

NORTH TEXAS STATE UNIVERSITY
ORAL HISTORY COLLECTION
NUMBER
272

Interview with
Representative Fred J. Agnich
December 16, 1975

Place of Interview: Dallas, Texas
Interviewer: Dr. Ronald E. Marcello
Terms of Use: Open
Approved: *Fred J. Agnich*
(Signature)
Date: 6/20/75

NORTH TEXAS STATE UNIVERSITY
ORAL HISTORY COLLECTION
NUMBER
272

Date of this interview should read
December 16, 1974

interview with
ative Fred J. Agnich
ember 16, 1975

Place of Interview: Dallas, Texas
Interviewer: Dr. Ronald E. Marcello
Terms of Use: Open
Approved: *Fred J. Agnich*
(Signature)
Date: 6/20/75

COPYRIGHT © 1975 THE BOARD OF REGENTS OF NORTH TEXAS STATE
UNIVERSITY IN THE CITY OF DENTON

All rights reserved. No part of this work may be reproduced or transmitted in any form by any means, electronic or mechanical, including photocopying and recording or by any information storage or retrieval system, without permission in writing from the Coordinator of the Oral History Collection or the University Archivist, North Texas State University, Denton, Texas 76203.

Oral History Collection
Representative Fred Agnich

Interviewer: Dr. Ronald E. Marcello

Place of Interview: Dallas, Texas

Date: December 16, 1974

Dr. Marcello: This is Ron Marcello interviewing Representative Fred Agnich for the North Texas State University Oral History Collection. The interview is taking place on December 16, 1974, in Dallas, Texas. I am interviewing Mr. Agnich in order to get his reminiscences and experiences and impressions while he was a member of the State Legislature, which recently sat as a constitutional convention. More specifically, I am interviewing Mr. Agnich in order to get his views on the failure of that constitutional convention to enact a revised or new constitution for the State of Texas.

Mr. Agnich, to begin this interview . . . and of course, we're going to talk about the abortive attempt to rewrite a new state constitution. How much of a need did you perceive that there was for a new state constitution for Texas?

Rep. Agnich: Well, I thought all along that this is one of the pressing needs of the State of Texas, and in the 62nd Legislature

I was one of that group of freshmen members at the time who undertook the whole project of attempting to get a new constitution. Being young and new, I didn't have sense enough to know that you couldn't do that kind of thing, so we decided to see what we could do.

It's interesting to observe or to comment upon what actually happened because it explains a lot of the things that have happened subsequently. We found out almost immediately that if we were to have any chances of getting passed through the Legislature by the necessary two-thirds vote an amendment for the people to vote to set up the constitutional convention, this would be doomed to failure unless we set it up so that the legislators themselves would be the delegates to the convention. So that's the reason for that.

Marcello: I was going to ask you . . . this was going to be one of my later questions. Why was it that the Legislature was the . . . turned out to be the delegates?

Agnich: It was simply a pragmatic political thing. At that point we . . . and I still feel it was the right move.

Marcello: Were these early attempts a bipartisan effort?

Agnich: Oh, yes. Yes, they were composed of about . . . as I recall the number it was, well, either thirty-six or thirty-eight freshman members of the House.

Marcello: Who were some of the more prominent movers in that activity?

Agnich: Well, Sam Coats from Dallas, then a freshman member-- a Democrat--I think, was the motivating force. He got together with all of us. We were all in total agreement that this should be done.

The second important thing that happened was the unique requirement that any document which we came up with would have to be approved by two-thirds of the convention itself before it would be submitted to the people. This is a rather onerous requirement. To my knowledge no other constitutional convention in the United States, whether in the states or otherwise, ever had that requirement. The reason that came about was that we were all set to go and wanted to have just a majority vote, but at this point the Senate figured out that as a result of all of this they were going to have to sit in the same chamber with lowly members of the lower house, have identical chairs, and would be mixed up with them. Not only having to suffer the rigors of association with us that closely, they'd only have one vote apiece just like the members of the House instead of a ratio of five to one as their numbers would indicate. So it dawned on some of them that if they put

in a two-thirds requirement, the Senate then would exercise much more influence because they are a more closely-knit body. When you look at the results, that's exactly what happened. The Senate, by and large, had the bulk of the votes to defeat the constitution. So that explains why the Legislature, number one, and number two, why the two-thirds vote.

Marcello: We'll come back and talk about the efforts of the Senate in defeating this constitution. Now you mentioned that this was a movement that really got started when you were a freshman member. Now that would have been, what, three terms ago?

Agnich: It would be in the 62nd Legislature. That would have been in the session in 1971.

Marcello: How did you manage to keep the fire alive during the ensuing period of time?

Agnich: Well . . . what do you mean, from . . .

Marcello: That is, to keep the movement alive toward the initiation of a constitutional convention.

Agnich: Well, of course, the actual process didn't take that long. I think we started almost immediately when the session began. It was interesting that this coincided

with the rise of the "Dirty Thirty" and the subsequent downfall of Gus Mutscher. Ordinarily, there would have been very little success, except that Mr. Mutscher and some others were, I think, so engrossed trying to save their own skins that this in effect really slipped by them. It went through pretty rapidly, and I don't remember the exact date of its passage through the Legislature. As I recall, it was not too late in the session. It would not have gotten by late in the session because we were then engaged in that other bitter fight. It would have been lost in the shuffle.

Marcello: This brings up another interesting question along the same lines that you've just discussed. What influence did the whole Sharpstown affair have upon the impetus for a constitutional convention?

Agnich: It had absolutely no effect. I think when we look back, we'll find out that that resolution, I think, was approved before the actual, you know, coming to light of Sharpstown itself. So I don't think it had any effect one way or the other.

Marcello: What sort of public reaction did you perceive at this time to the rewriting of the Texas constitution? Did you feel in your contacts with constituents that there was a feeling that the state did need a new constitution?

Agnich: Yes, I think the sentiment throughout the State of Texas was overwhelmingly in the favor of an effort to write a new constitution. This is shown not only in talking to my constituents but by the public polls that were taken or the professional polls that had been taken. Over a number of years these polls had shown that there was a general awareness amongst the people in Texas that our constitution was archaic and could stand revision.

Now that doesn't mean that the people of Texas will vote for a new constitution. That only means that they simply need a new one. That may be two different things.

Marcello: Well, let's talk about the actual establishment of the machinery that went forward toward the actual constitutional convention itself, and, of course, what was formed prior to the constitutional convention was this Constitutional Revision Commission.

Agnich: Revision Commission.

Marcello: Now it consisted of thirty-seven members. Now talk a little bit about the formation of that commission. Why was it formed, and why thirty-seven members and this sort of thing?

Agnich: Well, to begin with, the entire process . . . we passed the resolution in the House in May of '71, I believe.

The House voted overwhelmingly in favor of a new constitution. That amendment set up a Revision Commission, and there was no magic in the number thirty-seven, except that we allowed the governor, the "light" governor (lieutenant governor), as I call him, the speaker and other people to appoint a certain number to that commission. It came out at thirty-seven. It really wasn't a magic number. We set that up in that amendment deliberately because we felt that this commission could do great work in going through a lot of the basic effort of compiling everything that had been written or done about our constitution by studying it, by holding meetings across the state with the people--all the rest of this. So that is the reason for that commission. In my estimation they did an excellent job.

Marcello: Now I do understand that the Legislature did have the veto power over the appointees to that commission. Isn't that correct?

Agnich: Yes, I believe that was in there. As I recall, some of a veto thing. You had to go to the secretary of state's office and sign your name saying that you were opposed to that group of people. As a matter

of fact, I opposed it on two grounds: one, I felt that there simply was not Republican input when you look at the number who voted Republican in the state; secondly, I thought that certain areas of the state geographically were not well-represented. There were not a sufficient number to overthrow the appointments. In retrospect I was wrong when I look at how that commission operated. It did a good job.

Marcello: That was a rather interesting group that presented that petition to reject that thirty-seven-member commission. There was a broad spectrum of people, and, of course, they apparently opposed the commission for various reasons. In your own case, as you mentioned, you were concerned with the geographical representation and the Republican representation on that commission.

Agnich: I also thought it was perhaps a little too liberal. But some of the people who signed that signed it for exactly the opposite reason (chuckle).

Marcello: Well, this is what I was referring to (chuckle). For example, Eddie Bernice Johnson was on that . . . was a signer of that petition, and Paul Ragsdale, I think, was another signer.

Agnich: That's right. They argued that there wasn't enough minority representation, you see.

Marcello: But, I guess, again, the formation of that committee was one of those things that simply never could satisfy everybody.

Agnich: No, I don't think so. By and large it was alright.

Marcello: It must have been a tremendous job in sifting through all of the names that were presented for the various members of that commission. In fact, I think there were somewhere around 300 names that were submitted.

Agnich: Yes. Every member of the House was asked, you know, for recommendations or things of this kind. Everybody had their input, and there was a good deal of maneuvering that went on. I recall my going to great lengths to try to insure the appointment of Mrs. Malcolm Milburn as the vice-chairman of that commission. When she was, in fact, made the vice-chairman, it did remove a good deal of my opposition to it because I knew that she would be a very positive and forceful voice, and she was.

Marcello: I gather from what you've said then that the members of the Legislature were given an ample opportunity to have some input in the formation of this commission.

Agnich: That's right.

Marcello: Now the man who was selected as the chairman of this commission was Robert Calvert. Would you care to comment upon his appointment?

Agnich: Yes, I think his appointment was almost universally acceptable. I doubt that there was anyone who really raised great criticism. At least I don't remember it. He was certainly well-respected. I think everyone felt that he was a man of unquestioned integrity with vast experience in the operation of our state government and one who could be relied upon to do an absolutely impartial job as chairman of that commission.

Marcello: I notice that another one of the people that was on that commission, and one who has been in the news quite a bit recently, was Leon Jaworski. How did you feel about his appointment to that commission?

Agnich: Well, that didn't particularly impress me. Mr. Jaworski and I had some considerable opposing political stances. On the other hand, I believe that he did indeed make a good contribution. I wasn't concerned about his ability. As a matter of fact, I was a little afraid maybe he had too much ability (chuckle).

Marcello: Okay, now this Constitutional Revivion Commission held, I think it was, eighteen meetings across the State of Texas. Generally speaking, do you think this was perhaps one of the better ways to get some sort of input into rewriting or redrawing this constitution?

Agnich: Yes, I think that the significance of that, however, is not so much in the fact that you necessarily would

get any new or better ideas, but it just was that you let the people have their say. Most of these people, whether their point of view is adopted or not, as long as they have had the opportunity to be part of the process then, generally, while they might oppose the document, even so, their opposition would not nearly be as strenuous as if you'd left them totally out of the picture. So I think it was an extremely important part of the process. As you know, those meetings were well-attended. Many people who showed up were quite articulate. Once in a while you'd be surprised. There'd be a housewife or an old farmer from somewhere that just literally would astound you with their knowledge of the subject and their ideas. You never know where you're going to get worthwhile input.

Marcello: How about the Legislature? Did the members of the Legislature have a chance to voice their views and their opinions before this Constitutional Revision Commission?

Agnich: They most certainly did. They were all invited. I think at one time or another almost every member did testify on various matters that were of particularly great concern to them. I think the commission by and large did, as I said before, as good a job as you could

expect, and certainly no constitutional convention in history ever met that was better prepared, that had more background material, than we did. We certainly could not lay upon that commission any of the responsibilities for the fact that we didn't come up with a document.

Marcello: How about you yourself? Did you have a chance to testify before that commission, and if so, what was your prime interest?

Agnich: Well, I testified at one meeting, as I recall, briefly, but I don't remember what it was I testified about, to be quite frank with you (chuckle). I really don't know. Generally, my position was that we needed a new constitution. My concern was . . . I think my testimony was, as I recall, that I hoped that we didn't get too detailed in it, and certainly my concern was that a document come out that would be truly representative of the make-up of the state and not be slanted or swayed to any particular element of the population. Other than that, I had no particular points that I was really concerned about.

Marcello: You did mention just awhile ago that you were hoping that they would come up with a simple document. Are you implying, in effect, that the old constitution is too large, too unwieldy, and this sort of thing?

Agnich: Well, the trouble with the old document is that it is so large and so unwieldy that it is extremely difficult for the average citizen to sit down and read our constitution and get anything out of it. Part of the problem is that so much of it is written in legal language which is not generally known by the people. There's a certain amount of legal language, obviously, you have to have in it. Also, parts of our present constitution are, you know, ambiguous and, in some cases, contradictory. They lead to a great deal of . . . it's sort of like interpreting the Bible. You know, you can interpret it about any way you want, depending upon your own point of view (chuckle).

Marcello: In the meantime, of course, the Legislature had established a Joint Convention Planning Committee, and I gather that in making its plans that committee ran into all sorts of protocol problems, at least in the beginning. You mentioned, for example, awhile ago the rivalry between the House and the Senate. Why is there this rivalry?

Agnich: Well, of course, I think you have to understand that senators are very important people. You'll know if you've ever met one of them. I'm being a little facetious and having some fun at my colleagues' expense (chuckle). But they are and they consider themselves, of course, the

upper chamber. If you divide the numbers, you'll find that a senator must be 4.895 times more important than a representative. It's quite a blow to have to sit in the chamber without any of those prerogatives. That most certainly had something to do with deliberations that went on. Of course, if you will remember, there was all kinds of furor raised about the electronic voting machine that they were going to bring in.

Marcello: Yes, you might talk a little about that.

Agnich: There were some very penetrating questions as to how the bids were let out and who was going to get to bid and how much it cost. As a matter of fact, it was so much so that the planning committee did retract and pulled away from that monstrosity and came up with a relatively simple and inexpensive method of voting. A lot of people don't realize the sheer mechanics of setting that up and changing the House to accommodate 181 instead of 150, subsequent to the question of what were we going to do about the voting board. A lot of these things were details that were quite time-consuming and very difficult to work out. But by and large they did a pretty good job of it.

Marcello: I think there was also some controversy involving the ordering of new tables and desks and that sort of thing, was there not?

Agnich: Yes, there were, plus considerable thoughts and argument about how much they cost and this kind of thing. Well, the difficulty was we couldn't use the old desks just because they were too big, and there was no way to get in more of them. So we finally wound up with very simple tables that were made in the Texas prison system. The chairs, however, were quite elaborate and quite expensive. They were made . . . some furnigure company did them. They were expensive because anytime you're going to make just 181 of anything, and no more, obviously your costs, you know, get pretty high.

Marcello: Incidentally, did you get a feeling that most of the delegates--that's eventually what they were called--did you get a feeling that most of the delegates at that constitutional convention had a real sense of history, that most of them generally realized the historical significance of what they were doing?

Agnich: Oh, yes, I think so. That was true during the whole convention without any question. All of us felt that we could be part of something that would be, you know, one of the most important things that happened in the history of Texas. I think there was a great deal of feeling that we were sitting in some momentous times.

Marcello: Now like we mentioned earlier, I think this Joint Convention Planning Committee did have a relatively difficult job to perform. Now did this committee also have anything to do with the procedural aspects of debating the constitution itself--the one that was presented by the commission?

Agnich: Yes, it most certainly did because, you see, none of us knew what sort of a process this was going to be. It was obviously going to be much different than a legislative session beyond any question. We had to establish some framework. The committee went to . . . well, are you talking about the commission or the committee?

Marcello: The committee.

Agnich: Right. The committee visited the constitutional convention which was going on in Louisiana at the time and did get some tremendous input from that group. A great deal of time was spent in developing the rules under which we were to operate, and which were all important. Those rules were sent out to every delegate well before the convention. We all had the opportunity to comment, and I think almost everyone did. As a result, when we went into the convention, we did have

that before us. Now, you know, there was considerable debate over the rules at the start of that convention because we could . . . well, you had to be extremely careful that you didn't get yourself boxed into a parliamentary position which would be untenable. By and large, the rules were written in a way that were perhaps the only workable way you could do it.

Marcello: Just for my own edification, did the debate on the rules take place after the election of the chairman of the convention, or did the debate on the rules take place before the election of the chairman of the convention?

Agnich: The debate on the rules took place after.

Marcello: And, of course, this is where we get into the whole business of actually naming the committee chairmen and vice-chairmen and this sort of thing.

Agnich: And there was a lot of debate. I for one supported a group that tried to make it the other way around--that the rules and everything would be established first. Then the head of the convention would be elected.

Marcello: Why did you want this particular procedure?

Agnich: Well, because it seemed to me that . . . you know, how do you elect somebody without rules? This is what bothered me. Now in the legislative sessions this is not the case because you have precedents and everything

ahead of you. Here we had none. How do you elect somebody without the rules?

Furthermore, as far as I was concerned, whoever would head that thing, to me, was dependent to a great extent upon the amount of power he had. Many of us were greatly concerned about Price Daniel, Jr. I was, most certainly. I never did vote for him, period, and for that reason. I might have been inclined to vote for him had we been able to adopt the rules first because, you see, you're sort of buying "a pig in a poke" when you do it the other way. You're being asked to elect someone when you don't know what kind of power he's going to have or what he's going to do with them.

Marcello: I wanted to bring this up at another time, but since you brought up the subject, I'll continue on with it. Why was it that you were so opposed to Price Daniel, Jr.?

Agnich: Well, there were a number of reasons. I never supported him for speaker of the House, number one. My reasons were that in observing Price Daniel, Jr., as a member of the Legislature, he had been almost a total nonentity. You can ask any member of the House, and they'll tell you that. He rarely got up at the microphone. He rarely did anything in committee. I

don't think he ever passed any substantive legislation except local bills. Some of us felt that . . . what kind of leadership was this? A lot of us also resented the campaign that he went through to get himself that position as speaker of the House and head of the convention--utilization of his father's influence, which are documented, you know. Also, I'm a conservative. Price Daniel, Jr.'s, background most certainly did not leave many of us to feel that there was anything conservative about him. I'd like to say at this point, however, that as far as I was concerned, he was impeccably fair. I don't think anyone can accuse him of being unfair. However, he did demonstrate the weakness that many of us felt would be in him, and that was the lack of dynamic leadership, if you will, when the time called for it. Also, his basis of support was so diverse that it was bound to almost collapse and get him in all sorts of trouble. You can't keep a base of support that is so divergent without sooner or later having it fall apart.

Marcello: Your comments here bring two questions to mind. You talked about his lack of dynamic leadership. Could you elaborate or expand upon that?

Agnich: Yes. His leadership consisted generally . . . well, he was fair which was the mark of leadership. First, he

exercised so much of it through the press. He was extremely popular with the working press. So much of what he did was conditioned by what he thought the press would think of what he did, which to me is not a mark of leadership. The press doesn't elect any of us to office. Secondly, whether it be in debates or arguments or rather bitter strife, he didn't call in the principal people involved and set them down and say, "Look, ladies and gentlemen, we're here to write a new constitution. Now we're not here to be butting heads with each other and tearing the thing up. Frankly, now dammit, sit down and go to work!" You've just got to do that at times but he never did. As a result he did get into some serious problems as the convention itself showed.

Marcello: You also mentioned that he had a rather diverse base of support. Could you elaborate on what you mean by that?

Agnich: Yes. He had, generally, quite a broad support in the liberal area amongst the blacks, Chicanos, and particularly the Harris County liberal element. On the other hand, he did have quite a number of people supporting him who basically had been quite conservative all along. He even had one Republican supporting him from Harris County. The convention showed

the weakness of this when it finally dawned on him toward the end that if he were going to get a constitution passed, he had to go with the conservative majority on a couple of very vital issues. Now when he did that he totally lost the liberal element. That's the kind of problem he faced. That's sort of the whold issue. It's extremely difficult to keep together.

Marcello: Who would you have liked to see as the chairman of that constitutional convention?

Agnich: Bob Calvert.

Marcello: Now what were your reasons? The same ones that you gave awhile ago with regard to the commission itself?

Agnich: Yes, and Calvert had universal respect, whereas Price lacked a lot of respect amongst many of his own colleagues in the House. A lot of this stemmed from the legislative session where he just made some enemies who were totally unforgiving and were going to do anything they could to destroy him, even if it meant destroying the constitution. Whereas, you wouldn't have had that with Bob Calvert.

Furthermore, Bob Calvert had demonstrated that he could be pretty firm at times and outspoken when he felt that people were being diversionary and everything just for the purpose of doing it. I think he

would have run a much firmer constitutional convention. I believe, if he had been elected president, we would have had a new constitution.

Marcello: Well, at the same time that all of this business was taking place in the Legislature, that is, in organizing things for the actual constitutional convention itself, an election wasn't too far off. Now what influence did those upcoming elections have upon the conduct and the whole process of that constitutional convention?

Agnich: Well, most certainly, the elections had an effect on the convention. To what extent is a matter of judgment because it's at best a qualitative evaluation rather than quantitative, and there most certainly were delegates whose words and posturing at the microphone were done for the benefit of the district back home, and, indeed, you'd see people running against each other for Congress and other things engaging in bitter debate, which was something which really was not a debatable matter except in so far as their race was concerned. Yes, that had some effect. I don't think, however, that this was the . . . that you would consider this to be one of the more important reasons we didn't come out with a document.

Marcello: Okay, Daniel, of course, was eventually elected as the chairman of the constitutional convention. Like we pointed out awhile ago, then there was . . . well, at the same time there was actually a great deal of wrangling over the rules of procedure. One of the issues that came up here concerned the powers of the presiding officer. There were some attempts to either weaken or water down the powers of that presiding officer. What do you know about this particular case?

Agnich: Well, I think . . . and I was one of those who fought as hard as I could because you remember that in the aftermath of Gus Mutscher, one of the things we had undone in the Legislature was the power of the speaker when it came to the appointment of members to committees and things of this kind. Now here we had a so-called reform speaker. I take grave disagreement with that terminology when it applies to Price Daniel, Jr. Now here you had someone supposedly heading a reform movement who at the same time was insisting upon the same kind of power that had led to the abuses under Gus Mutscher, and it seemed totally incongruous. The selection of committees is an extremely important thing in any deliberative body as that was. The make-up of those committees is extremely important. We felt that we could not be sure that we had the right

kind of committee selection. I further pointed out that we had passed a law in the 63rd Legislature, under Price Daniel's insistence, which made it illegal for any candidate for speaker of the House to promise, in return for supporting him, a committee assignment or a position. Yet, this is exactly what Price Daniel did prior to the convention. I'm not saying this is what I think he did. I know he did because before the committees were appointed and in the voting on the support for Daniel on the changing of the rules, that argument . . . you could tell. I picked almost every chairman ahead of time. Now there's no way that could have happened unless there had been prior dealing. This is one of the things that really disturbed me. I guess the reform business depends upon whom you're doing it to.

Marcello: Would you have rather seen a committee on committees make the assignments and select the chairman then?

Agnich: Yes. Well, we tried any number of various ways. I would not have . . . I'm not one of those who thinks you should totally strip away the power of the chairmen. I would have been content to let him pick the chairmen subject to ratification by the convention itself. You would have had a different result because

the majority would not have gone along with some of the appointments which were made.

Marcello: Did you have a chance to tell the chair what committee you would prefer to be on?

Agnich: Yes. Before the convention, as is customary, he did send out to each of the delegates a sheet of paper in which you would indicate preferences, I think. You know, we had substantive committees, and then we had procedural committees. You were allowed to make a selection and indicate your choice.

Marcello: What particular committee did you prefer to be on?

Agnich: Finance Committee.

Marcello: And this is the one that you ended up on, was it not?

Agnich: Yes. It's very interesting that prior to the convention Price Daniel asked me to visit with him, which I did, and give him the benefit of what I thought about the convention. He asked me to support him. I said, "I'm sorry, Price, I never have voted for you. I'm not going to vote for you now." I said, "I'll tell you the same thing I said during the legislative session. When I agreed with you and I thought you were doing a good job, you couldn't have a better man on the floor working for you. But when I oppose you, you also couldn't have a meaner you-know-what out there." I

said, "I'm not going to vote for you, period." I walked off and turned around and said, "By God, put me on the Finance Committee," and walked off. I think the reason I got on it, it was just a little easier to put me on it than to have to face the prospects. It's very interesting how you get on committees.

Marcello: You mentioned awhile ago that despite your misgivings for Price Daniel, you were relatively satisfied with the manner, or at least with the make-up, of the substantive and the procedural committees that were selected.

Agnich: No, I didn't say that. I think that I said that I felt that Price Daniel had been fair in his handling of . . . and I was here referring to his handling of the convention from the podium and things of that kind. I don't think that he attempted to ramrod anything over anybody. I did feel that some of the committees were stacked rather badly, but I'll have to admit that in that kind of an analysis, no one is objective. You're subjective and I was looking at it from the point of view not so much as a Republican--by this time I was non-partisan--but I was looking at it from an ideological point of view. The committees

really would have been a lot fairer in my estimation if they would all have had a conservative majority (chuckle).

Marcello: Okay, so now by this time most of the preliminary work has been completed. Daniel has been selected as the chairman; committees have been appointed; the chairmen and vice-chairmen of the committees have been appointed. Let's talk about the document that the Constitutional Revision Commission came up with. What was your reaction to the document that that commission came up with and the one now that you were going to work with?

Agnich: I felt that by and large the commission did a good job. I don't think there was any effort in that commission to, you know, stack it one way or another ideologically. There were some things that I did not like about it. But, you know, as I facetiously say, "Everybody's not as smart as I am, so you can't expect a perfect document." There's something less than perfection you have to settle for (chuckle). I, however, by and large, thought it was a good document. I think one of its weaknesses is that not having enough legislative input, this can be bad. Ours is a political system, and you just have to have a constitution that is to a certain extent pragmatically

political or it will not work. I also felt that in the finance article they had not been hardheaded enough about the finance article.

Marcello: Okay, we'll come back and talk about this a little more in a minute since you were on that Finance Committee. As a matter of fact, let's talk a little about that Finance Committee. The chairman was Neil Caldwell. Comment on his activities and his conduct throughout the hearings and so on that that Finance Committee held.

Agnich: Neil Caldwell is a very good and respected friend of mine. I served with him and under his chairmanship in the House Appropriations Committee. I served with him . . . on many other things we have carried joint legislation. We are quite close friends. Neil was a good chairman of the Finance Committee as he was of the Appropriations Committee. He has one thing, though, and that is that he is fundamentally and basically a socialist. You have to understand him from that point of view. Sometimes this would show up in the Finance Committee. It's the only criticism I have of him. However, that committee was pretty strong. There would have been no way that any chairman could have railroaded or rammed anything through that committee. It was, in my estimation--and I think the press agreed--certainly

of all the committees it had greater talent on it than any other one.

Marcello: Well, I've seen it written that it was allegedly "the most intellectually endowed committee of the constitutional convention." Do you think this is a fair assessment, or is it giving you too much credit?

Agnich: No, I don't think so at all. I think it was that. I further say about that committee that I enjoyed working on it more than any committee in which I served. Every member of that committee, whether they were, you know, Democrat, Republican, white or black or brown, liberal, conservative, all of them showed a surprising amount of restraint so far as their own personal beliefs were, and they did work together very well. The only time that I had a profound difference of opinion with Chairman Caldwell . . . there were a number of occasions where he would in effect say, "Well, this kind of thing, you know, the people wouldn't understand it," and I would just rise up and get after him. The point was, he'd say, "Well, the people are just not sophisticated enough to understand this." I'd say, "Now I'm going to fight you as long as I live when you make that statement," because while it might be true that the people could not write the penal code or some piece of legislation in detail . . . it's very tricky. But

you can't tell me that they are not capable of understanding something as broad and as fundamental as the things that we were deliberating. That was the only point. Neil and I had some knock-down-drag-out arguments. We're still very close friends, but we did at that one point. Other than that, however, he was an excellent chairman. He did a good job.

Marcello: What was the most crucial issue, or the most important issue, facine that Finance Committee during this particular period?

Agnich: Well, there were a number of extremely important issues over which there was pronounced disagreement. One of them, of course, was whether or not we should retain the Permanent University Fund as a constitutional fund and also whether or not the Highway Fund should be retained in the constitution. These were two fundamental areas of great dispute, very close argument. Other points that were somewhat controversial is whether we should include in the constitution a prohibition against an income tax, for instance, whether we ought to include in the constitution a ceiling on welfare, whether we might not ought to put therein some kind of a top level of state expenditures as a percentage of the state's gross national product or something

of this kind. These were basic, fundamental things that did develop quite a difference of opinion between the liberals and conservatives.

Marcello: I was going to ask you if most of the disagreements in this committee were basically liberal-conservative splits.

Agnich: Most of them were with the exception of the Permanent University Fund where you found people like myself, conservative Republicans, and some other conservatives allied with much of the liberal element of the committee against the perpetuation of "PUF," as we call it, and the other side for it strongly, like Ike Harris, conservative Republican senator, and some liberals. This is a thing that didn't really strike ideological grounds, although generally in the convention itself the liberals were mostly against the continuation of it. I was totally against it but not because of the liberal-conservative issues.

Marcello: Why was it that you were opposed to the continuation of a Permanent University Fund?

Agnich: Well, I was once making a talk . . . what's the newspaper at the University of Texas?

Marcello: The Daily Texan.

Agnich: They ran an editorial on my side in which I was talking to a group of people from out of the state over here. I can't remember the occasion, but my talk was the political setup in Texas. I said we're unusual in that we have the executive branch with the governor and his departments; we have the legislative branch with two houses; we have the judicial branch which includes the Texas Supreme Court; and then we have the University of Texas Board of Regents.

My disagreement with them is that they exercise far too much power. I'm against concentration of power wherever it might exist, period. I think that they were responsible to a large extent for emasculating our College Coordinating Board. We're bringing that back now. It's certainly one of the best things that ever happened to this state.

I just think that it is wrong to have that kind of a body beyond the reach of the Legislature exercising that power because when you're a representative, what that means is that you are representing the people. You are the people's only input into the bureaucrats and the various departments and agencies. Now if the Legislature doesn't step in there for the people, nobody's going to do it. Here was a group totally beyond the reach of the Legislature.

Marcello: What part did Frank Erwin play in these deliberations over the Permanent University Fund?

Agnich: Frank, of course, happens to be a friend of mine. I appreciate the fact that he has probably done more for the University of Texas system--at Austin, particularly--than any man in history, probably. He is in possession of a very fine mind. Beyond any question, he was responsible for not only the preservation of PUF, but the adoption of even another fund, SHEAF, which later became changed and we called "SHAFT" because we thought this was a much more adequate description of it. What Mr. Erwin did--he's very astute politically--he recognized that this was going to be under real attack, and, furthermore, that many of the people in our higher education system were opposed to PUF. Any of the schools that were not in the U.T. or A&M system were obviously getting the short end of the stick totally. In fact, almost everybody, even in the U.T. system or A&M system unless they were, you know, at Bryan or at Austin, were also really getting stuck with it. If you were to talk privately today with the presidents of a number of these institutions, they'd tell you about it. So he could see there was great danger of their losing this little private

fund of theirs. So he went to the boards of regents of all of these institutions and said, "Now look, there's no point in our fighting each other. Now if you'll support the Permanent University Fund, we'll throw all of our weight behind the establishment of another constitutional fund that you will participate in."

Marcello: Is this the State Higher Education Assistance Fund?

Agnich: Right. Now though the sentiment amongst the delegates was overwhelmingly opposed to PUF, nevertheless, the political pressure brought was immense. One of the most powerful lobbies in this state consisted of the presidents of our public institutions of higher learning because, you see, their boards of regents are composed of the most influential people in their community, as it should be. Well, of course, all they had to do to a representative or a senator was to say, "Well, look fellow, you either support us in this, or we're going to guarantee you that next time you're going to go down. We'll see that you get beat." So what are the guys going to do? Many of them who had to vote for it came up to me and apologized all over the place. They said, "I'm just sorry, Fred. I had to do it." Even so, they barely won that fight. So this was, of course, one of the real bitter fights that went back to the floor of the convention.

Marcello: Okay, so the education article, and in particular this business over the Permanent University Fund and SHEAF, as you mentioned, certainly was one of the major issues, if not the major issue, that faced that Finance Committee. Now you mentioned, also, that there was some controversy involved over the Permanent Highway Fund, is that correct?

Agnich: Yes.

Marcello: You might talk just a little about this.

Agnich: The argument there was . . . well, number one, everybody, whether they were for or against the fund, said that without any question Texas has the finest highway system in this country. No one is going to argue with that. Secondly, it has been remarkably free of corruption or any hint thereof, surprisingly so. When we compare our Highway Department to Oklahoma or to Louisiana where they have nothing but trouble, it pointed out to a certain extent the wisdom of setting that fund aside and apart from anyone in the Legislature being able to touch or use it for political purposes or to see that one of their friends got a contract or things of this kind. So it accomplished both of those objectives.

On the other side, there were those that felt that, you know, you ought to be a purist, that if

you're against one constitutional fund, you should be against all of them. Secondly, they felt that because of environmental protection and things of this kind, we should be cutting down on the use of the automobile because of all sorts of problems. We ought to be doing away with it in view of the gasoline shortage and the Arabs' actions. This gave great impetus to this fact that our need in the future for highways might be diminished compared to what it was now, and that we had tremendous needs in the way of mass transit in our large urban areas. Rather than tie up the money there, some of it should go in this other direction. Their most penetrating argument, however, was not so much to pull money out of the fund, but not to tie the state's or Legislature's hands because of the problems that might exist twenty years down the road.

I voted for retention of the Highway Fund. My reasons were relatively simple. One is that my opposition to the Permanent University Fund was not against the fund. It was in the way it had been mismanaged and the fact that there was practically no control over its use. In the case of the Highway Department, certainly that fund had not been misused. It had been applied for the benefit of all of the state rather than

any one particular segment. Secondly, when you looked at the amount of money involved, the fund is self-regulating, if you will, because if the use of highways diminishes, the amount of gasoline used would go down. The income into the fund would correspondingly drop down so that as needs went up or down the fund does have built in itself some kind of a self-regulator or a governing mechanism. With respect to mass transit, I could not see--even though I am from a large metropolitan area--the justice in taxing the whole state for something that was, after all, primarily the problem of Dallas, Houston, and San Antonio. The rural elements, they almost totally opposed any change for that reason. Third, the amount of money in the Highway Fund could not even begin to make a dip in the amounts of money needed for mass transit, you know. Mass transit in Dallas . . . you're talking in the billions of dollars, certainly two or three billions anyway. You couldn't even scratch it out of that fund. Those generally were my reasons for supporting it.

Marcello: There's no question that probably this Finance Committee dealt with more complex matters than perhaps any of the other committees at this constitutional convention.

Where were you receiving all of your information and so on? Did you have an adequate staff and this sort of thing to provide you with the working information or the working knowledge that you needed to act responsibly in this committee?

Agnich: We had a tremendous staff. We really did. I think it was perhaps the most competent of all of the staffs of all of the committees. We had some great people. Our chief . . . we had Mr. Wells from the Budget Board and Mr. Bikerstaff who had been with the Revision Commission. They then moved over to the Finance Committee. There was a lot of material available in the testimony for the Revision Commission. In addition to that, we had all sorts of testimony. We had experiences in other states. Quite a number of the people on that committee had been members, you know, for more than one term of either the House Appropriations or Senate Finance Committee. So there was a great deal of knowledge of financial matters in that committee. I think that the committee, in a number of the things it recommended, proposed some really exciting changes and forward steps that, beyond any question, we need in this state to solve a number of problems that we have.

Marcello: Did you have an adequate amount of time to perform your duties on this committee? In other words, you, of course, had to submit a report. I think . . . what was the deadline, the fifteenth or something like that? I can't recall offhand what it was.

Agnich: I don't remember exactly either, but I do know that the Finance Committee sat for something like 480 hours in committee alone in addition to the other work we did. I think we had adequate time. You worked, towards the end, seven days a week--mostly five and a half days, worked most nights.

Marcello: Getting back to the issues that were tackled by this Finance Committee, we haven't mentioned anything at all, or virtually nothing at all, about taxation. Now obviously the Finance Committee was going to be concerned with the whole problem of taxation. What were some of the changes that the Finance Committee felt were necessary so far as taxation in the state were concerned?

Agnich: The first place was in the basic premise. Our present constitution says that all taxes must be equal and uniform. Well, here you get into the basic argument of whether you should have an equal taxation system or a classified system. Well, it sounds very good to

say that all taxes shall be equally uniform. But in practicality . . . and I for one was one who kept asking these questions. I had considerable input from my ex-home state of Minnesota, which I knew very well. It had the most classified system of any in the country and had gone too far that way. But to every expert, everybody who came in there-- they'd be, you know, head of taxation in the various states and things of this kind--I would say, "Do you know of a single taxing jurisdiction in the United States that truly has and applies an equal and uniform taxation system?" Without exception the answer was no. So therefore, I felt that, you know, to carry on this facade, in effect deluding the people into something that never was nor ever can be, it simply wouldn't work.

We ought to change that and we did. We kept equal and uniform except that we extracted from that taxation of intangibles. There was a big argument about how you tax intangibles. You see, if you say equal and uniform verbatim, that means that you're going to tax everything. If your wife has a pearl necklace, she must be taxed on it; if you have any money in a bank account, you had to pay tax on that;

if you owned any shares or stock or anything of this kind, the same would apply. All of this sounds fine in theory, except that it is totally impossible to be applied. Now I defy anybody to show up at my house and want to go through my house looking for my wife's jewelry. Now he'd better have a search warrant from the courts (chuckle). I think I would be with the vast majority of Texans. They would simply say, "It's none of your damn business! Get out of here!" So it doesn't work.

Furthermore, there are times when you must have a separate system of taxation. We did, in fact, enact one in the area of agricultural taxes which is extremely important. I think the Legislature is going to do that this time anyway.

Marcello: Is this the one provision that called for a method by which farm and ranch land would be appraised on the basis of productivity? This is the sort of thing you're talking about.

Agnich: That's right. See, the problem is . . . I was one of the ones that led the fight in saying "Gentlemen, the fuel crisis or the energy crisis the world faces is not a fuel-energy crisis in the long run. It is a food-energy crisis, and you're going to see people starving to death by the millions." Since that time

it's already happened. So I said, "Therefore, our system of taxation must be such as to maximize the productivity of all of our agricultural lands, period." So that's the way we had to approach it. At the present time, as our suburbs expand they usually occupy what was prime agricultural land. So you had more and more people and less land upon which to grow the foodstuffs to keep them alive. So we came up with a system saying . . . what happens now is if the farmer is adjacent to a large metropolitan area, he's got to get out of business because the taxes alone would be far higher than the total productive capacity of the land. Obviously, he's got to quit farming whether he wants to or not. So we devised a system. It was not spelled out in detail, but explicit in it was that we would tax a farmer on the productive capacity of his land under good management--not only what he did because we did not want to perpetuate a shiftless farmer, no. But it had to be what that land could reasonably produce under good management. If you were engaged in that business, then you would be taxed on that basis, but in return you would have to sign an affidavit for a period of either five or ten years in which you would

say that during that period in return he would not either, one, sell his land or, two, change the purpose to which it was being put. If during that time he changed his mind, for whatever reason, he could change the purpose or sell it but he would have to go back all the way and recapture taxes at what would have been the tax rate. What this did, of course, is let the farmers stay in business if he wished. It protected against the speculator. There's no way he could come out on that thing. I think, beyond any question, in all the testimony and everything else, everybody was in favor of it. I think we'll do it next time.

Marcello: In other words, the committee members . . . there was virtually no debate or disagreement on this particular point.

Agnich: None. Whether they were metropolitan or anyone else, we carried the day against some of the people who said, "Well, this ought to apply only to family farms." Well, I'd take them back, "What is our basic objective? It is to produce as much food as we can from our land." Therefore, you cannot make that kind of a distinction because there are a lot of family corporations, too. I said that the way to approach that kind of thing is through antitrust legislation but not through this system of taxation.

Marcello: Now another interesting subject that came up in the hearings of the Finance Committee was some question concerning the state debt. Now apparently, there's some sort of a fiction surrounding the state debt of Texas. Maybe you need to explain that for the record.

Agnich: Yes, I will because I actually authored the state debt prohibition in the proposed constitution. By and large, Texas has very little state debt compared to most states. As the compelling argument in the case I went and had my staff go through every state in the union. You could show that where a state did not have a constitutional provision against state debt that its per capita state debt was much higher. Now there are people who say, "Well, you need to have state debt just like when you buy a home and you don't have the cash." Well, the problem with that is you only buy one home. They say therefore the taxes will be lower because you're spending money. Well, that is not the case. You could show beyond any doubt the higher the per capita debt, the higher the per capita taxes. They went hand-in-hand because of that looseness of handling finances. Now under our present system we have some state debt. Some of that, however, was approved by the people at a

general election. I have no argument with that. Some of those were like bonds for sewage systems. There can be times, but I wanted to make sure that we let it be a vote of the people before it could be done. Secondly, there have been some "end runs"--and Mr. Erwin was one of the first fellows to smell this out--in the use of bogus revenue bonds. See, a revenue bond does not constitute state debt because it is self-supporting. Therefore . . . for instance, you could build a bunch of dormitories, and if you could sell those bonds to investment houses and have enough income projected to support them, they'll buy them. They're self-supporting. The state's liability is not entailed. That is not debt.

But in the case of the revenue bonds . . . and I've fought this in the House like cat and dog in Appropriations Committee, got maneuvered out again by a combination of universities where they said, "Well, we'll sell revenue bonds, and they'll be bought by the public because we'll dedicate towards paying those out part of our tuition." Well, that sounded good except that all tuition in the state comes into the general revenue fund. Therefore, if the university spends that money, then you have to turn around and appropriate tax money to back them. So it is indirectly

state debt, even though under a loophole they got by with it.

So we clearly . . . we wrote, I think, the strongest provisions against state debt that have ever been written anyplace in the world. We said that before you can have a state debt, you would have to have a two-thirds vote of the members of each house, and then be voted on in a general election and approved by a majority of the voters in Texas. We clearly spelled out such things as revenue bonds and the rest of them, so anyone who read that, any part, would have to uphold it. Not only that, we had the commentary that goes along with it, backing up what our intent was.

Marcello: In other words, you were more or less precisely defining what constituted state debt.

Agnich: We defined it first, yes. We defined, "State debt shall consist of this and will not consist of that." I think beyond any question . . . you know, if we had that in our federal government, we would not be facing the economic crisis we have today. Everybody would agree to that whether they're liberal or conservative. This is what happened. So that to me was a tremendous step forward beyond a question.

Marcello: Now there's one other thing that I want to mention here with regard to the work of the committee. This is the whole subject of income taxes. How much time was devoted, let's say, to discussion concerning state income taxes, either an individual income tax or a corporate income tax? Now I'm sure that this would have basically been a liberal-conservative split for the most part in deliberations on this.

Agnich: Almost totally.

Marcello: I assume that "Babe" Schwartz probably got involved in this.

Agnich: Oh, yes (sarcasm). He made one of his very entertaining but highly demagogic speeches. As a matter of fact, I egged him on a couple of times because I just love to hear him. I told him, "You know, 'Babe,' one of the great things about this committee is that we don't have to have Abbott and Costello movies because we've got you." He and I happen to be pretty good friends.

Well, anyway, this was debated at some length. There was a very close vote on it. It did not occupy the kind of time that the other things did. The people of Texas, beyond any question, overwhelmingly oppose a state personal income tax. The last poll I saw, a state-wide and professional poll, showed that only 8 per cent

of the people in Texas wanted a state personal income tax. The people of Texas are totally opposed to it. So what we wanted to do was to prohibit the passage of a state income tax except by a vote of the people. We wished to take that out of the hands of the Legislature. The opponents of it said, "Well, so much of our income is based on the oil and gas industry, and obviously" . . . and they turned to me since I was the petroleum expert, "obviously, this one day is going to come to an end." I said, "Yes, there's no question about it. One day it will come to an end." They said, "Well, here, you're prohibiting an alternative source." I said, "No, I'm not because there could be other sources."

But secondly, when that day came . . . the people of Texas, you know, they'll take whatever steps are necessary. If it means a total collapse of all their services, they'll vote the kind of tax that they think is best. What I was saying, too, what I'm concerned about, is unless you put that prohibition in there, the Legislature is going to vote it in before it's needed, and then you will not have a replacement when a time comes. You see, you'll already have raised the state taxing structure to such heights that then what would you do?

My whole concern in all of this is--and generally the majority of the committee--was to use the constitution as a means of holding down state expenditures. As I brought out--and most people don't recognize it--everybody agrees that governmental expenditures, excessive ones, contribute to inflation. But they think of Washington. They forget that every expenditure by state, county, school district, municipality, every expenditure there, also contributes directly towards inflation.

Marcello: And private debt.

Agnich: And private debt for that matter. So that, well, your whole concern has to be about this question of living beyond your means wherever you live beyond your means. I didn't want Texas to be contributing to that.

Marcello: Now at this point I want to throw out just a couple of more very general questions to you, Mr. Agnich. For example, from time to time in the newspaper I saw that there were complaints about absenteeism on the part of various members of the Legislature. Now does this absenteeism apply to the committee hearings or did this mainly concern floor debate on the various subjects that came up? Or don't you think there was a real problem with absenteeism?

Agnich: No, no, there really was not. There were very few members, maybe five I can think of in the whole group, that spent excessive time away from their work. But by-and-large, it was extremely hard-working. Now where that came about . . . I consider it to be an abuse by the press. I am not one who goes around publicly brow-beating the press for whatever they say about me. I just ignore it, you know, good or bad. It doesn't influence my motives. But I saw the press a number of times--TV particularly with cameras--up there waiting until a member went away from his desk, whether he went to the rest room or whatever, and then take a picture of his name plate with nobody sitting at the desk. They went around from seat to seat. It just simply created an impression that's not so.

You want to remember that as in the Legislature, if you're going to be effective, you're not at your desk all of the time because you're going to be walking away, talking to other members about what's coming up or what will be coming up in the next few days, trying to swing them over to your point of view or simply trying to get more information about something. You've got all sorts of constituents calling you, particularly during that convention. You know, they call you on that back

microphone. I try to answer all of my calls unless we're actually having a vote or being in really serious debate. Also, so much of what occurred there, as it does during legislative session, is so much just sheer procedural matters.

You have to go through . . . everybody knows. It was interesting to observe. You'd look around that floor, and half the desks are empty. Boy, all of a sudden, without any announcement every desk was filled! Everybody knew something . . . what was coming up. You would just know what's going to happen. You were never caught off base. If there was something serious coming up, they were there and they were voting. The votes will show that. So I think this was a gross exaggeration. We did have some members, I would say, who were not very prominent anywhere, but you always have that.

Marcello: Another one of the subjects that came up at this constitutional convention was the whole problem of executive powers versus legislative power. What were your feelings on this particular issue? In other words, did you think that the powers of the executive needed to be strengthened, or did you think that they were fine as they were, or did you think they should be diminished?

- Agnich: Well, I basically thought that the powers of the executive should be expanded.
- Marcello: In other words, we had basically a legislative government up until this time.
- Agnich: That's right. That, of course, goes back to the circumstances under which our present constitution was enacted. Texans, in being smart, were emasculating the power of the carpetbagger government, you know, and they never saw fit to give it back to them. That's still the case. Even under the document we wrote, we did very little about that. It was in committee that all of us lost out.
- Marcello: Now, again, this was not in your particular committee, so you're going to speak in very general terms, probably, about this.
- Agnich: No, that's right. I very much would have liked to have seen a cabinet-type of government because I like to be able to hold some of these feet to the fire, you know. If it isn't working right, "Okay, throw them out." We do that to our President--maybe too much so. We give them a lot of power, but we also hold his feet to that fire. Now whatever happens in the government, in the executive branches and the agencies, it's put right on the President's back. I'd like to see that in

Texas. You see, what happens now is that the governor appoints all of these people to these various commissions or boards heading up these agencies, but once he appoints them, he has no power to remove them. Of course, what he does . . . a lot of them will put their old cronies up there knowing it's not going to work. When it doesn't work he says, "Gee, I made a mistake, but there isn't anything I can do about it." I want to make it clear, you know, that he could do something about it. Now we did change a little of that in the document, which was for the good, and to that extent did strengthen his powers.

But I wanted to see us go much further. I wanted to see the cabinet form of government. I just think that makes more sense, though I must admit that even in my own district, in the questionnaire that I sent out, the majority of the people were not for that--just not ready to make that kind of change. So I'm afraid that was doomed to defeat to begin with.

Other than that the Legislature was jealously guarding its own powers as you might expect, but on the other hand the Legislature does have to keep some powers. So we had considerable arguments about overriding bills. The governor generally prevailed on that.

At the end of the convention he said it would have been improper and immoral for him to interfere, you know, at the tail end . . . well, six weeks before that, I guess he was improper and immoral because he really did interfere. He twisted arms. He swung thirty-five votes.

Marcello: This is interesting. I think it's something that needs to be pursued farther. What role did Governor Briscoe play in these deliberations of the constitutional convention? So far we haven't even mentioned Briscoe up to this point.

Agnich: Well, we were trying to confine ourselves to the more important (chuckle) facets of the convention. I'm being a little mean here. I think that any objective observer would say that.

The only part he ever played was when it suddenly dawned on him that some of his veto powers in particular were going down the drain, particularly the ability to veto after the Legislature was out of session and calling of another session for a veto session. So he really twisted arms. He used every threat and promise that he could make. He was so desperate he even called me and tried to get me to change my vote, which I refused to do. So there he did, but it was only where his own personal prerogatives were being tampered with that he did.

So far as I know, he did not do anything else, period. He made no effort to get a constitution passed at all. As a matter of fact, by his silence he tacitly supported those who were seeking to undermine it. I think you have to put a considerable amount of responsibility on his shoulders.

Marcello: I also know that from time to time during that constitutional convention certain individuals took the opportunity to push forward their candidacy for speaker of the House. In other words, some people were looking ahead to future legislative sessions. I'm referring to such people as Fred Head, Carl Parker, and even to some extent, Billy Clayton. How much of this sort of thing actually went on during the convention?

Agnich: Yes, a lot of it went on about the first half or so. But it got so bad finally that a group of representatives--myself, Bob Maloney, and others--just got out a petition saying that we would refuse to support anyone for speaker from here on out who doesn't quit campaigning for speaker. We got quite a few signatures. That pretty well put the quietus on it. It's interesting to observe that whatever chances Fred Head had of being elected speaker, he completely and totally killed them during that convention.

Marcello: In other words, this blatant campaigning turned a lot of these delegates off.

Agnich: Yes, but also his voting against the adoption of the constitution. At the time, I tried to get him to change his vote. I simply said, "Now look, Fred, I just talked to eight members who had come out publicly for you, and they all tell me that if you don't vote for this document, they're going to publicly withdraw their support." Which they did. He lost some twenty-odd supporters as a result of that little . . . and that was enough to kill him.

Marcello: I even think Daniel even had to go so far as to issue orders to Head and Parker and some of the others to refrain from any campaign rhetoric on the floor.

Agnich: Well, I don't know that he was strong enough to order anybody, but he did get after them a bit. He sure did. I got pretty irate about it. I got sick and tired of being buttonholed by, you know, candidates for speaker. I successfully insulted every one of them in trying to drive them off. But then their supporters would come to me. I got so sick and tired of it that . . . that's when we finally came out with that thing and said, "Look, I'm not going to vote for anybody . . ." so it quieted down. Now Billy Clayton did very little of it. I'll say that for him. Billy was not up there campaigning actively for speaker. Some of his supporters were, but they stopped that, too.

Marcello: Okay, now probably the most controversial issue of all that came before that constitutional convention concerned the right-to-work article. Now why was it introduced, and who introduced this particular article to begin with?

Agnich: As to the reason it was introduced, the roots of that were sown in the 63rd Legislature. As you know, we have a state law which prohibits the closed shop but has a loophole in it. Labor found that out and tried to run with an agency bill. Now what an agency thing does is you are not required under that to become a member of the union, but if you are working for a company that has a union, then while you don't have to join the union you have to pay dues to the union. Well, I told Harry Hubbard, "That's a big deal. I'd like that." You know, you and I could form a union, and we'd be the only ones who could vote, and we'd take in all of the money. Of course, it would have completely destroyed the right-to-work provision. Well, when that happened, it only got twenty-six votes in the House that I remember. But it just really stirred everybody up. All of the sudden, you know, the great majority of Texans found out that that supposed protection they had was not really much of a

protection, and that the way to do this was to put it in the constitution and to take care of the agency shop.

Marcello: Okay, in other words, this was going to be my question. Isn't the right-to-work provision a part of statutory law? I think you've just answered the question, that there was this loophole that certain delegates there felt had to be closed.

Agnich: That's right. We felt this was the way. Now along with what happened . . . and I supported that all the way because the people of the state overwhelmingly favor the right-to-work law. Secondly, to me, you know, it is a fundamental infringement of human rights to say to anybody that you either have to or could not be a member of a union. Now this is a two-way thing. It also says that you can't be denied employment because you are a member of a labor union. So it works both ways.

We had plenty of votes. At first we had it adopted as part of the main document. Here we may have made a parliamentary error. We decided amongst us that though we had the votes to keep it in a main body, that this might occasion difficulty in getting the main body of that constitution approved. We felt that even if it were approved with that in it that labor would zero in

on the whole constitution. So on our own volition we offered--and we took it out--to set it as a separate submission so as not to jeopardize the main document. Certainly, none of us could see what was wrong with letting the people decide whether or not they wanted that in the constitution.

Marcello: I was going to ask you about this because there were a couple of other separate submission items--pari-mutuel betting, limited county home rule, and maybe one or two other things.

Agnich: Yes.

Marcello: And that's the reason for that.

Agnich: Yes, these were to set them out in an attempt to preserve the main document and let the people decide. There was a lot of argument about whether a matter should be constitutional or statutory. Well, I think the basic way to decide that is, number one, you obviously are not going . . . statutory means that you're not going to put the whole penal code in the constitution because it's far too detailed and . . . you're going to put the basic fundamentals of criminal law in there but not the whole thing. But when you come to a broad general principle, you have to remember that a constitution is nothing more or less than a

contract between the people and those who are to govern them. The people give these powers to the government, not the other way, and say, "Alright, here it is. You can govern us." But if they want to put in a protective clause protecting something they believe in, then that matter becomes constitutional at that point. The argument is not whether the right-to-work is constitutional or statutory. It is in the amount of detail that you put it. That makes a difference.

Now this is where Neil Caldwell and I had that argument. It's a real basic fundamental point. He would keep saying, "Well, the people just don't know enough about it." I'd say, "Mr. Caldwell, if you're trying to tell me that the people are too stupid to decide their own destiny, I'm going to disagree with you violently." With something as fundamental as that, they're perfectly capable of making that decision.

Marcello: What legislators in particular were opposed to the right-to-work provision?

Agnich: Well, that would be Neil Caldwell, certainly, and the labor union bloc is typified by Nick Nichols of Houston, Carl Parker, a labor union lawyer--that general group

of people who were allied with labor for one reason or another.

Marcello: What part was Harry Hubbard, the Texas AFL-CIO chief, playing in this particular issue?

Agnich: Of course, he was doing everything he possibly could to destroy the whole constitution because he didn't want it voted on separately, even. It's a funny thing. Labor always tells you how they're always for democracy and everything, except when democracy might express a point of view that they don't agree with. Then they're not in favor of that democracy. The reason he fought it so strenuously and so adamantly was not over the question of right-to-work or not. It was the fact that labor has through the years obtained considerable influence over members of the Legislature, House and Senate, by saying, "Alright, you're in a labor district, and if you don't vote our way we're going to defeat you." Well, you see, that would have made a straight anti-labor vote in every district in the state, and they would have found out--some of these members--that labor did not exercise all of that influence, and Harry Hubbard was concerned that they would lose influence with an appreciable number of members of the House when they found out labor didn't have that kind of strength. So

that was, I think, one of the things that really dominated their total opposition.

Marcello: Well, of course, eventually, I guess, would it be safe to say that it was the right-to-work provision that ultimately was responsible for the failure of this convention to come up with a document to present to the people?

Agnich: Well, I think that you have to say that the number one reason was the two-thirds requirement, you see, which no other . . . that was overwhelmingly . . . because we had way over a majority as you know. The failure to get the two-thirds . . . certainly you would have to say that it was labor, and it was . . . and somewhere in there was the refusal of Governor Briscoe to put any pressure on anybody.

As a matter of fact--I'll say this for Price Daniel, Jr.--he really tried to get that document approved. He worked day and night trying to do it. Maybe you can be cynical and say, "Well, he was trying to protect his own political future." But be that as it may, he really did try. He tried during that last three weeks to get to talk to Briscoe personally. Briscoe would not see him, would not answer his phone calls. That was the extent of the total

non-cooperation. Certainly the governor could have swung three votes.

Marcello: While we're talking about assessing the blame for the failure for the constitutional convention, there was an editorial in the Dallas Morning News that was rather interesting to me, and I would like you to comment on one particular point of that article. The author of that article said that in assessing the failure of the convention to come up with a new constitution, he said that the Legislature should have never been the vehicle by which to approve a new constitution. How would you answer that particular author?

Agnich: Well, I don't know that that contributed, again, to the defeat of it. I personally would think that it would be more advisable to have a mixed group. I don't think you would want to prohibit legislators because if you did you might come up with a totally unworkable document. But again, you have to go back . . . to me, you're arguing about something that there's no point in arguing. I already described why we had to have the Legislature. I don't know how much it contributed to it. Certainly, there were some legislators that voted the way they did because their home districts were totally opposed to a new constitution.

You know, I have some grave doubts that if the document had passed out that the people would have accepted it. It's a good way perhaps to close this. I would have seen nothing wrong with the rationale that would have enabled me to vote to present the document to the people and then later turn around and campaign against the document. I felt that the time and effort and everything and the money we spent, at least, for God's sake, the people ought to have a chance to say. Now it turns out that I would have supported it.

But when some of the questionnaires we had in various districts . . . Ray Hutchison had one in his district, and it shows that while . . . you talk about each particular section. Every section of the document had a comparable majority for it, you know, like 65 or 67 per cent, but when it came, "Would you vote for the whole document?" it was just about half-and-half. Those for and against each article would shift from different people, and there'd be a small percentage totally, adamantly opposed to one particular part. Then you'd pick up a few more here. They were in favor of all of the document except one thing, but they're going to vote against the whole document.

I think in talking to Representative Hutchison, he also is of the opinion that it would have been very touch-and-go as to whether that thing would have made it.

Marcello: Some people will even go so far as to say that the Republican minority in that constitutional convention did not want a new document in order to embarrass the Democrats in the upcoming election.

Agnich: Well, you have to look at the way the votes went. The great majority of Republicans voted for the document in the House. Of the eighteen members, I think we finally wound up with some fourteen voting for it. In the Senate it was two to one. No, it wasn't. It was the other way, two against and one for. But the Senate voted . . . that's generally the way the Senate voted anyway, so that reflected the Senate more than . . . but no, I don't think so. I think, as a matter of fact, Harry Hubbard railed against the document saying that it was written by the Republicans.