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Senator O. H. Harris
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Oral History Collection

Senator O. H. Harris

Interviewer: Dr. Ronald E. Marcello

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Dr. Marcello: This is Ron Marcello interviewing O. H. (Ike) Harris for the North Texas State University Oral History Collection. The interview is taking place on December 23, 1974, in Dallas, Texas. I am interviewing Senator Harris in order to get his reminiscences and experiences and impressions while he was a member of the Texas constitutional convention that recently met in Austin for the purpose of writing a new constitution for the State of Texas, a move that ultimately failed.

Senator Harris, let me ask you just a few general questions. First of all, what sort of a need was there in Texas for a new state constitution?

Senator Harris: My experiences during the convention indicated that perhaps we didn't need to revise our constitution nearly as bad as we might have thought we needed prior to it. The reason I say that is that . . . well, first let me go back and make this observation. A recodification of our constitution is needed. But now the difference . . .

distinguish there between organizing it and cutting out some of the deadwood or some of the things that overlap as opposed to making substantive changes. Therein is the problem that we fell into, in my judgement, was making substantive changes. The reason that the need wasn't so great to make substantive changes is because of court interpretations. Though we've got an old constitution, there is an advantage to that. That is that the court has interpreted it, particularly in the finance area, which is the committee I served on--Article 8. That's been well-established. We know where we are. Whereas, if we'd made some significant substantive changes, we'd be in a state of flux for the next ten or fifteen years in trying to determine what our tax base would be for all of our political subdivisions in this state as well as many other problems.

Marcello: Let's talk a little bit next about the Constitutional Revision Commission because it, of course, did a great deal of the groundwork or laid a great deal of the groundwork for the proposed constitution that you were to discuss in the convention. Now the Legislature, of course, decided to form this thirty-seven-member commission that would be appointed by the governor, the lieutenant governor, the attorney general, and a few

other people. Why was it decided to select thirty-seven members? Why was that the magic number?

Harris: Well, you try to keep a workable size or number--a group that is manageable. Then the appointing process is awful difficult. When you are going to appoint people, that's fine. But the big issue is who is going to do the appointing.

Marcello: What did you think about this particular five-man committee or whatever you wish to call it that was . .

Harris: Six man.

Marcello: Six man.

Harris: There seemingly is some magic in the minds of many of the members of the Legislature about allowing for the governor, lieutenant governor, speaker of the House, chief justice of the Supreme Court, presiding judge of the Court of Criminal Appeals and the attorney general making these appointments. The theory behind it is, I think, probably reasonably valid in that they are statewide office holders and had been elected by the people statewide. So they do reflect the thinking of the people of the state. So they're the six that made the appointments. You had to keep it equal and balanced as to . . . with one additional appointment, and that being the designation of the chairman of the committee by the governor.

Marcello: How do you as a Republican feel about having six Democrats select this thirty-seven-member commission?

Harris: Well, we didn't have any statewide Republican office-holders, so there wasn't a heck of a lot you could say about it. Now once you presume that you're going to use that group of six, then that's fine regardless of who holds the office. They were good about putting some Republicans on there. I visited at some length with a member of the governor's office. They solved one problem very readily. They wanted a woman vice-chairman that was a Republican, so that took care of a lot of minority right away. They visited with me. They were going to appoint a woman here in Dallas and talked about it. I asked them to appoint Mrs. Malcolm Milburn, which they did. I think everyone's happy for that because she did preside at a lot of the meetings, contributed a great deal, was highly respected by all the members of the commission and subsequently by members of the Legislature and people in general that were concerned with the constitutional revision. She did an outstanding job.

Marcello: I was going to ask you just exactly how much input the members of the Legislature had in the . . . at least in suggesting members for that commission.

Harris: I feel sure they did. I had a number of people contact me wanting to be on it. I recommended a significant number, realizing that they wouldn't all be accepted. Mrs. Milburn wanted to be on it. She's a personal friend, very capable, so I singled that one out to really work on. I'm sure other members of the Legislature had about the same attitude I did.

Marcello: How did you regard the selection of Robert Calvert as the chairman of that particular commission?

Harris: Fine. I've always thought he was a very capable individual, and I like his political philosophy as well. There was one thing that did concern me, and it turned out to be basically the case--his interest in judicial reform. He focused a lot more attention on that than he did in any other area, but not to the detriment of their work.

Marcello: Some people complained, especially certain members of the Legislature, that the Constitutional Revision Commission did not reflect an equitable distribution of members in terms of geography, ethnic groups, and other economic groups. Did that bother you any?

Harris: Not in the least. As a matter of fact, I thought they were quite reflective. For example, Ralph Yarborough was on there. I have next to nothing at

all in common with him philosophically, but there had to be a balance. I realize people of that attitude . . . there's many people in the state that think Ralph Yarborough's right. So they have to be on there. I thought if anybody suggests that the commission wasn't properly balanced, my attitude would be they're probably taking that position because they've got to lay the blame somewhere other than on ourselves as members of the Legislature (chuckle).

Marcello: I was wondering if you felt there were enough Republicans on there.

Harris: Not enough. There never is enough. If you went on percentages, there might be that they might have fallen short on that appointment . . . percentages, if you look at, say, the last general election prior to the appointment and see what percentage voted Republican generally across the state. They probably did not reflect that, but, still, I think it was generally a fair commission.

Marcello: Let me ask you this question. Why was it necessary to have a Constitutional Revision Commission in the first place? Why not simply have the Legislature sit as a constitutional convention and write a constitution?

Harris: I'm glad that . . . this is what I really want to get into--the beginning of why I thought it failed. I was

vice-chairman of the Constitution Amendments Committee that then existed in the Senate in 1971. Charlie Wilson, who is now in Congress, was chairman of that committee. He and I wanted citizen participation in the writing of the constitution. As a matter of fact, we envisioned something generally, as I can recall, like elected delegates to the convention to do the writing. But the members of the House, as you will recall, then were under the leadership of Gus Mutscher. Their attitude was, "Let the Legislature do it." So we struck what seemingly at that time was a good compromise. That was a commission to do some preliminary work, have citizen participation that way, and then the legislators as delegates then would have the ultimate say. I wish that I hadn't compromised at that time. It seemed like the thing to do then. In retrospect it was not. We should have held out.

Marcello: Why was it that Mutscher and his group wanted the Legislature to sit as a constitutional convention? Did they feel that this new constitution was going to be a political instrument and therefore that members of the Legislature should sit on it, or did they have some other reasons for taking their stand?

Harris: I'm not real sure exactly what their real attitude was other than to say basically that it was that the members

of the Legislature should be . . . the constitution is a political document. It's full of a lot of political things. Their attitude was that they felt like that politicians could do a better job, I presume. I don't really know.

Marcello: Was this a precedent that had been used in other states? Was this a procedure that had been used in other states that had recently written new constitutions, that is, did they have a similar citizen body do the preliminary work?

Harris: Yes, that approach was not uncommon at all. Over in Louisiana, for example, the most recent one, they had elected delegates. But they had a balance of one-third members of the Legislature, one-third of lay people--citizens generally--and I think they had another third of so-called constitutional experts. I guess they were appointed. I'm not real sure about that. They had more of a balance in actually writing their document, whereas ours was 181 members of the Legislature.

Marcello: I gather that the Louisiana precedent was the one that the constitution makers here in Texas relied upon more than any other so far as other states were concerned.

Harris: No, we relied probably more heavily on Illinois.

Marcello: Oh, really?

Harris: Yes, for some reason or another . . . there's a guy-- his name escapes me now--that was foisted off to us as a great constitutional expert. I presume he probably knows a good deal about state constitutions. But we put him on a consultant basis on the payroll at \$2,500 a month. That was what they were selling, was getting him on the payroll. He did not understand the political scheme of things as far as the personalities in our state government is concerned because he'd never been here. He was a fellow named Braden. In any event, he had had something to do with the Illinois constitution. Once we established this and the commission was meeting and holding their hearings around the state, we were still in session in the Legislature. After that was over in '73, we created an interim committee to plan the convention, which I was a member of--one of the five from the Senate.

Marcello: I want to come back and talk about that because I think a great deal of important work was done on that committee.

Harris: As a matter of fact, another reason for the failure came as a result of something we did in that committee.

We went to Louisiana. By that time, they were already meeting as a convention. We happened to catch them when they were in recess. Nevertheless, they were

already in. The creation of our scheme of things was already established. We were only there in Louisiana to look at some of the pitfalls of mechanically holding a convention and find out how you mechanically hold one. That was basically our trip to Louisiana. We didn't rely much on what they did at all because they were already into it. Our things were established, how we were going to go, and what we would ultimately do would be determined by the convention. Plus the fact that they're an old French code state and don't parallel to Texas much at all.

Marcello: Let's get back again to something that you mentioned earlier. You mentioned, if I remember correctly, that you felt that one of the ultimate failures in adopting a new constitution was the fact that the Legislature sat as the constitutional convention. I assume then that you believe that better results could have been achieved if a citizens' body had sat as the constitutional convention. Why?

Harris: Yes, I think that is correct, and I still stick with that position. The reason is that anybody that's elected to public office is involved in politics. He has political pressures. I'm not suggesting that's bad. You have a base of support, people that contribute time, money, and

effort to your campaign. You fairly well know, hopefully, the district in which you represent and the philosophy of it. You're obligated to support that particular philosophy. As we get on into this interview, I'll be raising issues with you as to why I voted "no" and why I do not think they reflected the thinking of the 8th Senatorial District. This is politics. In order to write a document of the magnitude of a constitution, you ought to be as far removed from those political pressures as you possibly can. The alternative is, I think, the citizen delegate scheme of things--non-officeholders.

Marcello: Following right along, then, I think we also have to keep in mind that 1974 was an election year. Just prior to that, of course, the Legislature was sitting as a constitutional convention. I'm sure it had one eye on those primaries and general elections.

Harris: No question about it because out of the 181 delegates, every one of them was up for re-election with the exception of sixteen of us in the Senate that had a four-year term. So the vast majority were on the ballot some way or another. Now they were not all opposed. Some were not seeking re-election and things of this sort. Nevertheless, a good number of the delegates had to look at a primary race and ultimately a

general election. So they were concerned about how they were going to cast a vote, even if they hadn't had pressures put on them, looking for that primary or general election.

Marcello: I was going to ask you how this concern or looking ahead to the primaries and general elections affected the deliberations or the writing of that new constitution. How did you see it reflected in the meetings themselves?

Harris: Well, look at it this way first before you get to the philosophy of it. The mere mechanics and the fact that we're down there and away from back home where they need to be campaigning . . . it's the same old story in politics. When you're at home during an election people want to know why you're not down there voting. If you're down there voting they want to know why you're not home. So when you've got a race and the guys at home are taking you to task and raising these varying issues, you're nervous about not being back there and fighting that battle for your re-election. So that's one problem.

Secondly, and I guess more importantly is, you get into rough . . . the first article reported out of committee was the education article. Section I of that

deals with public education. That's a very volatile issue and one of the prime issues as far as the failure of the convention is concerned in my judgement because there was an effort in Section I dealing with public education of Article 7 to write into it the philosophy-- or at least to the Legislature--the philosophy of the Rodriguez decision, which, though the Supreme Court overturned it, is still about us and we should still be concerned about it. I just disagree with that attitude altogether. When you're talking about changing from the philosophy and general statements from the independent school district system as we know it, the form of public education that we have in Texas today, to change the magnitude of philosophy of the Rodriguez decision, you've got a highly political issue on your hands, and if you go back home and protect a vote favorable, then you've got a lot of trouble on your hands. If I was opposing some member who voted for that in the 8th District, that would be my number one issue, the change in philosophy of our public education.

That was the first one out. It was reported out, as I say, about March. We debated it on up until . . . you know, for a couple of weeks prior to our recess in April. A person had to be looking at that.

Then you add to it the higher education sections, and the taxing was a major issue in that and the Permanent University Fund and the scheme of things for other colleges and universities other than Texas A & M and University of Texas system. That was a highly political issue. We started out with one scheme and totally did away with the existing scheme, went all the way through the convention, and went back to the old scheme at the last minute. So there was a lot of people from higher education in and about Austin visiting, lobbying if you will, to maintain some financial support in creating a fund for higher education in Texas. These were just issues of a philosophical nature that a guy had to be concerned about because he knew where he was going to get his support both in terms of effort and finances.

Marcello: Now in order to approve any of these articles that were to be added to the constitution, a two-thirds majority was necessary. Do you think we would have had a constitution if there had only been a majority vote needed for passage of these articles?

Harris: Yes, we would have.

Marcello: And do you think that would have been a good way to do it rather than to have a two-thirds majority?

Harris: We had to have a two-thirds majority. The reason being is to amend our constitution. Today, and it always has been, it takes a two-thirds vote of both houses to be submitted to the people for a simple majority support. So we were bound by a two-thirds rule. Yes, I think a simple majority would have passed it, but I don't think we could have had it any other way and be constitutional.

Marcello: Okay, let's go back and talk about that Constitutional Revision Committee in just a little bit more detail. Now as we mentioned earlier, after it was appointed, it, in turn, held a series of meetings across the state in order to get citizen input as to what should go into a new constitution. Now how much input did you as a legislator have so far as providing information to this committee? In other words, did they take into consideration the feelings of the state legislators in coming up with a proposed document?

Harris: I'm sure they did. Bear in mind, they started in the spring of '73. We were still in session and didn't complete our efforts until late May or early June, so members of the Legislature were not busying themselves about appearing before any of the meetings or anything of this nature. Some of them did subsequently. I know at one meeting here in Dallas I did appear. I

really went more as a visitor and sort of welcomed them. They held it in the 8th District, and I wanted to be there and participate. They called upon me, and I made a few observations. They happened to be discussing the legislative branch here--the legislative article. I had no shocking observations about that. I would basically keep it like it is--separation of powers. But you could have had . . . over the period of time and as open as they were and as many meetings and hard work as they did, a member of the Legislature could have had just as much input as he wanted to have. We were not closed out, nor by the same token we were not involved, I mean, asked to be involved. It was up to us to do whatever we wanted to.

Marcello: In other words, on the basis of everything you've said, I think you feel that that commission did basically do its homework and came down there prepared to Austin.

Harris: No question about that. Many of the things I disagreed with in their report. How they arrived at them I would not quarrel with at all because they did an outstanding job.

Marcello: Okay, now let's talk about the joint convention planning committee of which you indicated earlier you were a member. I suppose perhaps the best way to approach this

is to start from the formation of that committee. I'll let you take the ball from there.

Harris: (Chuckle) Well, that in itself--the formation--is quite interesting. We created this committee . . .

Marcello: First of all, let me say this. I don't think that most people realize just how much planning was necessary before that constitutional convention could sit in Austin and meet. A helluva lot of planning was needed.

Harris: That's exactly right. That's an understatement. It took a lot of time and effort and . . . but justifiably so. I'm not complaining about it. I enjoyed the work, quite frankly. It was . . . but it was necessary. We had a number of problems as we worked into it. The way it started was back in the spring of '73. We created this committee to do the planning. At that time we had five House members and five senators.

Marcello: Okay, how were the members of this committee appointed or selected?

Harris: The lieutenant governor appointed them in the Senate, and the speaker of the House appointed them in the House just like any interim committee that is a joint committee, a balance of five each. We didn't do much work, as you might understand, during the period of time we were in session.

After it closed we had to get busy about it. We were, at that time, a little behind in some of the things we needed to do.

Marcello: How was it that you were selected for that committee? You are the ranking Republican, I guess, in the Senate. Is this basically the reason?

Harris: I'm sure it had something to do with it.

Marcello: Other than your brilliant legislative ability and all that sort of thing (chuckle).

Harris: Well, I'm sure that would take precedence. No, it was to have a balance. Plus, I was involved--I'm just trying to remember exactly how it was--in something that went on at that time that caused me to be dealing with the lieutenant governor and a couple of other people about getting the convention ready. Plus the fact, and this is a very practical reason, that the then administrative assistant for the lieutenant governor was a good personal friend of mine, and I had some dealings with him about it. He sort of saw to it that I got on there. Then when the session was over . . . just before it was over we ran into a snag with the House. They decided that they wanted a proportionate number from House to Senate.

Marcello: Can you blame them?

Harris: Well, no, not really. So after a lot of bickering back and forth, we finally agreed to fifteen House members and five senators. The senators stayed the same. They increased theirs by adding ten more. But then we also got a rule established, that our committee would abide by, that it would take a majority of the membership of both houses to pass anything. So that meant it took three senators and eight House members.

Marcello: In other words, this was done in order that members of the Senate would not be overwhelmed by fifteen representatives.

Harris: That's right. There's no point in having any senators on there if its going to be a proportionate vote as well. So once we established that rule, we didn't care how many they put on there.

One of the big problems you've got in the background of all of this we're really talking about is money. We knew it was going to cost a substantial amount of money. The convention had the power to appropriate money, which is . . . that's the power. You didn't know what direction they were going to take because the philosophy of the House at that time, and still is, somewhat more liberal than the makeup in the Senate. Now when you're talking about this money, you've got to then look at the House's operations. They have very poor budget control over there,

or did at the time. They were already . . . before our biennium ran out on the 31st of August in '73, along in June the House was already broke. They'd overspent and were out of money. They were going to use the convention money to beef up their budget and give the House members more money to solve their problem--is what they were going to use the convention for. So we had to maintain a posture of having equal power on that interim committee.

Marcello: You mentioned that the House has, or at least had, poor budget control. Would you explain that in a little bit more detail?

Harris: They just didn't bother about where that money was going, and they just spent it. They'd appropriate it for the biennium, and they didn't plan ahead. For example, they're about out of money again.

Marcello: Now are you talking about money simply to run their House operations?

Harris: That's right--employees, stamps, envelopes, paper. At that time, I remember, they asked those members that had under-spent, which was few in number, to turn back in their money. They asked them to . . . oh, several things. I forget. They asked them to lay off some people in order to make out the biennium.

Marcello: Is this an individual responsibility for this poor budget control, or is it a collective responsibility that each individual member has to bear?

Harris: It's collective because each should bear their own load. But they had a House Administration Committee that didn't supervise. They had an administrator of the House now. Whatever his role was he didn't fulfill it.

Marcello: Okay, so let's get back then and talk some more about this joint convention planning committee. You've now established the membership. Some sort of budget control has been established. Pick it up from there.

Harris: Well, we went on with our work. We broke it down into subcommittees. One of the most important ones was how we were going to conduct the rules during the . . . what rules we would use during the convention. That was an important committee. The other thing that was important was just a basic mechanics. Where were we going to meet? Sure, they had 150 seats in the House, but where were the senators going to sit? They had several different schemes. We could add some additional desks. If you'll recall, in the House of Representatives there's a big aisle in the middle. We could put some there and some on the back row.

Well, back to the money problems. The House wanted and does need a new carpet. So they didn't mind taking up their desks and storing them and putting in the little small desks where we could all get in there reasonably comfortably. They're doing it right now since the convention is over--putting themselves in a new carpet and putting their desks back in ready for this next session.

That was . . . and then how we were going to . . . what the staff was going to be. That was another thing. The staff of the commission--the Revision Commission of thirty-seven--was fairly large but not that large. It was needed. All of those people wanted to be hired, and they fostered themselves off as great constitutional experts. The staff that the chairman of the convention--Price Daniel, Jr.--hired was just way too elaborate. We had way too many employees around. They just . . . it was overdone. We had a long fight on determining how much they'd be allowed to hire. I was involved in that particularly and ultimately lost. They got to hire all the people they wanted to hire.

Marcello: You were mentioning awhile ago about the problem of where to meet. I think I know the answer, but I'll ask this question anyway. Why didn't you meet in, let's say, some auditorium or convention center in Austin? What would have been the problem there?

Harris: Because of office facilities. We all had our offices there in the capitol, and it's just inconvenient to meet . . . plus the additional cost. We talked about maybe meeting at the LBJ Library, which, as I recall, I think the facilities could have handled us. But proximity to our offices was the big factor. To stay in the capitol in our judgement was the best thing to do.

Marcello: Another little thing that people don't think too much about is the matter of a voting machine. How were you going to vote?

Harris: That was another thing we had to worry about. The House wanted a voting machine. You'll remember that little squabble. As a matter of fact, the House . . . to give you an idea of some of their budget control, a contract was let for a new voting machine without any authority from either the planning committee or any other committee.

Marcello: Was this the computer voting device or something?

Harris: Yes, that's exactly what it was. I forgot all the details of it, but in any event that contract had to ultimately be rescinded. There was a lot of people who jumped sideways as a result of that because of how it came to pass without going through what the state law requires. They didn't abide by all of those rules and regulations. They had to go back the other way, and we finally wound up with a changing of the voting board over there and wiring it up, which didn't cost very much at all. It was generally alright. It broke down several times during the convention. Your votes wouldn't register, or they'd register improperly. But it was no big problem.

Marcello: I think it was quite clear that the voting machine the House had at that time, which, I think, was of 1940 vintage,

could not be modified to handle the increased number of people that would be in there.

Harris: It was modified. That was what . . . they told us at that time that it could not be modified. But, in fact, it finally was so that we could utilize it.

Marcello: How about the simple problem of ordering tables and chairs? What does this involve?

Harris: Well, somebody had to take that chore on. Of course, this interim committee again left that to the House Administration Committee to get it and with the decision of how we'd have these chairs. There was a decision ultimately made that you could buy those chairs for \$190 or something, and you'd have it for historical purposes. We did allow the . . . we let a contract for that. We allowed for the tables, the small tables we had, to be made in the penitentiary at nominal cost. There again, all of this was done by the planning committee. One of the reasons . . . I said awhile ago that we were behind after the session closed because some contracts had to be let in order to have things ready for the first of January when we started up the convention. I believe it was the 8th that the date fell on. So when we started meeting and we got in this squabble over how many from both houses would be there, that further delayed us.

Marcello: Let's talk a little bit more about the rules of procedure. As you mentioned, this joint convention planning committee was responsible for establishing the rules of procedure, that is, the manner in which the convention would actually operate. One of the things that came up later on--I'll bring it into the record at this point--was the idea of . . . I guess it was selecting . . . maybe you can clear me up on this. When those rules of procedure were presented to the constitutional convention, had the chairman of that convention already been selected, or was he selected after the rules of procedure were adopted?

Harris: All of our rules were adopted after the selection of the chairman of the convention with the exception of how he would be selected.

Marcello: This caused some problems in the deliberations there at the convention, did it not? Didn't some people feel that the rules should be adopted before the speaker was appointed?

Harris: I can't really remember, Ron. If it was it wasn't a major consideration because by the time we got there it was fairly well-established that Price Daniel, Jr., had the votes, and consequently there was no opposition or no organized opposition. There were about twenty people or so that voted against him, with a half-dozen not voting at all. I voted "no."

Marcello: Now was it during this period, that is, while the joint convention planning committee was doing its work, that various members of that committee went around and visited other states that had written constitutions?

Harris: Well, we only went to one other state, and that's Louisiana. We had volumes of paperwork, reports from twenty-some-odd states since about 1965 that have attempted or have revised their state constitution. So we had too much background if anything to go by because it was kind of confusing when we started trying to reduce it to portions you could understand. Anyway, that was part of our concern, was to see what the best scheme of things would be for . . . with the understanding that we had to do it with 181 members of the Legislature.

Marcello: What particular subcommittee were you on in that joint planning committee?

Harris: I've forgotten now which one I was on (chuckle). It must have been on the rules. No, I take that back. The one I was involved in was with the . . . oh, I believe the best way to call it would be the administration. It was arranging for the budget of the staff and that sort of thing.

Marcello: Okay, so . . .

Harris: I generally was the only dissenting vote.

Marcello: Do you want to explain that?

Harris: Well, there was three House members and me (chuckle).

Marcello: And were they all Democrats?

Harris: Oh, yes.

Marcello: Okay, let's talk a little bit next about the selection of Price Daniel as the chairman of that convention. Let me start off by asking you . . . who was your candidate or who were you backing as the chairman of that constitutional convention?

Harris: There wasn't anybody rising to the forefront to be a candidate other than Price Daniel. Back early, Lieutenant Governor Hobby thought he wanted to be chairman of the convention. There was some legal question as to whether or not he could because technically he's not a member of the Legislature. He's a member of the executive branch. There was a legal opinion that he solicited from a very good attorney that insisted the he could be. Whether that's right or wrong, he subsequently changed his mind and decided he didn't want to be involved in it, which I think was a wise move on his part. So after that there wasn't any real candidate. There was a minor move by some of the members of the Senate to elect Dean Aikin, who is the senior member of both bodies and very

knowledgeable about the state government and a very fair-minded individual . . . to let him be the presiding officer. We obviously didn't have the votes. I mean, when it came down to that sort of distinction, it was 150 to 31.

Marcello: Would you have voted for Aikin rather than Price Daniel?

Harris: Yes. My attitude--and I was going to explain this--my attitude generally during this period of time was anybody but Price Daniel.

Marcello: Why was that?

Harris: Well, I don't like his philosophy for one thing. He's a good deal more liberal than I care for him to be. I think it reflected in the makeup of the committees and what their attitude was and the chairmen of those committees--just a philosophical difference as much as any other reason.

Marcello: Did the manner in which he organized and ran the House business during the previous session of the Legislature also perhaps influence your thinking along this line?

Harris: No question about it. That was an influence, too--just the basic operation of the House. We had already seen bad budget control that I've already talked about. We had seen not what I would classify as very good demeanor just during the regular business session. We saw, too, that . . . in order to . . . this was all to be stirred into the pot, and

this transcends a lot of things that we've talked about and will talk about. In order to get the votes to become chairman of the convention, almost anybody who had a resolution for an interim committee to study something got it and was chairman of it. That's another reason for their lack of budget control. We've got interim committees, or had them from the House . . . just way too many. There's hardly a member of the House that's not chairman of some kind of subcommittee or committee, in turn for which he would vote for Price Daniel as chairman of the convention. So this was all developing. At the time you could see it going on. We knew they were out of money--all of these problems. He just didn't run the House very well at all.

Marcello: In other words, so far as you personally were concerned, there was a philosophical difference between Daniel and you that influenced your thinking along these lines, and then also there were these problems that you felt that Daniel had as an administrator over in the House.

Harris: That's right. Those are the two basic reasons to be for most anybody but him. I say anybody, but, you know, certainly I mean that as an overstatement. There was one thing that some of us wanted to do, but we had no way to . . . we were just lost for the issue. In the Senate . . . then in the Senate was Charlie Herring, who is a

very capable lawyer, been in the Senate for, I guess, about sixteen years. He had a keen interest in this convention. He's a good attorney. He's a very capable fellow in a lot of ways but . . . enough accolades for Charlie. He was quitting the Senate and did resign, and we did have a special election in the summer to replace him. So that we were . . . we had no candidate. I think maybe we might have been able to sell Charlie as a presiding officer with the members of the House knowing . . . if he hadn't quit so soon . . . if he was going to quit a little later. But it was necessary for him to do that, so we were afloat without a boat.

Marcello: Okay, now one of the next problems that came along after the selection of Price Daniel, Jr., was the selection of these committees that would, of course, study the proposals that had been made by the Constitutional Revision Commission. Now some people felt that rather than having the chairman of the convention select those committees that it should be done by a committee on committees of that convention. Just exactly what was your opinion with regard to this issue?

Harris: That was one of the battles that we fought in the interim planning committee. I voted to have a committee on committees and we lost. This was part of the trading. The House stuck in there fifteen to . . . against us everytime

whether they had their . . . I say fifteen. There was about eleven or twelve that consistently held the line with Price Daniel, Jr. that he would have sole power to appoint all committees and chairmen and vice-chairmen of those committees.

Marcello: I assume that you took your position because even at that time you basically knew that Price Daniel, Jr., was going to be the chairman of that convention?

Harris: That's right. It goes back to philosophy. Yes, that was shaping up early. He was gaining votes largely because there was no opposition to him. You can't win a race without a candidate. That's where he was. He was fighting just the opposition but not any particular person. So he had every advantage at that time. He was gaining his votes rapidly, and it became in a very short period of time evident that he was going to win it.

Marcello: I gather from everything you've said thus far that in the sessions of the joint planning committee and in the sessions of the constitutional convention itself that in a great many instances the Senate was on the defensive.

Harris: Well, we were.

Marcello: Just from a numerical standpoint.

Harris: Numerical standpoint. Once we got that rule in, though, that we . . . we were a good deal more comfortable after

that. But then as it turned out, one of the members of the Senate was running for and is now elected to Congress. He was on that interim planning committee. His interest, you know, was somewhat different because he was going to get involved in that race and already planned to. Also, another member of the Senate that led the fight on the rules . . . and he and I were together all of this time up until a point where, I guess, he found out he was going to be chairman of a committee and ultimately was, and he kind of switched around the other way.

Another member of that planning committee I never will forget, a member of the Senate . . . he was chairman of one of the subcommittees. He got voted . . . by the makeup of the subcommittees we had four on each. We had one senator and three House members. He was chairman of one committee, and every vote he lost three to one. He took a hard line position against many of the things that Price Daniel's lieutenants were favoring. Then when it came around to the fight on the rules he got up and made a speech just the opposite way. So somewhere along the line he got taken care of (chuckle).

Marcello: Okay, so it was decided that the chairman of the convention would actually select the committees. Now explain the procedure by which you got on the Finance Committee.

I think this was the committee that you were ultimately on, was it not?

Harris: Yes. Price Daniel, Jr., asked every delegate what their preference in committees were. Well, I knew mine . . . well, I didn't anticipate a very good one. He was good enough to put me on the Finance Committee. I think the reason why . . . well, one is that I had the help of Dean Aikin in the Senate because I've been on the Finance Committee a good deal in the Senate, and Dean Aikin has been chairman of it since I'd been there. He had some influence on me being on the Finance Committee. But it was one of those things on which I opposed Price generally across the board.

But understand that my opposition to him was not personal. It was because of this philosophy. We had no animosity towards the man as an individual. So it's the idea to come back around and don't give him a horrible committee or the worst you can do to him because it looks vindictive. So he puts me on the Finance Committee. That might have been his thinking. I never asked him. I don't know. I just thanked him for putting me on there.

Marcello: Who was the vice-chairman of that Finance Committee?

Harris: The chairman was Neal Caldwell, and the vice-chairman was Tati Santiesteban, senator from El Paso. We had a good

committee, and I think the efforts of that committee were particularly good.

Marcello: This, of course, was one of the so-called substantive committees of that constitutional convention. From everything that I have read or heard, it was perhaps the most competent committee established during that particular convention.

Harris: There was a number of newspaper articles that indicated just what you said. Looking at the personalities that were on there, we had some capable people. There were some people on that committee whom I disagreed with philosophically, but the number one reason that we got that particular accolade for being the most competent is that we probably worked harder. We met more often. It is probably the most important committee--our government's finances--that and education. We worked harder, met longer, more times, called more witnesses, and really dug in. We didn't waste a lot of time. There were a couple of committees that met longer than we did in point of time for making their report back to the convention. They were still out and holding hearings over and over again on the same subject matter because of political reasons for one thing. They were dragging their feet a good deal in order to postpone the inevitable.

Well, quite frankly, some of them wanted to hold off until after the primaries were over before they reported their work out and had to take any real positive vote.

Marcello: Now I think the way it was set up originally, all of these committees would have their reports in by February 15. Wasn't that the date?

Harris: Well, he was shooting towards sixty or ninety days. The Education Committee reported back within probably that length of time. Take, for example, the General Provisions Committee. It had a multitude of political issues in it, none the least of which was the right-to-work law. A lot of people wanted to postpone that until after the primaries were over.

Marcello: Okay, let's go back and talk just a little bit more about the Finance Committee. Like you pointed out awhile ago, Neal Caldwell was the chairman of that committee. Now philosophically, Caldwell and you would have been miles apart. Describe or assess, if you will, Caldwell's role in handling the operations of that committee.

Harris: Very good. While we differ a lot philosophically, I have a high regard for Neal. I think he's a very capable fellow. When you get down to dealing with money matters . . . now we're not spending money. We're talking about how money is going to be raised in all the political

subdivisions in this state--on ad valorem taxes, which is a highly volatile issue. Neal and I are not that far apart. Money management and . . . you'll find . . . whether conservative or liberal is a good choice of words to use here, I'm not real sure. I think responsible is probably a better adjective to use. Neal is very responsible, and he mechanically handled the committee very well.

Marcello: Okay, let's talk about some of the major problems that came before that Finance Committee. As things unfolded in the deliberations of that committee, what seemed to be the most important issue that came before that committee? Not necessarily in terms of controversy, but what was the most important thing that you had to work on?

Harris: The tax base and the assessing and appraising for the tax base for any political subdivision for the ad valorem tax purposes, I suppose, was probably the highlight of it. We had some more controversial ones such as the constitutionally dedicated fund for highways. That was a pretty political issue. Also involved in there was revenue matters for colleges and universities, and specifically the building use fee bonds and whether or not they would be continued or not. That was a political issue.

But really the most important in magnitude was in changing . . . we have about 2,500 appraising and 3,300 or 3,400 assessing authorities in the state. Some political subdivisions, for example, Dallas . . . the City of Dallas appraises for both the city and for the independent school district. Sometimes they overlap. Well, the theory was because that creates so much variance and inequities throughout the state--and there's no real way to balance it--we took it upon ourselves to reduce that to allow the county to do the appraising for all political subdivisions within that county, such as the Irving Independent School District, the City of Richardson, you know, whatever political subdivision. There's a multitude of them within this county. The county itself would do the appraising, and then each political subdivision could assess accordingly and whatever rate they wanted to put on it. The value would be established by the county and the rate by the political subdivision. You've got the problem there of being sure . . . get it as equitable as you possibly can and then still leave that assessing power some authority to set their own rate.

Marcello: Now I'm not going to ask you a whole lot of specific questions about the deliberations of that committee because I believe it's all a part of the public record. Weren't tapes made of every session that you had? These were, I guess, deposited in the State Archives.

Harris: I don't know where they were. I'm sure that's where they'd be sent.

Marcello: Well, I'm pretty sure that all of these things have been preserved, so I'm not going to ask you a bunch of specific questions. But let me just go back and talk about some of the more sensitive issues that came before this committee. You did mention the highway fund. What seemed to be the problem here? You mentioned there were politics involved.

Harris: Some members of the committee wanted to break up the dedicated fund for the highways. Two-thirds goes to the highway department, one-third to public education. The revenues are dedicated in the constitution for that purpose. The Texas Good Roads Association, trucking industry, and all the people related to the use of highways in this state wanted to be sure that was maintained. I took the position it should be maintained and did for a reason.

Marcello: You mean as opposed to diverting some of that money, let's say, to mass transit or something of that nature?

Harris: Well, now initially it was just to break up the fund. Then they were on shakey ground there and not quite able to because they got the school teachers and education people involved because they were breaking up their one-third of it. In order to pacify them, they took the approach, "We

ought to break up two-thirds of it," to keep the school teachers on their side. They gained some ground. Then in order to gain some more ground, they wanted to get the city vote. They wanted to divert it to mass transit. Well, that was a false issue because there's not enough money to get into the mass transit business. If you're going to divide it, do it by some other approach. It's the better way. I think we finally . . . that's the reason we prevailed. We showed very clearly that to divert this money would be futile for one specific area such as mass transit. Anyway, that battle raged on. We prevailed in committee and then prevailed for the most part on floor of the convention. It was a long, bitter fight. They got one amendment attached. It was not of much significance, "they" being the opposition to breaking it up.

One of the real valid reasons for maintaining a constitutionally dedicated fund . . . well, two. The Federal Highway Trust Fund where we get the 90/10 matching money--we get 90 per cent from the federal government--expires in October of 1976. There is a strong possibility, and all indications from everybody that's anywhere knowledgeable, that it will not be renewed. Texas is only about 12 per cent of the way

from completing their program with the federal government and will have it completed by October of '76, and we'll be right on an even keel. Texas also is one of the donar states. We get back less than we put in when you start figuring tax dollars versus what some of the smaller states are getting. They call them donar states because we don't get back in proportion to what we put in.

Then the other important factor is you can look at the piles of lawsuits and annotations from the lawyers' standpoint in making these decisions that created what we've got. If we changed it and did away with it, we'd have to be . . . this is one of the things I mentioned awhile ago. We'd be back in the courthouse for the next ten or fifteen years.

Marcello: You also mentioned awhile ago that educational issues took up a certain amount of time in the deliberations of this Finance Committee. What were the problems here? Did this involve the University of Texas and A & M and the College Coordinating Board and all of this sort of thing?

Harris: Yes, public as well as higher education. See, there's a big overlap. There's several areas where the constitution overlaps, but the big overlap is between education

and finance because when we're talking . . . in the conversation I gave you awhile ago about the ad valorem tax base, that affects independent school districts. That of all the taxing authorities gets the biggest chunk annually from the citizens of this state to provide for public education and their enrichment, local control. About close to 50 per cent of it generally around the state is raised locally. A little less than 50 per cent is provided by the state on daily average attendance from the Permanent School Fund. The balance comes from varying federal monies. So when you're talking about the ad valorem tax base and how you're going to establish anything, we're going to make some major changes. Then you're relating back to Article 7 in Section 1, which is the public education article. By the nature in the animal, you have to consider them both.

Then higher education was a highly volatile issue because we get ten cents ad valorem tax right off the top--state ad valorem tax, not local--which goes into a fund dedicated for higher education other than the University of Texas and A & M, which is North Texas and all the other state-supported institutions in the state. Well, the people from those varying colleges,

including North Texas, came to Austin saying, "Let's keep that." Well, right off the bat in education, they took the position, "We're going to do away with that ad valorem tax. We don't want it. We should have never had it." That's okay. That's fine. Where are we going to get our money? So then there was the long involved battle over where they're going to get their money because here the University of Texas and A & M have their Permanent Fund. They've got their permanent and their available fund. But the Texas system and the A & M system, those two systems, get this money on a two-thirds/one-third basis.

To digress just a minute in point of interest, I just wasn't that aware of this until we got involved in it. I always wondered why it was two-thirds and one-third, how that happened. I just assumed it was because of the size. That's not the case at all. When the lands were owned, they were owned fifty-fifty by Texas and A & M. It was just a bunch of raw land. A & M wanted out. They were in the process of getting out because they didn't want to have to mess with the upkeep and leave it all to Texas. Then they struck oil, so A & M scrambled around to get back in, and they only got back in for a third instead of a half.

But that system money was available to them, and here's the other colleges and universities without any . . . so they devised a formula called the State Higher Education Assistance Fund, commonly referred to as SHEAF. That fund created a lot of controversy, but we rode with that. Well, it made a lot of people mad. It made a lot of things happen that I can't remember all. It took too long to tell about them all, anyway, if I could. But we got down to the end of the convention, and that was one of the resolutions for debate. It was in all of the resolutions for debate. We finally fell upon the problem that in order to get some votes . . . people were voting against it because of that--that fund. In order to get some votes they took that fund out and went back to the ten cents ad valorem tax to turn some people around, but it didn't turn enough around.

Marcello: Well, how did you feel in the first place about this Permanent University Fund that is set up for the University of Texas and A & M?

Harris: I voted for it. I supported it all along because . . . now bearing in mind it has to be used in the constitution for the University of Texas at Austin. But the board of regents passed a resolution, and it was presented to the

committee that they would spend that money . . . if we'd keep it constitutionally dedicated, they would spend that money throughout the system, which affected the University of Texas at Dallas and Arlington, Dallas particularly, which is in the 8th Senatorial District, but also the University of Texas at Arlington.

But at the same time it maintained some amount of money of comparable nature for other colleges of higher education. That's why I supported the ad valorem tax all along. The SHEAF fund was not as good as the ad valorem tax approach in my judgement. So that's why I stuck with that. I did ultimately vote, I think, for SHEAF. It was back and forth the whole time. I can't really remember all the votes, but my basic posture was support for the ad valorem tax. When it was thrown out the window, then I went along with the SHEAF fund in order to give them some money because the two systems were getting a substantial amount of money.

The constitution provides that the Legislature will establish . . . this was written back in 1800-something . . . will provide for a college or university of the highest class or highest order, whatever the words are. That was why they established that fund for the University of Texas at Austin. Now it will be spread out through the system. I like that approach.

Marcello: Did Frank Erwin testify before your committee on occasion?

Harris: Well, he testified before the Education Committee. I don't think he ever appeared before the Finance Committee. But he had a posture. He maintained a pretty low profile other than initially, but he did have a good deal of force and effect and influence throughout the convention.

Marcello: Now I don't know how much we really need to talk about all of the various articles that came before the Legislature, perhaps with the exception of the right-to-work provision which ultimately presented some problems later on. Are there any of the individual articles that you want to talk about for the record, whether it be the education article or the legislative article or the executive article or which one it possibly might be?

Harris: You mean from my vantage point as to why I cast a vote the way I did?

Marcello: Yes.

Harris: The glamour issue overriding all of it . . . the glamour issue was right-to-work. That's the one that got the mention in the news media, both electronic and newspapers.

Marcello: Or the anti-labor provision, whichever way you wish to label it.

Harris: Anti-labor, however you wished to couch it, whichever group you were in or which group you were speaking to. But that was the most talked-about issue. But that

wasn't my reason for voting against it. Bear in mind there were thirty-two proposals ultimately presented to the convention for adoption. Every one of them failed, and each one varied because after the first one would fail, they'd go back and work something around in order to try and get a vote. At the end they did it very arbitrarily. They didn't really have the authority to make some of the changes they made, one of which is right-to-work because it was in thirty-one of the thirty-two proposals. They tried to pass it off as being in the thirty-second one. In fact, it was not. What was in there was what was so-called the super statute. It took . . . to amend the constitution . . . this was giving constitutional sanction to the right-to-work law.

Marcello: Which was already a part of statutory law.

Harris: This is our statutory law now, but this would give constitutional sanction. Well, to amend the constitution, which means if you ever wanted to change right-to-work and take it out of the constitution, you'd have to get two-thirds vote in both houses and submit it to the people. Well, somewhere in there the management of the convention changed that and said it only took a two-thirds vote of both houses. It did not have to be

submitted to the people if you also wanted to change right-to-work law.

The way the right-to-work provision was in the thirty-one previous proposals was also a prohibition against the agency shop. Well, in the thirty-second one that was deleted completely. An agency shop for the record, for anyone who might listen to this and doesn't know what it is, an agency shop does not say that you have to join a union. You can be compelled to. But you are under the law compelled to make a money contribution equal to union dues, but you don't have to be a member. Well, that's just what the unions want. In fact, it's a better deal. They've got your money and don't have to worry about you. In eastern states where they do have this, there also is another heinous problem with the agency shop. That is it is used to discriminate against minorities because they don't have to bring them up through the ranks like unions are required to do under the law. So this prohibition of the agency shop was important. It wasn't so much to just give constitutional sanction to right-to-work, but to also include the agency shop. The AFL-CIO already announced . . . they testified before the Republican state convention platform committee, of

which I was chairman, that that is one of their priority items in the session of '75, is to pass an agency shop law. So that was all of the glamour issues when they took that out of the thirty-second proposal.

But my reason for opposing it was the two I've mentioned to you. The finance article got changed, but more specifically the education article and that change in Section 1 of public education. I'm a strong advocate of local control, local enrichment, management locally within the independent school system and not any state central operation which the Rodriguez decision indicates should be done in Texas. Now the opinion didn't tell us to do it because they overturned the three-judge court from San Antonio, but they said the situation in Texas is bad and they wanted to leave it up to the Legislature and not the courts. I do agree with that. But I didn't want to do it in the constitution the way the management wrote it in there.

Marcello: Ultimately, what do you see as being responsible for the failure of the constitutional convention to adopt a new constitution for the State of Texas?

Harris: Probably the two-thirds vote.

Marcello: A great deal of publicity has been given to that controversy over the right-to-work provision. That, I think,

has become the whipping boy in the eyes of a great many people. But you think it is the two-thirds vote.

Harris: I think that's what caused it because you just couldn't get enough . . . if you look at the voting record and those of us that voted "no," you'll find all varieties of philosophies. Take, for example, one of the things I particularly remember because a colleague of mine sent out a newsletter with a picture that included Babe Schwartz and Mickey Leland at the failure of it holding their hands up together in "V" for victory. I voted "no," also, and I had nothing in common philosophically with these two people. But this newsletter pointed out that "Here's the types that voted against it." Well, there were several of us--Peyton McKnight, conservative member of the Senate from Tyler, Bill Moore, Tom Creighton, as well as a number of liberal people and moderates--that voted "no." Oscar Mauzy was a "no" vote. But they had their reasons different and apart from mine because . . . I say Section 1 of the education article was number one on my list. That's a battle I lost back when we were voting on it early. These guys were all for it and I'm against. So they're obviously voting against this constitution for other reasons. Each had their own individual reason. Whatever they were, I don't know.

Marcello: We haven't talked about the role that Dolph Briscoe played in all of these deliberations of the constitutional convention. Did he play a role? On the other hand, did he really have a role to play? Was there very much that Briscoe could do other than use the influence of his office?

Harris: He used the latter. He played next to no role at all. He himself played absolutely none because he was seldom there. He just plays no role generally in government whatever the issue. But on one occasion the governor's office was asked . . . when all the committees were holding hearings and having testimony, they were invited to come, particularly for the executive article. I think they did come over and make some observations about the executive article and how they would like things.

But then as time passed, the presiding officer used to have a luncheon of his committee chairmen and vice-chairmen once a week. On one of those luncheon occasions, a representative from the governor's office came in and told them there were three items, as I recall, that they didn't like. We were already behind on hearings, committees had reported out, and we were debating. They came over and said, "If you don't change

these we're going to be opposed to your work product." Well, that made those guys pretty hot, and I don't blame them. They had ample opportunity to come tell about this beforehand and reason together. Now they come over and lay down an ultimatum. Some of the changes were ultimately made, I think. That was mainly to keep Briscoe . . . if he really meant what he said, or his representative, it'd keep them off their backs. Other than that, they played next to no role at all.

Now there was a strong school of thought that had they participated it could have passed. They might be right because of the influence of the office. At the same time, you must understand, Louisiana had just passed theirs. The governor of that state, who had no role in the convention at all to speak of, or no formal role, he got out and stumped the state in favor of it and took a very active role. The people thought that if Briscoe had had an active role, had worked with the committee . . . Governor Edwards' position was really to pass it . . . to get the people to pass it, which he did. They thought that Briscoe could have had an equally important role in trying to get the two-thirds vote and then ultimately pass it.

Marcello: Are there any individuals that you can perhaps point to as at least in some parts being responsible for the ultimate failure of the convention to come up with a constitution? For example, some people have said that Price Daniel didn't, for want of a better word, strong-arm the delegates as much as perhaps he could have. He didn't use the authority of his chair enough, in other words.

Harris: I don't know because I never talked to him about it one way or the other. He never came to me and asked me what my position was, and I never had the occasion to tell him. I voted how I voted, and he never came to me and asked me to change it if he didn't like it. I heard stories, though, about the pressures put and brought to bear. I do know that on the last night two "no" votes turned around and got up and made speeches. Bob Gammage from Houston and Carl Parker from Port Arthur changed their position and voted the other way in order to change some votes. It failed by, what, three votes? We needed three more votes to change it, and they couldn't get them. They did a lot . . . well, the last vote was called at 11:30. Everybody cast their vote with a couple of exceptions, the president not voting. He held the board for thirty minutes till midnight and was working the floor to try to twist some arms. There were

huddles up at his desk, people around, "Go see so-and-so." My seat at the convention was right down in front. I could see and hear a lot of the conversation.

We had one particular vote, whom I'll leave unnamed, with us, a "no" vote. I heard them talking about leaning on him and getting him to turn around. And they . . . whatever it was they had quid quo pro to get him to turn around. So I got two or three of my friends that were "no" votes and designated them to go guard him (chuckle) and don't . . . you know, he might sneak down there and change. They stuck around him and kept . . . if somebody came up and leaned on him, which they did, they were there to give the "No, stick with us, stick with us," you know, the contrary argument.

So those sort of things were happening on the last day. Now how much was done prior to that . . . Price Daniel's lack of leadership was one of the contributing factors to the failure.

Marcello: Explain that. In what way?

Harris: His management of the convention throughout alienated a lot of people.

Marcello: What were some of the things that he did to alienate these?

Harris: Well, as silly as this may sound, every morning when we started the convention we were admonished. Now we get

about a five-minute lecture. We were admonished to act like ladies and gentlemen, to not stand around in huddles and talk, go to our seats, and move along expeditiously. This was just everyday. You get tired of being treated like a kindergarten student. Another factor, too . . . a number of . . . when you're dealing . . . with 181 people milling around in a convention hall, you've got noise and disruptive circumstances occurring of all sorts. I remember one particular instance in which the university board of regents had done something. I forget the issue.

Marcello: The University of Texas board of regents?

Harris: Yes. They had passed some resolution about the Daily Texan. Well, the students got upset about it, and they came to the capitol. They filled the gallery in the House of Representatives where we were meeting. There was a few . . . show of applause on whatever the issue was we were debating at that time. Price would not admonish them to be quiet. He didn't want them to be mad at him. So here he is telling us to act like ladies and gentlemen and sit down, but these . . . not bad ones, but applause, which is against our rules, was ignored when it was something political was involved. Well, this rubbed you the wrong way. This sort of thing happened a number of times.

One of the things that happened as a result of those students being up there, they called their particular representatives and senators out to visit with them. I know a group called . . . a guy called me out from Richardson. I went out to visit with him. I was immediately surrounded by fifty or sixty students. "How do you feel about what the board of regents did?" I just told them what I thought about it. Well, this happened to a lot of the members--almost all of them, I suspect.

So one of the members went to Price Daniel, the chairman, and said, "I don't want to be called out. It's a mess out there." So he called the sergeant at arms up, and he said, "Don't sent anymore messages to the members because it's disrupting things." "Yes, sir, okay."

About ten minutes later one of the members finds out that somebody's out there waiting on him, but he hasn't gotten the message. So he goes to Price Daniel . . . well, he goes to the sergeant at arms first, and he said, "No, the presiding officer told me not to send any messages in." He promptly goes to the presiding officer. The presiding officer says, "No, I didn't say that." So then he gets the sergeant at arms down, and he says, "Now I didn't mean to do that, but don't send any messages in except for this one member." This is

almost a daily occurrence--this sort of thing. You just lost respect for the presiding officer. He would not keep his word on little things and big things.

Marcello: Suppose the whole issue of right-to-work hadn't come up? Would Texas have had a constitution then?

Harris: Well, to answer that . . . if I say yes, that leaves the impression that that was the turning issue, and I don't in fact think it was. But it would have certainly gone a long way in alleviating the overriding problem regardless of which side you were on.

Marcello: Okay, where does the State of Texas go from here? Do you feel that there should be another move to rewrite the constitution of Texas, and should this move come shortly?

Harris: Yes, I think it should be in the near future, if we're going to do it at all because of all the work done, and it would shorten the length of time that's necessary to pass it. If it is done, though, I think it ought to be done by elected delegates and not members of the Legislature.

Marcello: How do you feel these delegates ought to be elected to write a new constitution?

Harris: Oh, you can come up with any number of schemes of things. You can have, say, two from each senatorial district or one from each House of Representatives district or something like that. We're going to have single member

districts throughout the state after the next session-- towns like Waco, Lubbock, Corpus Christi. They'll all be single member districts in the near future, so you could have one from each representative district or senatorial district--some manageable number, I'd say, you know, around 100, probably no more than that--and let them just get themselves on the ballot and get elected.

Marcello: I have no further questions concerning the constitutional convention. Do you have anything else that you think needs to be a part of the record at this point?

Harris: Yes, there's a couple of things I thought about. One of the volatile issues that I had both feet in was something that North Texas and all of the colleges of higher education in Texas are interested in, and that was the so-called building use fee bonds. Now we've had a number of kinds of bonds--tuition bonds and that sort of thing--for the financing of higher education . . . one of the ways you can finance it is through bond programs. You float a bond issue and get it sold on the bond market. They sell those bonds through whatever method they do in New York City. They have to have some support. They've got to be based on revenue that'll come in to offset that. So we have a definition. We have a section of the finance article called state debt. What is state debt becomes a big issue.

Can the state incur indebtedness? Well, we do all of the time. Take the veteran's land program bonds. They're based on revenues that will be coming in to support and pay off those bonds over the twenty or twenty-five year period that they're issued for.

Marcello: This is, I think, a part of the myth that . . . in a way a whole part of this pay-as-you-go myth because we do have those bonds.

Harris: You get tangled up. The pay-as-you-go provision is different from state debt. Now state debt is a hard thing to define. It's a hard thing to understand. It's complicated. I'm not trying to say I've got all . . . here I am smart and know it, and everybody else is dumb. Please don't take that posture, and I don't intend to. I just say it is complicated because you're in the financial structure of the state. Now is the state obligated? Take the veteran's land program bonds. Yes, it's included in the definition of state debt. The State of Texas is obligated . . . if the guy up on the street buys one of those bonds through the brokerage house and the revenues are not ultimately paid to pay him the interest off his bond, then who's he going to sue? He can sue the State of Texas. The state is obligated on that debt. So the percentage on those bonds is very good. They know the State of Texas is going to pick up their debts just like they would in any state.

It's going to come out of tax revenues over the years, and that man will be paid off. The bonding companies pick up those bonds very readily. They can sell them very readily, and it's good financial business. Well, that's in simplest terms the definition of state debt. The state is obligated on that.

Now let me give you another example. That's the State of Texas Turnpike Authority. That would have been . . . the airport. That was built on bonds. The airport was the cities of Fort Worth and Dallas. The Texas Turnpike Authority is the State of Texas, but it is a special statute that created the Texas Turnpike Authority. Those bonds are sold on the revenues from the tolls. If the guy that bought that bond didn't get paid off, he can't sue the state. He can sue the Texas Turnpike Authority, which is created by special state statute. They are obligated. So state debt is when the state is obligated ultimately and has to pay off that indebtedness.

Well, when you have building use fee bonds, that bond is supported by the fee that's going to be placed on the use of that building that the student pays. He's obligated to pay . . . when he goes to college, he knows he's going to have to pay so much money over and above tuition for . . . and that is not a state debt because

of the way they write those bonds. North Texas has floated a bunch of them. You look at their bonds. As a matter of fact, in my debate and when I was trying to get this provision back into the definition of state debt . . . or in effect out because if it's out it means you can do it, and if you put it in you can't . . . it's backwards. That's another one of the complications.

But the opponents of my position maintained it violated the definition of state debt. I maintained it didn't because . . . you can look at the bond contract. I used one from North Texas. It said who is obligated, and it's the board of regents of North Texas State University, not the State of Texas. The guy that bought that bond on the union building up there that the students pay a fee on and they didn't pay, he could come back and sue the state. He'd be out of court. He can sue the board of regents at North Texas, though. Even though it's an agency of the state, the state as a whole is not obligated. So it's not a definition of state debt.

Another argument used by Senator Doggett was tuition. Now we had tuition bonds in the past, and rightfully they were taken out because tuition is . . . by the way those bonds were created by statute was in effect deficit spending. That violated the old pay-as-you-go provision. But building use fee bonds do not because they come from

revenues off of that building. Now another form of tuition bonds . . . if we don't start up school next September . . . this is not going to happen, but what if nobody enrolled? They all decided to go to some other school. This is illogical but it could happen. You've got a bunch of bonds that are based on tuition, and you haven't got anything. So they're not as stable as building use because once you've got the student there, you know he's going to be paying a fee . . . rather than anticipating. So it's based on that revenue. It's a little more stable. But it's not a violation of state debt as the argument was. I lost that one, too.

The colleges needed them because of the capital outlay for buildings, and the construction costs is just as high as . . . well, you know how that is . . . across the board. It affects colleges and universities just as well as it does someone building an apartment house. So they needed this additional revenue or approach to gaining revenue for the capital outlays. It wasn't going to be used for instructional salaries or anything of that sort--just to build those buildings to put the students in.

That was a very volatile issue, and it was a funny kind of thing, too. It was debated very heavily in the

Finance Committee. The night we finally took . . . we had the votes by about one or two. The night we took the vote, the guy sponsoring it in committee didn't show up. We took a vote and lost by about two votes. Had everybody showed, we would have won, and we wouldn't have had to give a minority report. We would have had them taking a shot at us, which would have given us a better position. We'd have had it the way we wanted it in the committee report. The way it turned out, I had to try to put it into the committee. That's where I lost.

Marcello: Were there any other issues in that Finance Committee that you think we need to get as part of the record?

Harris: Let's see. We talked about appraisal, assessing, state debt. I said awhile ago that appraising and assessing was the most important. Probably state debt was the most significant. Certainly those two because that's what it's all about--the financing of all of our governmental operations . . . permanant highway fund. I guess that's the magnitude of it.

There was one funny thing that came as a result of our discussions on appraising. This is kind of a . . . arithmetic is not my long suit. When you're figuring homestead exemptions . . . this is important. Say you have an \$20,000 house. You take the appraisal method

or the assessing method. It depends on how you . . . the average in the state is 50 per cent of the appraised value. Okay, take 50 per cent of \$20,000. You've got . . . you're appraising it on a \$10,000 evaluation. Knock off \$3,000 and you're taxing on a value of \$7,000. That's to get your homestead exemption there. That's taking your 50 per cent first--50 per cent of \$20,000. Now the other approach is to knock off \$3,000 and get \$17,000. Then you take 50 per cent of that. What is that?

Marcello: Fifty per cent of \$17,000 would be \$8,500.

Harris: That's \$8,500. You're taxing on that amount. That's your evaluation. Well, the way the wording was in that appraising and assessing section--whatever section number that was--in the finance article--it took this approach instead of that approach. So your taxes are going to go up.

Grant Jones discovered this. I can't take credit for finding it. But he discovered it, and we got with the . . . now we had three or four very prominent bond attorneys. We got into it in committee with these guys. We had four and they split two and two on what is the definition and what it means. You just can't get a real . . . you can get a competent answer, but it's not going to agree all the time with the other people equally as competent. So the way the wording came out was . . .

this was the concensus of opinion of all of them. Grant and I, we convinced a couple of other guys, and we in committee went back around and tried to change it to get it back this way.

Marcello: In other words, back to the former approach rather than the latter one that you just discussed.

Harris: It got into the committee, and we only got four votes to change it. Now that's not any big deal, but it is to the guy that really needs that \$3,000--the older fellow with the fixed income, particularly the old people. The guy that lobbies for the old folks down there . . . we tried to convince him that they're going to get stuck with a little bit higher taxes. It just fell on deaf ears. We finally gave up the battle because we couldn't get any more than four votes in committee. It was highly complicated to understand that. That was the problem, was just getting it sold.

Marcello: I have one last question to ask you. This is a general question. I'm not sure how you can answer it. But when you were down there deliberating on this new constitution, did you feel that most of the delegates there had a real sense of history? In other words, did they realize that they were meeting there for a rather historic occasion?

Harris: Yes, I think a fair number did. You know, it was on all of our minds, I guess, to a great or less degree. Once

things got pretty much in the position of where I . . . you know, past being changed and I was opposed to it, it . . . you know, on into that. I kind of lost sight of that, you know, because you're hoping it fails at that point. Initially, the sense of history was particularly strong. It was on our minds to a great degree at first. Then it was on the wane afterwards depending on your posture which side you were on.

But one thing that kept us down there so long was that they were paying us \$2,000 a month. A lot of those guys couldn't make that much somewhere else, and they liked the deal . . . plus per diem and that sort of thing.

Marcello: I didn't realize the delegates were getting \$2,000 a month during those deliberations.

Harris: Well, let's see. What it came out to was \$37.50 salary on days you met, \$35.00 per diem on calendar days, and you had expenses back and forth from your home. I think it totaled up to a little over . . . right around \$2,000 a month is what your gross was.

Marcello: That was a little bit better than what you got when the Legislature was in session.

Harris: That's right. Now this included your legislative salary to get it up to around . . . I think all of the other things totaled up to about \$1,800 or something, and then

your salary on top of that put you a little over \$2,000.
You know, those guys were making some money. They
enjoyed it down there (chuckle).