the Elementary and Secondary Education Act available to you, the same kind of reports?

G: Yes.

M: All right, I can go over it. Early in 1965 Lyndon Johnson sent down his bill for the Elementary and Secondary Education Act. The hearings began in the Senate in January of that year and I remember that well because the payroll began on February 1, when the Congressional fiscal year began. I was attending those hearings before I was on the payroll. So the hearings at the beginning say who was present from the staff and the January parts of those hearings do not have me listed as present. So that explains that.

The idea was to get the bill through as quickly and as bloodlessly as possible. As you know PL 89-10, Elementary and Secondary Education Act of 1965, was signed into law on April 12. Nowadays, they're just revving up for a committee hearing in April. But this went right through. The bill was revised in the House and in those days there were two things that held up education bills. One was the so called Powell Amendment, desegregation, and the other was an issue of church and state.

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The Powell Amendment issue had been resolved by the Supreme Court and, as Powell had put in these amendments, you can't have an education program unless there is no segregation. And the church/state issue had been resolved, I really think, by Pope John. And if you will remember he really made one of the biggest changes in the Catholic Church, the ecumenical spirit there that Protestants no longer--and of course the Kennedy election helped--feared that there would be a tunnel between the Vatican and the White House as they had talked about during the Al Smith campaign. Catholics on their part--and this is the most important part--no longer feared that if you did have an aid to education bill, this would be another reformation. And earlier education bills had been quietly killed in the Senate by the church representatives going around and just putting a damper on it, saying, "Look, we object to it." They did not object to this.

I mention that because the House made several changes. One was a change in formula from the way the President sent it down and the other was to set up some sort of an advisory committee that would look at the law to make sure that parochial schools didn't run away with the pot. And that was added in the House. The interesting thing about that was that while if you'll look at the hearings over a period of years, the first hearings which we had in 1965 involved a number of groups. There was a--what the hell is his name? From the National Council of Churches of Christ. Dean Kelley--Dean being his first name. Then there was the Protestants of America United who testified and a couple of other groups.

But as the years went on this dissipated and when the advisory group gave its first report the church/state separations issue had faded. Their first report said, "The non-public schools are not getting their full fair share of what they should be getting." It was turned

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around. One of the reasons it was turned around--I guess you could do a scholarly job on this--is what I said, that the separationists once they had testified and entered their plea--first amendment and you can't let this happen and all that sort of business; we have to be careful--they didn't follow up on it. We could not go to the group and say, "Hey, keep an eye out. What's happening here and other places?" The Catholics on their part calmed down and did a quiet job and we ended up, as I say, with a report saying they're not getting their full fair share. And as it happened we now have in all legislation rather frank language saying that non-public schools will get--you're not interested in how compromise is worked out. There is a court decision saying that if you don't give it to the kids directly, but give it to the schools--lend books to schools--and this got around the state constitution too. So that was a key thing.

Now when the bill passed the House amended from the Johnson Administration's proposal, it came over to the Senate and the decision was made--of course this was found out subsequently--that because education bills had run into such trouble before that they did not want any amendments in the Senate because the bill would then have to go to conference. And they were afraid of what would happen in conference. So we sort of on our side got a feeling about something that was happening on this because Charlie Lee at the early part of the hearings was very receptive to ideas and all. Then he cooled off.

And Wayne Morse who was chairman of the subcommittee at the same time was a small "d" democrat and everybody has to have their say and we should go through the processes and all that. I clearly believe that. I found that to be true in a number of instances. But he went along with the Johnson Administration on this and let it be known to

us that on public legislation we would be able to get in amendments and things like that.

This was a special situation.

He also let it be known and the administration let it be known that certain things we desired really didn't need an amendment, all it needed was something in the report, congressional language and that would suffice. So we had a number of things in there. The committee report which is the minority views--I labeled it minority views. I shouldn't have labeled it that because it began with saying, "We the members of the minority all voted for this bill." The minority members were really a cross-section of the Republican Party from a conservative from Arizona, [Paul Jones] Fannin, to [Jacob] Javits of New York. It ran the gamut.

The first paragraph of the "minority views" said we voted for this bill. The second section said this is a hell of a way to run a railroad, pushing through a bill like this not adding anything, not letting amendments be included. Then the third part of the report said here are the things that we got into it through report language. I am hard pressed to recall all of the things that were in there. However, one thing that I do remember, and I think I've mentioned to you before, [is] the senator from Vermont who was the ranking minority member, Winston Prouty, had an interest in serving handicapped kids. His assistant who had been with him in the House, whose name I forget now--he became a judge in Vermont--had a handicapped kid. We put language in the report and there was a letter from Wilbur Cohen, who was assistant secretary of HEW for legislation at the time, saying, "This is interpreted that the disadvantaged children in Title One include the handicapped." That's what it means. Well, that was a pledge and didn't ever happen, and eventually we got the legislation for education of the handicapped because these guys didn't do it. And I

remember going to a convention of the Council for Exceptional Children, the CEC, the teachers who teach these kids as well as teach the gifted kids. And the U.S. Office of Education people were there and I said they were very courageous. And I began swelling my chest and all, and somebody from the other side of the room saying they're courageous. The committee report says they were supposed to cover this and they haven't and it takes a lot of courage to go against the committee.

To make a long story short, we not only enacted special education for the handicapped act for education of the handicapped, but in a number of bills at the instance [insistence?] of Senator Prouty we inserted provisions that there is a set aside amount of money, X per cent--I think it was fifteen--goes toward handicapped kids. When we did have hearings on the education of the handicapped we found that some of the ways that these handicapped kids were treated were just out of Dickens. A kid in a wheelchair wasn't allowed into a library because the wheelchair made noise; I remember things like that which were in the hearings.

So the idea that no amendments were allowed was something--still argued. Sam Halperin and I and Charlie Lee and others even after the bill for years still argue about it. I think we should have done it and of course this is Monday morning quarterbacking looking back at it. They could have let us have amendments and have the bill right and they still maintain they were right. The fact of the matter is that the Elementary and Secondary Education Act, ESEA, was amended twice in 1965. They didn't have it right and we could have gotten it right, but that's the way it goes.

G: Do you think it would have passed if it had gone to conference?

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M: Yes. And I think we would have had a good bill, a better bill. But that's something that's nice for a couple of us to sit down sometime with drinks in hand and argue back and forth. It doesn't mean a damn bit of difference anymore. Our report was quite eloquent in berating the majority for not allowing any amendments and as you can imagine that's shooting fish in a barrel by not allowing the democratic process to proceed along and help. You could give that to any of your students. They could write something probably twice as eloquently as we had.

G: There was also the criticism that even the supporters of the bill were not sure what certain provisions meant.

M: Yes, that's quite true. This went through very fast. Now when it went through there was this formula for--and of course the administration wrote parts of the report. In those days we didn't have as much staff so this was SOP [standard operating procedure]. Senator Javits who--ranking on the full committee--sent me to work to find some other formula because there was--the money formula for a disadvantage kid was figured on a formula of an income of so much. So I got in touch with Molly Orshansky--you've heard of the Orshansky formula--whom I knew and who happened to be a schoolmate of my wife's from college. My wife and she were in the same alumni association and that sort of thing. It's kind of an inbred society and besides Molly--she was a good soldier and she backed the administration. I really was not able--we were hunting desperately for another formula to counter the administration's formula which I guess it can still be argued today is not the perfect formula. Of course it's so well set now that if an angel writing in a book of gold came down and gave you another ESEA kind of formula you couldn't get it through because everybody knows how much their getting--we've talked about formulas before.

G: Edith Green proposed a formula that just had a straight two hundred dollar grant for every--?

M: That I don't recall. I'm not familiar with that. We did have a big battle with Edith Green on a higher education bill.

G: So what would have been amendments were actually considered regulations, is that right?

M: Well, they weren't considered regulations because the regulations weren't written. They were considered congressional intent, congressional intent as enunciated in the committee report. A congressional intent--and I think we had letters from Wilbur Cohen on some of the others there. I'd really have to look it up. Congressional intent was not only as enunciated in the committee report by what the Senate said but also as confirmed by the executive department, by the administration through letters from the assistant secretary and so forth and so on.

G: Why do you think HEW did not go on and implement the provision for treating the handicapped and disadvantaged?

M: I don't know. There's a bias against that at the time because taking care of a handicapped kid requires more money than taking care of a non-handicapped kid. This wasn't that popular an idea and it hadn't been--education moved slowly. It's the old business of turning a ship. I think once they had established what they had wanted, that was it. I told you the same health regulations story, and you can get Sam to get a better, clearer version of that. But I think that's a classic story. I just--any description of what happened in those days has to include that story because that really is a sort of kick off to Congress at least in so far as education writing what later became the General Education Provisions Act and overseeing the regulations process. They had very little oversight of the regulation process. These

guys played the game the way they wanted to once we had written the law and we really didn't review it. If we had a little more staff, more time now, and before the charter decision, as you know, either house of Congress could shoot down a regulation on education. Once the charter decision came down, you couldn't do it anymore. And Congress did. I don't know how many--somebody could go to work and count them up--but that happened.

G: You also had the higher education act there.

M: The higher education act. That also was a Johnson Administration initiative. They talked about the three-legged stool to support kids in school. There's the work study, the grants and the loans. I'd have to really, to give you a better feel on that, look at the report and see what we did. Eventually we added the guaranteed student loan program.

G: Wayne Morse introduced the bill in the Senate?

M: As I remember it he did, for the administration. And we had more of a say on that. In higher education the big conflict was not so much--it of course came down to something like that in the end--Republican/Democrat, House/Senate, administration/Congress. But the big, big conflict was between two theories. One propounded by the American Council on Education and the liaison man with the Congress was a fellow named Morse I think then too. Was his name Morse? And their push which Edith Green was a spokesman for was that the aid should go to the schools.

The other proposal which the Republicans in the House pushed and they had Democratic allies in the committee was that the predominant thing should be aid for the students. Now I'm going to get mixed up on the years on that and that's why I'd like to look into my records, but this really was a real conflict. It sounded like medieval history of the

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church/state thing, whether it should go to the colleges, let the kids have the money. And it won, the money for the kids won.

G: Did the minority have a position that it should go to the colleges?

M: No, we did not. We supported it going to the kids. The Senate Republicans and Democrats stood together on that. The House committee did not and they were divided with Edith Green and her people on one side and the House Republicans against her and some of the Democrats. As you know a conference--there's just two votes in the conference. One for the House, one for the Senate. And the majority of the members have to agree on each side. So in that conference where these things are really hot and heavy, we sat back on the Senate side and watched the House argue among themselves.

G: In the conference committee?

M: Well, yes, that's what they would have to do because they could accept our approach or take their approach.

G: The House conferees--

M: Now I'm not sure of my years on that now. I have to caution you on that. But the House conferees were divided and they got very bitter. It was somewhat embarrassing because it's like I was at somebody's house having dinner or something and the husband and wife and you argue. I think you know with Edith Green and Representative Thompson of New Jersey--I think I've told you the famous Thompson remark--did I tell you that?

G: Which one?

M: Where he said in committee--this was just at a House committee meeting or executive session because then our sessions were closed--Edith Green, you have the longest menopause in history. They just went back and forth on each other and it got to be pretty

rough. We just sat back and enjoyed it. It was Al Quie, a leader of the House Republicans from Minnesota.

G: The House conferees would not on this bill meet among themselves first and then with the Senate?

M: Yes, that's the way it's done. I don't know what they did. All I know is at the conferences--as I say I'm not giving you a year--this was really hot and heavy. At the conference they still hadn't decided and they were fighting among themselves. Because you see when you have a conference with several volumes of conference differences, a hundred and some differences, you don't resolve everything beforehand.

The chairman would read item number one and before anybody could say anything maybe the chairman on the other side would say, "Recedes" because the [inaudible] agrees to that."

G: One of the controversial provisions the House conferees opposed was the teacher corps provision.

M: Yes.

G: What do you remember about that?

M: Well, I just have to refresh myself. I remember Bobby Kennedy was a big guy on the teacher corps and Mondale--was it Mondale? From Wisconsin--

G: Gaylord Nelson.

M: Gaylord Nelson. Nelson is still in town and an attorney here. You can talk to him. Also, going back to elementary and secondary, a good contribution of Bobby Kennedy was evaluation. That was what he was quite strong about. I think he got that in the House bill. On that oversight group I mentioned at the beginning as I remember Jim [inaudible] was

active on that. But that was the hidden agenda on the oversight group. I forget what it was called.

G: Why do you say hidden agenda?

M: I say hidden agenda because you don't come out and say in the committee report, "We're having an oversight group so that the church--parochial schools don't run away with the pot." The reasons for it is something we put in in later legislation and continually put in, citizen's advisory groups and all because there was a feeling that the education establishment was running these programs, that the local people didn't really know what the hell was happening. Charlie Lee was really the guy who pushed on this and he was right in a way. If you have somebody looking over their shoulder that they have to submit plans, this, that and the other thing, you get a better performance. Now I'm going to have to look in my records what years because a number of times we were not too satisfied with things were going and the way in which things had been run at a local level.

(Interruption)

M: Let me tell you briefly from my memory and then I have to look it up to refresh. Jack Javits had been in the House on the House Foreign Affairs Committee and was the congressman from the Twenty-five District of New York, which is the west side of Manhattan. When he first came in it was from 114 [Street], later from West 110th [Street] which is Cathedral Parkway north to Columbia University Manhattan, Washington Heights, that area, and Marble Hill. He was interested in international affairs and the minute he got on the Senate Foreign Relations Committee he had introduced an international education bill and we were pushing it. Wilbur Cohen made a request--it was at a committee hearing but I don't know if it was on the record or not--that Javits not push his bill. When Congress comes back next

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year, the President is going to have his own international education bill. So he waited until then.

As you know that bill was introduced, authorized and never funded. It was renewed several times and never funded. When in a later year we put provisions of that into another bill and sort of salted it here and there in another higher education act and it was not in the House, the international education community wanted their name on the door and a bidder[?] on the floor used to say. No, we want an international education act. We let it go in conference and John--president of Columbia University [New York University], [from] Indiana.

G: Brademas.

M: John Brademas took up the [inaudible] for them. He promised he'd fight for funding for them and didn't, so we let them have their way. As a result for many years there was no real international education act. [Inaudible] and he wanted to give it to them but in another way. But they had it nice and neat with their name on it and that sort of thing. That's how it goes. But we did have something first and Wilbur asked Javits not to push it and he agreed. The administration was going to send their own bill and there would be due consideration of our provision. I must say I don't remember the degree to which they did or didn't. But apparently Javits was satisfied with the bill that came out and there it was.

End of Tape 1 of 1 and Interview III

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