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Representative Ben Bynum
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Oral History Collection

Representative Ben Bynum

Interviewer: Dr. Ronald E. Marcello

Place of Interview: Denton, Texas

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Dr. Marcello: This is Ron Marcello interviewing Representative Ben Bynum for the North Texas State University Oral History Collection. The interview is taking place on October 10, 1975, in Denton, Texas. I'm interviewing Representative Bynum in order to get his reminiscences and experiences and impressions while he was a member of the Sixty-fourth Texas Legislature.

Ben, to begin this interview, let me just ask you a couple of general questions concerning the Sixty-fourth Legislature. There was a new speaker of the House this time--Billy Clayton. How would you compare or contrast the Clayton style with that of Price Daniel, Jr., who was Clayton's predecessor?

Mr. Bynum: Well, I think in a lot of ways the style of the two speakers were very similar. Many people thought that Clayton, because he was conservative and had been a Barnes man and a Mutscher man, would be much more autocratic, and that you'd see a lot of control from the chair. I didn't see that at all. I thought, generally speaking, that Clayton never used the power of the

gavel, never used the power of the chair, to try to see his way. In fact, at one point during the session, he came down from the chair and got involved in the debate on a bill and was literally out-voted. So I think from that standpoint the style really didn't change nearly as much as many people thought it would.

I feel Clayton has to be given high marks for his ability to keep the coalition that elected him--that being the conservatives and the arch-liberals--together. I think throughout the session and to this day his supporters are still basically happy with him. No one thought that you could go through a session of the Legislature and keep the rural conservatives on the one hand and the city liberals and blacks and Chicanos on the other hand all happy. But Clayton succeeded in doing that which most thought would be impossible.

Some of the differences in styles that I would see . . . Clayton did tighten up his control of the internal operation of the House. Price Daniel had no interest in how the Administration Committee operated, no real interest in what happened. He cut his staff down greatly. Clayton increased staffing and increased his personal control over the Administration Committee. The Administration Committee reverted back to the way it worked under Barnes and perhaps Mutscher, when it was

more a rubber stamp sort of operation for what the speaker's office wanted, but not as much as when Gus Mutscher was speaker and Tommy Shannon was chairman of House Administration or not as much, probably, as when Ben Barnes was speaker and Ralph Wayne was chairman of Administration. But I still think in that area he greatly increased his staff, and he greatly increased the speaker's office's involvement in the operations of the House. He changed a lot of the personnel. From the standpoint of the House itself, in its internal operation he gave it a very clear Billy Wayne Clayton appearance.

But during his operation of the Legislature, there was never a time when you felt that he was trying to force his way through. Now on a number of things, predominantly school finance . . . and to some extent the strip mining bill, utilities regulations . . . he would get involved as an arbiter and try to pull the parties together and find agreement. Even then very seldom did you find him actually trying to control things.

One difference, I think, between Daniel and Clayton was that Daniel would have a tendency to call a group of people in, and they would all try to decide what they were willing to do, and then they'd

go out and do it. Clayton, I think, operated with a smaller group of people. Clayton would tend to get four or five people together instead of twenty-five or thirty people together. Then he would make a decision and try to go out and promote that decision. That was particularly evident in the school finance bill. We kept trying to find a common ground. There were two or three of those meetings. Finally, in the end they had to reach a decision. They reached a decision by actually calling the members in and saying, "Look, this is the bill. Here's how it affects you and your district. Will you sign it?" until it got its seventy-six signatures.

But I generally think you would have to say that the fears many had that we would see a return to the autocratic leadership from the speaker, the team running the thing, did not materialize. Clayton just did not do that.

The only time I recall that I thought Clayton was really arbitrary in the chair was the very last night. It was ten o'clock or eleven o'clock--somewhere in between there--and we still hadn't voted out the appropriations bill. Some points of order were raised against it--points of order which I think probably, carefully considered, would be valid points of order. Clayton overruled those,

very quickly gaveled it through, and shoved the bill right on through. You know, it was the only time I thought that the speaker just said, "By God, this is how it's going to be!" I'm not sure I wouldn't have done the same thing because it was approaching the final hour, and the appropriations bill hadn't been passed. The issue was unresolvable in a few minutes. The background is this.

In the last couple of days of the session, we passed the governor's bill giving the Coordinating Board or the Legislature the power to approve new college buildings--took that authority away from the boards of regents. The boards of regents of all the schools, primarily the University of Texas, A & M, Tech, and North Texas, had gotten together and decided that a sneaky way to do what they wanted would be to take their whole building program and write it into the appropriations bill as riders in the eleventh hour. They did that. The point of order in question was that nothing about building programs had been in either the House version or the Senate version, and that under the rules conference committees could only adjust differences. This was something new. Well, there are some gray areas about riders. Someone said, "Well, the differences it can adjust are dollar

differences, but riders can be new." I don't know. But the point is that the point of order was overruled, and a lot of people felt like the speaker really just trampled it down. Incidentally, as a result of that, I think about eighty or more members of the House signed a petition asking the governor to veto those riders, which ultimately he did. So maybe that was somewhat of a reaction to the point of order ruling. I doubt that so many members would have been so quick that night to sign the petition had it not been for the fact that they felt like they had been trampled.

With that one exception, an exception I think could be fairly justified, I thought that Speaker Clayton was tremendously fair and open and not ever guilty of using the chair for his own purposes.

Marcello: Let's back up a minute. Awhile ago you were talking about the coalition that elected Speaker Clayton--a coalition of urban liberals and rural conservatives. I assume that this process had begun back during the Constitutional Convention. Is that correct?

Bynum: Ron, I really think it started before that. I think early on, when Daniel really did convince people that he was serious about his one-term speakership, you had your start. It quickly evolved, although there

were some peripheral candidates and game plans with the Dave Finney's and the Jim Nugent's, and even DeWitt Hale, you know, who's always ready to ride if summoned, that really you had three major candidates. You had Clayton, who was running hard and had a diehard group of about twenty-five primarily West Texas and South Texas conservatives. You had Fred Head, who had done a good campaign job right after the Daniel election and after he had defeated Rayford Price and was "Jack the Giant Killer." Head had collected a number--maybe thirty or more--of pledges primarily from liberals, although some of the Head people included people like John Hostenbach from Odessa and Luther Jones. Some of those people had made early pledges--particularly those members of that freshman class of '73 that were coming in. They had run on Daniel reform tickets. Head was there to see them immediately after he defeated Rayford Price. A lot of people who were supporting him made those commitments early, and many of them were standing behind their commitments, although some had doubts by the time the session was rolling along.

Then, of course, the third candidate was Carl Parker. Carl Parker had always been thought of previously in the Legislature as pretty much a labor-type liberal, a labor liberal that could be dealt

with. I remember in my first session that on occasion he would defend Mutscher. The true, pure, "Dirty Thirty-Sissy Farenthold-Tom Moore" types really got down on Parker because he was supposed to be a liberal but sometimes he didn't stay pure. The interesting thing is that Parker had jockeyed himself into a position that he was the moderate because Clayton was the conservative and Head was the liberal and the third major candidate then became the moderate.

I think probably back during the Constitutional Convention and the end of the Sixty-third Session that most political soothsayers thought that Parker had the best chance, that Clayton was just too conservative and that there were too many of the moderates and moderate liberals that couldn't support Clayton--just never could buy Clayton--and that Head could get maybe forty or fifty votes. But once he got to about fifty, he just had so many enemies, so many people that just despised him, that he just couldn't ever get over the hill. So ultimately Parker had to win.

What I think happened was the Constitutional Convention--the last hours of the Constitutional Convention--decided it--when Clayton supported the constitution early on and voted for it. Literally in one of the last speeches of the convention, in tears Carl Parker came to the microphone and told all of

the labor people who were bitterly opposed to a "yes" vote that he was going to vote "yes." But Head held out and voted "no."

After it was over, Daniel, in his immediate ire with those who had defeated the Constitution, just openly attacked Head. Head's "no" vote gave many of those people like Bill Sullivant and Hostenbach and some of those who were strongly for the constitution an excuse to get off the Head boat. I think probably they had wanted off the boat before, but they'd signed a paper, and there was a certain amount of honor in their word. But Head's "no" vote gave them their opportunity. The fact of the matter is, within two or three weeks Head got such terrible publicity . . . Head was in a bad position. I think he had to vote "no" because he was trying to get those labor liberals and thought, "Well, maybe if Parker votes 'yes' they'll desert him." But, in fact, what happened was that it really turned everyone away, and with Daniel just daily lambasting Head, that ship started going down pretty quick. Finally, Fred Head realized it was going down.

Well, the race from the year before between Parker and Head had been so bitter--I mean personally bitter--to the point that they had cartoons about each other--cutting, vicious cartoons--distributed on the

floor--things like that. This sort of thing . . . it was so vicious that those two could just never get together.

So when Head realized that the ship was sinking, immediately the channels were opened between Head and Clayton. During July and the end of August, there was a good deal of go-between and finally some head-on meetings between Clayton and Head. They reached an agreement. Head agreed to come out for Clayton and agreed to bring as many people as he could. Then very quickly Head went to his best supporters and got about twelve to fourteen of them to agree in writing . . . at least agree--I don't know that it was necessarily in writing--to make a strong personal agreement to Clayton.

Then all of this was announced over the Labor Day weekend. They had what's now known as the "blitz." We went up and set up the phone banks. Head had his news conference, and Sullivant had a group with him. They had a news conference. They were all coming out for Clayton. The phone lines got hot, and everybody was told, "It's over! You had better get on the Clayton ship quickly! It's about to sail!" And they did within about a forty-eight-hour period, and Clayton wrapped it up. So that's how it happened. Clayton made enough assurance to those people that had been for Head.

They just hated Parker. They just personally could not stand Carl Parker. With some of the really philosophical liberals, the Lane Denton types, it went back to this thing we were talking about before in 1971. Parker was really supposed to be a liberal, but a traitor--they couldn't trust him. Some of those people took the position that they'd rather have known a conservative like Bill Clayton that they knew was their enemy than a Carl Parker who was a, you know, wolf in sheep's clothing.

Marcello: I've even heard it said that there were a lot of suspicions that it was Parker who was telling the Mutscher forces everything that was going on in the meetings held by the "Dirty Thirty" and this sort of thing.

Bynum: Right. That was my freshman session, Ron, and you know, in that session the whole world was coming down on my head, and I didn't understand why. But, yes, sure, they've always said that. I don't know whether that's true or not. I've always said there's no such thing as a secret in that domed building in Austin. Anybody that thinks there is is fooling himself. Yes, those people were bitter towards Carl Parker--there's no question.

But whatever the reasons, the Head people, the philosophical liberals in the House, could not bring

themselves to support Carl Parker, and they were able to get enough assurances from Bill Clayton. Like I say, many people just couldn't believe that a Craig Washington or a G. J. Sutton would support Bill Clayton from Springlake, Texas. But they did. I think it stands well for Clayton that he was able to go through a session and manage to keep that support together.

Now whether he can do that again or not, particularly if we're faced with a tax bill and some of the other things, with the exception of . . . you know, every legislative session is the most important that there's ever been, and the issues that face it are the greatest. I think we'll always see that. But I think in all honesty you have to say that the Sixty-third Session was sort of a shakedown session. We had the Sharpstown session and all of its problems, and we really hadn't dealt with the problems of the state then. Then we had the reform session. Then finally, the Sixty-fourth Session was sort of like "We've had all of these problems. Let's kind of get down to business." From the standpoint . . . we didn't have to pass a tax bill. We didn't have to pass a redistricting bill. Those are two bills which, of course, are terribly divisive bills. We didn't have to do that, so maybe that's the Clayton advantage.

He didn't have to take sides. He didn't have to redistrict somebody out of business. He didn't have to decide who was going to get the black bean in taxes. So maybe it was a little easier for him to hold the coalition together. But nonetheless, I think he would get high marks for his ability to do that.

Marcello: Is it not true that during the Constitutional Convention Clayton remained relatively low key, that is, compared to the activities of both Head and Parker? They campaigned pretty hard during that Constitutional Convention, did they not?

Bynum: Yes, and it's funny how things work. Clayton sort of had his conservatives--his thirty or forty conservatives--and they were all for him, and everybody sort of understood that all of us West Texas conservatives, if that's what we are, were for Clayton, so no one really was bothering us. But Head and Parker were in natural conflict because so many of the people that were there were ones that they both thought they ought to have. It was almost the dividing line between philosophical liberals and your more labor-type liberals. I say all this . . . you understand I am one who despises labels and refuses to wear one, so I really may be unfair to sit here and put labels on other people. In trying

to make generalities I think sometimes you have to. Because of their natural conflict, you know, Head pretty much knew and Parker pretty much knew and he [Parker] wasn't going to go get somebody that was a West Texas conservative to support him at that point of the race. They were fighting over the same people, and the fights got very personal and very bitter. All during that, at various times, they would have dinners with people and try to have meetings. They'd get their close-knit group around them. All three did that. Clayton did, too. Clayton doesn't have the intense personality that Fred Head has or the abrasive humorous personality that Carl Parker has. Those two just came into such tremendous conflict-- personally. I keep using the word bitter, but it was bitter and it was vicious at times.

It seemed like they were fighting with each other, and the theory was as if those two had accepted the theory that Clayton couldn't win, so they weren't worried about Clayton. They were so busy fighting with each other, thinking that if either or the other could just get the advantage, the Clayton people would have to fall in line. They really weren't worried about Clayton. I think it was just because everybody kept theoretically saying, "You know, those

moderates and liberals just can't ever be for Billy Clayton." And sure enough, when it gets into speaker's politics and personalities and all of that, a lot of geography and philosophy can take second place.

Marcello: According to the Texas Monthly in that particular issue when they rated the ten best and the ten worst legislators, their comments about Parker were something to the effect that he could be, and at times was, a very vindictive and threatening sort of individual during that session of the Legislature.

Bynum: Well, that's true. I like Carl Parker very much, and personally we have a very good relationship. Carl can be almost a physical-type person. He can make you feel almost as if he's threatening you even when he's being humorous about it. He may even laugh. Now I frankly think he's not nearly as threatening as he likes to make people think he is, and some people think he is. Although I'll say this in my honest opinion, and we'll probably never have a chance to know, but I said this from the outset . . . early on when I supported Clayton I really did believe that in spite of the attempts by some to hang Barnes and Mutscher on Clayton's neck that Clayton would be a fairer, easier-going kind of speaker than Carl Parker would have. I think Carl

would have been much more tempted to use that gavel than Bill Clayton did. That's just my personal opinion.

I think--you've got to understand that after the Sharpstown ordeal, and after the Sixty-third Session and Price Daniel's reforms, no speaker in the Sixty-fourth could have returned to the Tunnell-Barnes-Mutscher style of leadership. It would have just not been acceptable. The House would have revoked it. I don't think it would have made much difference whether it was Head, Parker, or Clayton. I don't think anyone could have suddenly taken the House back into that old style of leadership. It just would have not been a reasonable sort of thing to try, and I think all of those people probably knew that.

But I really do believe that, yes, Parker could be a very intimidating kind of guy. I don't think there's any doubt of that. I think he enjoys that reputation. Jim Nugent is that way. Jim Nugent delights in the fact that people never can figure out what he's doing and they think he's a super snake. He enjoys that kind of image. Parker was that way.

At the same time a lot of people felt that Head could be very irrational and could fly off the handle

and lose his temper. That was one of your great criticisms of Head. You must give Bill Clayton good marks for his ability to sort of ride calmly through the storm, when the rest of the boats began to break up to be there to pick up the pieces.

Marcello: I gather from what you've said that you were a supporter of Clayton's from the very beginning.

Bynum. Clayton and I are nextdoor neighbors in our districts. When I was first elected, Bill Clayton was one of the members that took me under his wing. Philosophically, Clayton and I are different. His district is a very West Texas, sparsely settled, rural district. My district is, although I'm out in West Texas and Amarillo and everybody tends to paint me with the rest of those people, a very small metropolitan district. I don't have a farm in my district. I'm sure there's a lot of farmers probably that live in my district who have land somewhere outside of the city. But I do have a city district. I have a good deal of really poor people-- poor poverty-type people. I have approximately 7 per cent Chicano. My district is not like many of the other West Texas districts, and I think my voting record reflects that. So there have been a number of times that Bill Clayton and I haven't voted alike, although we were close. From a political standpoint

I think my voters would like to see a panhandle representative be speaker.

I was an early supporter of Clayton. In fact, I think that I probably signed the first pledge card that Bill Clayton had signed. Not that I was the first person that said I'd support him, but I was in his office when the printer sent the cards in and immediately signed one. I was a supporter of Clayton's early on. I was an interesting animal. I guess I was really the only one who was an early day one Bill Clayton supporter who was also on the inner circle of the Price Daniel group.

In fact, after the speaker issue had been settled on Labor Day weekend, I sort of became the intermediary, the go-between, between the Daniel people and the Clayton people. Often I found myself in that role, not particularly because I wanted to be but because, as the transition was trying to be made, Clayton's people might call and say, "Ben, could you go take care of this or take care of that," and Daniel's people would call and say, "Would you go see what Clayton wants to do about this and wants to do about that." I guess I was fairly unique in that standpoint. I really can't think of anybody else who was really on the inner circle of the Daniel operation and who was also very much a Clayton supporter--an early Clayton supporter.

As I pointed out earlier, I don't think Clayton ever had House members as a group as much as most speakers have had. In fact, Clayton really is pretty much a one-man show. I think he and his aide, Jack Gullahorn, pretty well work together. They make their decisions and operate that way. He doesn't have a team of five or six or whatever that he relies on. He has a number of people that are close to him, but he does his own thing. I think his style of leadership is such that he really doesn't use very many House members. I would say probably the only one he relies on, on a day-to-day basis, would be Pete Laney from Plainview. At least that's my observation. But I don't see a group around him.

His closest friend, earliest supporter, and hardest worker was Tom Uher. But by the end of the session I think he and Tom were almost split up. Tom was that upset. Tom is an old Mutscherite, and he wanted to see the old style brought back, and I think he was very disappointed that Clayton didn't do it. I think the things Clayton did that made a lot of other people happy greatly disappointed Tom Uher.

Every speaker has his own style, but I think Clayton probably doesn't have that. But I am strange, I guess, in that I was one of the few that was really close to Daniel and really close to Clayton.

Marcello: What you're saying in effect then is that during the Clayton campaign for the speakership, your primary role was to act as a liaison between the Clayton forces and the former Daniel forces.

Bynum: Well, my support of Clayton was very open. Of course, many members that are caught in the middle in those speaker's races are trying to play every side against the middle, and they haven't made up their minds. If they have made a commitment to one candidate, they've asked him to keep it quiet and not tell others. I think you've got to realize that this campaign probably went on for a year and a half--maybe in some ways longer than that--but at least a year and a half. It was a pretty open campaign, a three-way race. We talked about that before. During that time, I wouldn't say I was a liaison or that there was any liaison, although I guess there were occasions when Price Daniel, Jr., would call me in and ask me to take Clayton a message. Usually it was along the lines of "We've got a bunch of problems here in the convention, so hold down the speaker's race," and that sort of thing. And I would do that, and I'm sure he was doing that for the other candidates, too.

The period of time I'm talking about where I really did that liaison was after the word was out. Everyone had acknowledged Clayton had the necessary

seventy-six votes. Clayton became the speaker-apparent. That was in September, '74. So there was a period that everyone knew Bill Clayton was going to be elected speaker, but Daniel continued in the office until Janaury. That was a period of time where I did a good deal of liaison work.

Marcello: Do you recall if Clayton made any commitments during the race, that is, something to the effect that if a legislator promised him his support he in turn would receive some sort of a committee chairmanship or something like this? Is this standard procedure or didn't you find this taking place during the Clayton campaign?

Bynum: I think that I am personally convinced that Clayton never made a promise of a chairmanship or even implied one to anybody in that campaign to get their votes. It's against the law to do that technically, but to prove a conversation, of course, would be impossible.

From start to finish the Clayton forces really had two arguments why Clayton ought to be elected: one, that he was imminently fair; and two, that he was a super good guy. That implied, I think, that his two major opponents were not fair and were not good guys. I think this was generally the type thing that was acceptable.

Obviously, the negative side was, "Do you really want a super arch-conservative guy from Springlake,

Texas, to be your speaker?" Of course, that argument would be used by the others. You know, they'd tell somebody from Houston, "How are you going to go home and tell your constituents in the Fifth Ward that you voted for a honky from West Texas for speaker?"

But I really do believe this, and am convinced that Clayton never made a commitment. I talked to too many other of his lieutenants . . . and I know he never made me one. I know that after he was already elected and during that two-week period between his election and the time the committee appointments came out, too many of his very strongest, closest supporters really didn't know what they were going to do. So I'm convinced that they had previously had no commitment. But the real proof, I think, is the fact that everyone naturally assumed when Head made his announcement for speaker that Clayton had assured him that he would be chairman of the Appropriations Committee. I think just the very fact that Clayton did not appoint him as chairman of the Appropriations Committee proves that Clayton never did make him that commitment. I think that there may have been a conversation in which Head said what he wanted, and Clayton probably said he would certainly consider it. Those kind of conversations are very interesting conversations between two people privately.

Clayton may well have let Head think that's what he was going to do, but I think that Clayton is an honorable man. I really believe that. And I believe that if Clayton had ever said, "I hereby commit that you'll be the chairman of the Appropriations Committee if you come out for me," then he would have kept that commitment. So I am convinced because he did not appoint Head that he never made a commitment to him. Now he may have let Head talk himself into believing that that's what he was going to get, but I think that Clayton was very careful with what he said to Head to make certain that he did not make him that promise. And I think by the fact that Head accepted it, and he may not have been very happy about it when he was chairman of Higher Education instead of Appropriations, the fact that he did accept it and went on with his business pretty well proves that at some point Clayton said to him, "Now, Fred, you remember what I said was . . . and I cannot make you chairman of Appropriations," and I think Head probably had to accept that.

So I am personally convinced that Bill Clayton never made any commitments or deals with any members. I really believe he was as good or better about that than anybody, probably even better than Price Daniel, and I don't think Price Daniel ever made any specific,

"Yes, I will do this." I think the probably Daniel would talk around it in such a way that he would give people pretty strong indications that he would. I think Clayton did less of that. I was present--because I was on the campaign team, so to speak--when he would talk to these people. People would say, you know, "What I want is thus and so, and can I have it?" Clayton would immediately say, "I am not making any commitments. I'll consider it if you want to be for me. The only thing I promise is that I'm going to be fair and do what's right." I saw him tell people that, and I saw him lose votes because of it.

Marcello: Would you care to comment on his committee appointments, that is, some of the more important committee appointments that he did make?

Bynum: I thought they were really very, very good. I thought he balanced them. He appointed the first female chairman. He appointed the first black chairman in the history of the Legislature.

Marcello: There was a black and female chairman--Eddie Bernice Johnson.

Bynum: But he didn't just play the game of finding a black woman and say, "Look, I've appointed the first black ever." He also appointed Craig Washington. I think that they were good appointments. I think if you

really look at them and consider them, almost without exception, they pretty well reflected Clayton's support. I think you saw Clayton's original friends in your really major chairmanships--people like Bill Presnal, chairman of Appropriations, and Tom Uher, chairman of State Affairs.

I'll give you an example of where I think probably some people were very surprised. Von Dohlen and Newton early on were playing lots of games where they were always never committed. Wyatt and I were all in that same class and all very good friends and all moderates. We were really trying to get them to do it. I think we all knew really deep down that particularly Newton had kind of made commitments to both Parker and Clayton. But after it was all over, Newton was busy talking about what a great Clayton man he was and how strong he really was for Clayton. When Clayton announced that he was going to split the old--what had been under the Daniel rules--Natural Resources Committee into two committees--one Energy and the other Water and Conservation type matters, everyone just assumed that he was making a chairmanship for Newton. When Clayton announced that Newton was going to be the vice-chairman of that committee, I think that Newton was probably very surprised, and so were many other people. And I think that sort of thing pretty well reflects how Clayton did that.

Interestingly enough, Head and Head's people, like Washington and those people who were sort of on the boat second, although they're the ones that really put it in the water, were chairmen, but were sort of in the second echelon. I think that his appointments did reflect his support. He made them himself without consulting anybody.

Marcello: Well, again, when you say the appointments reflected his support, he sure as hell didn't want to put his enemies in chairmanships.

Bynum: Well, sure.

Marcello: You just don't get anything done that way.

Bynum: Right. Well, there have been those who suggested that it would make the session easier. You know, Caldwell, of course, had been acclaimed to be such a great chairman of Appropriations. Of course, perhaps after eight years of Bill Heatly, anybody would have looked good. And I say that as a friend of Heatly's. I personally do not like or approve of Heatly's style of leadership or style of politics, but I like Bill Heatly as a man. I don't have the negative, hostile feelings, and incidentally, I think Heatly's a very good man. I've seen Heatly do incredibly humanitarian things. Heatly is not a bad guy, and he is not a crook. Heatly is an old-style politician that believes that he's going to take

care of his friends first and his constituents first, and everybody else can go to hell. That's the way Heatly operates. If that means tromping on somebody's toes, he doesn't mind tromping on them. I don't apply to Heatly some of the really evil, sinister, crooked sort of things that many people do. Heatly is a smart opportunist and old-style politician of the first magnitude. You have to give the old fox a lot of credit. I don't like the fact that he does not hesitate just to walk over somebody if they don't agree with him or if he gets the chance, or to lie in wait for people, and he knows that. Those are things I've told him on occasion.

But back to what I was talking about, which was Caldwell. There were many who told me they felt that it would be a great thing if Clayton would make Caldwell chairman of the Appropriations Committee-- that it would be an olive branch to the Parker people because Caldwell had been Parker's campaign manager, that it would take the sting out of Parker's loss and that it would show people that he didn't have anything against the liberals and many other things. Well, he didn't do that. I think probably Bill Presnal did a very creditable job as chairman. He didn't have the strength and the "pazzazz" that Caldwell had, but I think he did a very good job.

Marcello: And I think even Caldwell could probably understand why he wasn't appointed as chairman of Appropriations.

Bynum: Oh, right, yes. I certainly don't think that Caldwell thought for a minute he was going to be or should be, or given the old reverse that he would either. But there were some of Clayton's own people who had suggested that that would be a beautiful gesture, to start things off, and it would really be a good idea.

But overall, you know, I think you've got to say Clayton's appointments reflected certainly a fairness. Certainly he did not put all people that agreed with him politically in chairmanships. He gave them to cities and to Republicans and to blacks. I suppose the first--I'm not sure about this--but I guess practically speaking that Hutchison was also the first Republican chairman in the recent modern history of the House. So I guess you've got to say Clayton appointed the first woman, the first black, and the first Republican.

I generally think the committees were good. I think they pretty well reflected the House. I don't think he stacked any committees particularly. State Affairs was probably a little more conservative, maybe, than the House. I'm not sure. Appropriations was probably a little more liberal than the House, and

part of that was because of the seniority rule, I think, not because of Clayton's appointments. But I would just say overall I don't think many people could criticize his committee appointments. I don't think that there's much room there for criticism.

Marcello: You got on the Insurance Committee again. Isn't that correct?

Bynum: Yes. I was chairman of the Insurance Committee under Price Daniel. Well, my first session, I was on the Insurance Committee. Why, I'll never know. I'm not in the insurance business. I didn't know anything about insurance, but I was there. My second session I was appointed chairman. Then Clayton reappointed me chairman. Let's see, Jim Nugent was reappointed chairman of Transportation, and I was reappointed chairman of Insurance. It seems to me like there's one other that remained, but I can't recall which one. We may have been the only two that were holdovers from one administration to the other. But, you know, I think that's good.

It's probably one of my criticisms--I think we talked about this in previous interviews--in the legislative session there is a need for the development of expertise and continuity. I have always believed, and will continue to believe, in "retention" seniority.

You know, when I was a freshman, there was no seniority at all. Then Daniel went to a little bit different seniority, and that was "choice" seniority, that is, by your seniority you had the right to choose one committee. And each committee would be composed of half of the membership by seniority. I would like to see a rule stating that any member can retain a committee, period, that you can't knock a member off a committee he's already on. But if they don't want to do that, at least I'd like to see them go to a system whereby half the membership of a committee can retain by right. I think that would help continuity. It would help the Legislature. It would certainly remove some of the power of the speaker. But I have always thought that this procedure would be good. So we could have that kind of a seniority system.

But, like you say, I think Jim Nugent and I were the only two that retained our chairmanships. There may have been a third. I can't remember. But anyway, it was good and I enjoyed it. In an area as complex as insurance, I'm still learning.

Marcello: Let's talk about some of the issues that came up during that legislative session which occupied a great deal of the time of the legislators. Now one of the first things that struck my attention was the fact that there

was a budget surplus when the Legislature met. How did that budget surplus affect the activities and so on of the Legislature when you first got there?

Bynum: Well, of course, when it became evident that there was anywhere from eight hundred million to 1.5 billion-- it depended on whose figures you listened to--in surplus, I think probably we all immediately realized that meant that we would certainly have to agree with the governor on no new taxes. I don't think anybody wanted to go home, after there had been this state-wide publicity about having all of this extra money, and then pass a tax bill. That would be a good way to get a lot of people unelected. So I think that we knew that from the outset.

In the months before the Legislature and as we were convening, many of the legislators were asked to comment, and some put out releases without being asked to comment, on different things. A number of people were proposing various tax cuts. You know, "We've got a surplus. Give the money back to the people." Some went as far as to say, "We ought to reduce the sales tax by a penny." I think Senator Creighton was an early advocate of that. A number seemed to agree with Briscoe and said what we ought to do is repeal the sales tax on utility bills. It was a time when utilities were going up and the people thought that would be a

good gift to the citizens as well as at least have a little break on their taxes since the rest of the bill was going up.

A number of people, notably Governor Hobby and, I think, maybe even Clayton, were taking the position that we ought to put that money aside in a savings account, so to speak, to use it somewhere down the road when we needed to have it. If nothing else just keep it in the bank to draw on. Most people don't know this, and we all talk about pay-as-you-go and what have you, but there's a lot of months when the State of Texas is overdrawn, sometimes horribly overdrawn. Sometimes when I get overdrawn at the bank, I'll take out last month's state thing and notice that they were sixty-six million dollars overdrawn. It makes me feel much better. It doesn't make my bankers feel better, but it makes me feel a lot better. But there's a lot of months this happens because the money comes in quarterly, and the expenditures and the incomes don't match each other. It's not unusual at all that the state is literally overdrawn. So part of the theory was that we ought to use that money as a cushion for that sort of thing. It was bad business and bad operations, and we ought to use that money for a cushion.

I know that Representative Wyatt, Representative Hutchison, and I have always been concerned and do not like part of the pay-as-you-go operation with regards to the purchase of state buildings. We think it's pretty silly to have to appropriate ten million dollars to build a state building which will be used for fifty years, and that we ought to do it like all other buildings are built and amortize that out. Well, you can't do that because you can't borrow money. So one of the things we wanted to do was set that five hundred million dollars aside into a building fund and borrow against that for the amortization for future state buildings.

Well, this was all good rhetoric during the first month and a half of the session, but by the time the realization of the teacher salaries and the rest of the tremendously inflationary costs of the state government came, we suddenly realized that probably we were going to be lucky not to have to pass a tax bill. By March and April, I think most of the conversations about tax rebates and even setting aside money was pretty well forgotten. In retrospect, I suppose perhaps it's too bad that we didn't do it, but as Comptroller Bullock pointed out, I think he said that if we'd stayed in session another thirty minutes, we would have spent

more money than we had. The money had to be used. I think Bullock was conservative in his estimates of income.

Marcello: Most comptrollers usually are.

Bynum: Well, no comptroller ever wants to get himself in a position that he underestimates that because that would be a quick way to get unelected. But I think Bullock was particularly conservative for political purposes as well as for the traditional reasons for just being careful as an officeholder. But for whatever reason, I think we'll probably have a surplus next time, too--not nearly as great. Of course, the economy has a lot to do with all of that. But nonetheless, the surplus just vanished and was used for the various operating expenses.

One other suggestion that many people made, and one that somewhat appealed to me, was that it might be a good idea to take some of the surplus and invest it in capital improvement programs. In other words, if you put it in operating expenditures--salaries and ongoing programs--you're going to have to come back the next session and fund them again. Whereas if we used them for whatever state building programs we needed, or even to go in and retire in one fell swoop

some of these tuition bonds that these boards of regents have used to build buildings, we'll be doing future legislatures and future generations of students both a big favor. So these were all bright ideas--none of which materialized and probably demonstrate that when you've got money you're probably going to spend it.

Marcello: You mentioned Bob Bullock awhile ago. He became rather prominent during this past legislative session, I think, for a number of reasons. Obviously, he was a much more active comptroller than his predecessor.

Bynum: That's the understatement of the morning. Yes, he was a controversial, activist guy when he was on Preston Smith's staff and really was Preston Smith's bag man. He was a controversial guy when he was in the Legislature. I wasn't there then, but he's from my wife's home town, and I understand he served two terms of the Legislature--one term he was an arch-conservative and the other term he was an arch-liberal.

Marcello: You mentioned he was Preston Smith's bag man. Would you care to elaborate on that?

Bynum: Well, I think that Bullock kept all of his personal files and did all of his political work. He primarily did his money-raising. When Preston was running for office, Bullock is the one that would go around and ask people for campaign contributions. I guess the

term would mean that he would get the money and put it in a little black bag, which I'm sure he didn't. I don't mean that in a particularly negative connotation. Anybody in politics has to have somebody like that. But that was the role that Bullock played.

I think that everyone would agree that during most of that time, particularly during Preston's second term, he was the "heavy" in the administration. He was the guy that said, "No." He was the guy that turned the thumb screws. Every governor has people like that. Mike Meyer primarily fulfilled that role. Larry Temple did it in Governor Connally's administration, and certainly Cotton and Howard Richards and people like that do in the Briscoe administration. That's not to say it's necessarily bad. But somebody has to be the "heavy," and Bullock was the "heavy" in Preston Smith's operation.

And then he went on to become secretary of state for awhile. Then he was appointed to be chairman of the Insurance Board, and the Senate busted him. There's no question that Bob Bullock is going to be controversial wherever he is, and I think Bob Bullock thoroughly likes it that way. I think it's obvious that Bullock, once he got elected comptroller, immediately started running for governor. You know, when you're running for governor, good press, or press period, is one of the things you need. He was certainly a very activist comptroller.

Marcello: How was it that those delinquent sales taxes were never collected under the former comptroller?

Bynum: Oh, I think you just have to say that it was not a priority item in his office, and people just wouldn't pay. And Bullock, I think, would be the first to say that the former comptroller didn't have the necessary staff to check it out and do something about it. Many people didn't know this, but the Legislature almost tripled the appropriations to the comptroller's office, much to the regret of the chairman of the Revenue and Tax Committee, Joe Wyatt, who fought with Bullock all during the session over that. But Bullock's appropriation for the comptroller's office has almost tripled. He made a lot of commitments and promises to the Legislature that he would do things like collect delinquent taxes.

He set up a whole new division to look into corporate taxes by out-of-state corporations that have not been paid, he said. I suspect that if you think the show he's put on now with padlocking places of business in Texas is good, I suspect that the next act is going to be even better when he starts going around to these big out-of-state corporations and knocking on the presidents' doors and telling them that they're either going to pay up or no longer do business in

Texas. Then I think the next Bob Bullock three-ring circus may be even more fun than the one we've just seen. But he's that kind of guy. He's flamboyant and there's never a dull moment.

Marcello: Let's move on and talk about some of the other issues of the Legislature. Let's take a shot at constitutional revision since it's something that you were directly interested in. It got through the Legislature fairly fast as compared to all of the wrangling that went on during the convention.

Bynum: Incredible! You know, all I can say is I would have never believed that it happened. I'm very glad it did. In fact, to show you how little faith I had that the Legislature would do it, I introduced House Bill 1. I was the author. The first bill with number one on it was the Bynum bill that created a new citizen's convention. I had decided that the Legislature couldn't do it and that politicians were too subject to outside pressures both from the voters at home and probably from many special interest groups. So I decided if we're going to get a new constitution it was going to have to be citizens. So I had House Bill 1. I was fully prepared. The lieutenant governor was ready to go, and he was supporting it. Of course, Price Daniel was helping with it, although he wasn't in office anymore.

But Ray Hutchison and I, who are good friends--disagree on many things, but we are good friends--had a long talk about it. I agreed with him to give him a run on the attempt to pass some of the bills floating around. Sullivant had introduced the constitution primarily that Attorney General Hill had written. Hutchison, I think, had introduced the one that was purely the convention document. Geiger had introduced another one. I don't even know where it came from. But finally they pulled all of those together.

I had agreed to give them a full run in an effort to pass one of the previously written documents before we went into my bill for a convention. It's interesting that whereas in 1971 we thought we had to pass a constitutional amendment to have a convention, by the time that all of the experts and the research had been done and the constitutional revision and reform had come around, we had all agreed, including the attorney general and what have you, that a simple bill could call a convention. In fact, I think we agreed that probably if fifty citizens would go out and write a new constitution, if they could figure out how to get it put on the ballot, if they could get the Legislature to submit that to the voters and the

voters approved it, that it would be the new constitution, the theory being that the people have the right to change their contract with the government. If the people in fact do change it, it would be legitimate and legal. However, we're not going to get into all of that.

Back where we were. So what happened was that the House committee took up this document. The committee spent a good deal of time. The Constitutional Revision Committee spent a lot of time working on the document. Now it was primarily the convention document. Most of the time we spent was working on the transition schedule and the submission documents, which we changed, of course. The convention was going to submit one document with some side issues. We decided--the committee decided--to go with the article-by-article approach. Of course, the problem with article-by-article is that you have to do some tremendous transition work because you have to proceed on the theory that any one or all of a group may pass or fail. So you've got a tremendous plug-in problem--what stays and what goes if propositions 1, 3, and 6 pass and propositions 2, 4, and 8 fail. But the staff did a tremendous job. Steven Bicker's staff and those folks did a fantastic job, and we worked that out. We spent a lot of time working on that.

The rest of the document that the convention passed was pretty much the same with just a few technical changes. The only real major change we made was in the education article on the Higher Education Fund of Texas--the non-permanent fund schools got upset that their boards couldn't float bonds. So in a harangue, Speaker Clayton and Ray Hutchison and I met one night with all of the various interests from the higher education folks in the speaker's apartment. We started one night about nine and stayed until about three in the morning. We hammered out language that made us all happy. Hutchison and the speaker and I were determined we weren't just going to give any board of regents carte blanche to float bonds. The boards of the schools thought they were second-class schools because the PUFF boards could have bonds and they couldn't. So we finally worked out a compromise where they can do it as long as the Legislature knows what they're doing in advance. That was changed.

We also included in there Texas State Technical Institute. We made TSTI happy at long last. They had never been included. They just wanted something recognizing vocational education in the constitution, so we put in a little nicety

for them. In any case that was really the only significant change from the convention document.

We all sort of agreed that the Senate was going to be the hard body to get the document through, and Gammage had SJR 11. So, to salve the conscience of the world's greatest egotist, the state senator from Texas, we decided to let them use their number. The lieutenant governor did a tremendous job of pushing it through the Senate. The Senate did in one day what they couldn't do during the entire Constitutional Convention. I think personalities had a lot to do with that. We know that there were some members of the Senate that had had their nose bent out of shape from the first day of the convention when Price Daniel was selected president. I think when they got over on their own home ground and could save face and be the Senate and do it as the Senate and not as just a bit number in a convention, they did it. I'm proud of them. I think it's great they did. But they did it in one day, and we in the House then took it up and did it in two days.

We were surprised. Hutch and I and several other members of the committee thought there would be a couple of those articles we would probably have to vote on a couple of times to get the necessary

100 votes. You had to get 100 votes. We just didn't think the education article would go. We were worried about the finance article. But lo and behold, we got them all passed. I think the education article was the closest. I think it only got 102 votes, as I recall.

Marcello: Did you not make the amending process kind of difficult, also, to make sure that the constitution would get through both Houses?

Bynum: Yes. Well, we had talked about this and those of us who had worked very diligently during the interim between the convention knew that we could not open up the whole process for every political question that had been debated. It would have destroyed the legislative session. So we had to pass special rules, and we did pass special rules that any amendment to the constitution which dealt with more than one subject would take a two-thirds vote.

I think, in some credit to all the legislators, the temptation to demagogue was overseen. A bunch of people could have gone up with amendment after amendment, and there were some of those. That's what took two days. Some people knew they weren't going to pass their pet project or something that the voter at home liked. But they wanted to make one more run at

it. They did and they were defeated in their attempts. But really I think a great deal of restraint was used on that.

But we knew if we had had a normal amending rule where you could amend by 50 per cent of the vote, you opened up every controversial issue that the convention spent six months dealing with again. So we had to shut that off, Ron. We knew that, and everyone knew it. We had too much legislative business to bog ourselves down even for more than a week, let alone a couple of months.

Marcello: Ben, how much flak did you personally receive as a result of the Constitutional Convention not coming out of there with a document, that is, you as a legislator?

Bynum: I didn't personally receive very much because I am so openly a proponent of the new constitution. I think I was one of the twenty-three entrenched moderates that voted for every single one of those proposals in the last few days of the convention from final resolution 1 to final resolution 32. I voted for every one of them. I voted for them with right-to-work and without right-to-work. It didn't bother me. I wanted to submit a document to the voters, and I was not going to get hung up. The constitution is a compromise, and that document certainly wouldn't be the one that I would personally write, but it's such an improvement over the present that I voted for all of them.

I was pretty vocal about that at the time, and I think the citizenry, the ones that were keeping up with it and the ones that knew, were aware of my position. The newspapers reported that pretty well, so no one could really jump on Bynum because Bynum had done his share and far beyond. In fact, I was on the submission and transition subcommittee. I was the one that worked so hard in the closing hours trying to find a compromise. I wrote compromise after compromise. I wrote the right-to-work compromise--the super-statute that we finally put in there--trying to get it worked through. Joe Wyatt and I together sponsored the amendment putting the prohibition on food and medicine in there, trying to sweeten the pot some. We tried everything. We really did. So I didn't ever personally get much flak.

I think the Legislature as a whole, and my colleague at the time, Bryan Poff, caught a lot of flak. He voted "No," and the people knew he voted "No." There were lots of people out there who took the position, "That may not be a good constitution, but I wanted my chance to vote against it. You were wrong in not giving me the chance to vote it down." I think that was one of the reasons the Legislature did indeed take one day in the Senate and two days in the House to approve the constitution. I think after

tempers had cooled, personalities had changed, and emotions had cooled down, legislators went home and talked to some of the folks that said, "Why in the hell didn't you give me a chance . . . why'd you spend six months and four and a half million dollars of my money and give me nothing to vote on?"

I think it was very significant that that happened, and I think there were a lot of legislators who were influenced by that, particularly the ones that voted "No," and I really think the voters knew. I think most of the voters that were keeping up and the kinds that would be upset knew who voted "No." I think the press was pretty good about giving a run-down. Of course, in the aftermath and the name-calling and the blame-throwing, in each area those people who voted "No" pretty much had to justify their position. They were running for cover pretty hard. Some of us that voted "Yes" wouldn't let them just go and take a cop-out and hide. We kept the heat on.

I remember, for instance, I was on a TV show with Poff, and they asked him why he voted "No," and he gave some lip service to the fact that it wasn't good for the farmers. Poff and I had long had an unwritten rule that we didn't "chub" each other no matter how we voted. I wouldn't let him get away with it. I said, "Now Bryan, that isn't true. You

know better. That constitution had a provision that allows for special taxing on farmland, and that constitution has a prohibition against ever having a sales tax on seed, feed, fertilizer, and machinery parts. That constitution is a farmer's dream." And he just mumbled something.

I do believe, Ron, that particularly those people who voted "No" did feel a good deal of hostility from a number of people. Mainly because they were in the position that they might try to convince somebody that something about it was bad and wrong and that they did right by voting "No," but inevitably they'd have to face the question of, "Well, you might be right, but let me decide that." So I think that those who voted "No" did feel a good deal of pressure. I didn't.

I never had anybody say that I was wrong to vote "Yes." People just didn't say, "That was a bad document. Why did you vote for it?" I never heard that comment except from some of the labor people. Some of the labor people, your organized labor people, had pushed so vigorously for the "No" vote because of the right-to-work side issue. They were hostile about the fact that I had voted "Yes," but in my case it was more because I had early publicly, and certainly told labor, that I was opposed to right-to-work being in the constitution, which I am. Right-to-work is part

of statutory law and has no business in the constitution. The constitution text ought to have something in it based on a federal statute. On the other hand, many of those people took that to mean that I was voting "No" no matter what.

I did vote "No" some eleven times in the convention. I voted against right-to-work in one form or another in the constitution. But we lost that issue. Once we lost in the democratic process, I didn't believe in blocking a whole new constitution over one issue. I can think of a number of things that I didn't like about that constitution, but in the end it was still overall better with or without right-to-work. You know, it was a side issue anyway. So as a side issue let them fight it out in the public. I thought labor was very wrong and irresponsible. I understand their problem. They got themselves backed into it. They painted themselves into a corner that their leadership couldn't paint them out of.

But nonetheless, I did catch some hostility and flak. Most of it was more along the lines that the people believed I had renigged on a commitment. I think there's a very clear difference about saying that you'll vote against putting right-to-work in

the constitution than in carrying that to the fact that you would vote against any document that had right-to-work in it. Once you've lost a battle, you go on.

Marcello: Well, voting against the constitution in that convention was bad enough. But I assume voting against it plus spending several million dollars in conducting that convention even compounded the displeasure that the voter might have had.

Bynum: Well, of course, the press took great delight in reporting dollar amounts. Four and a half million dollars in the total state budget is an infinitesimal amount. That never bothered me. I think had not everything worked out like it did . . . and certainly the work of the convention was not lost, but even if it had've been, suppose that we couldn't have done that and we were going to have to start again with a citizen's convention. The development of constitutional theory in Texas and the knowledge that those 181 legislators got of basic law and constitutional law in my opinion would have made it worthwhile even if we'd have lost the work product, which, of course, we didn't. So I think you can look back and say, you know, the whole thing did pay off. I said before the legislative session that the four and a

half million dollars was not wasted. The body of written material alone that the staff compiled and the minutes and the records of the convention alone were worthwhile.

Marcello: They've all been taped, have they not?

Bynum: Oh, yes. Every bit of that is. And the records will prove very beneficial in the future court decisions over the new constitution if it passes. But all of those things, I think, are beneficial. And the education that the Legislature itself got was worth the four and a half million dollars alone if nothing else had been produced. So I've never been too upset. But the man on the street says, "Well, you jerks spent six months and four and a half million dollars and gave us nothing." I think there certainly was a lot of that feeling with the man on the street. It was not a feeling I shared. I didn't think it was a wasted experience for the state no matter what the outcome.

Marcello: Probably the most important issue that came before that legislature involved public school financing. I think there were all sorts of ramifications here. In part, the whole subject came up as a result of the Rodriguez decision, which simply threw the problem back in the lap of Texas. It really didn't say anything beyond

that, but it was quite obvious that something was going to have to be done about coming up with a more equitable system of public school financing. What sort of a public school finance bill did you want to see put forward?

Bynum: Well, I was in favor from start to finish with the general approach that we in the Legislature finally took. That was to redo completely the present minimum foundation formula. The formula as it's presently written is very complex. Some people say there are only about eight people in the state that really understand it. It's very complex but it tends to reward the wealthy districts. I think the approach that we're ultimately going to have to take is that we're going to have to work out a minimum school formula which does two things: one, that in the really poor districts just literally give them extra dollars out of the state treasury; two, I think the formula needs to be constructed in such a way that it will encourage districts to properly evaluate their property and to properly tax their own residents. I think the districts that are making a local commitment to education should also be rewarded with tax dollars. Those districts which are trying to hide evaluations to poor evaluating, and not charge very much for the

amount of education they have, should be penalized. In other words, the formula should encourage the local districts that are willing to make the sacrifices. The people that are willing to vote the taxes to have a good system of education ought to be able to have that system and should be encouraged by the matching state dollar. And I think that's the direction we started. We certainly didn't get there. I am not a fan of the weighted pupil approach.

Marcello: Okay, why? Of course, this was Briscoe's approach.

Bynum: I think there are several reasons. I think in the first place that Briscoe's approach is not very well thought out. They had a problem. They sent some people to Florida. People saw what Florida had done and came back and tried to very quickly adjust the Florida concept to Texas. They weren't very successful at it, I don't think. But in addition, what really concerns me the most about that is that you're not dealing with the problem of tax equalization and property tax equalization. You are weighting pupils. I think the idea is that we'll try to spend the same number of dollars on each student. I'm not sure dollars spent is necessarily a valid formula. In addition to that, when you start weighting pupils, you put more weight on some than others, that is, a

special student or a deaf student is going to get more weight. I'm afraid that it will encourage superintendents to throw students into special programs so they can get more state dollars.

Marcello: Like the vocational programs and things of that nature.

Bynum: Right, and in any program that is weighted heavier than your average program, the temptation for the superintendent is going to be to tell his principals, "Now you get as many kids in. In borderline cases, be sure to go over to the heavily weighted programs so we'll get more dollars." Probably there wouldn't be many that would really try to subvert it, but at least you wouldn't blame any superintendent who said, "Well, given the toss of the coin, we're still going to go toward the extra dollars." I think that is bad, and that's what concerns me the most about the weighted pupil approach. I'm afraid school systems would be tempted at best to try to shove students into the higher weighted programs instead of where they really belong. That is what bothers me about it.

Marcello: I suppose everybody and his brother had an education bill during this session, did they not?

Bynum: Well, sure. Of course, then you got into the whole area of teacher salaries. You really had two separate issues that were all clouded and junked together in

one big proposition for public education. The first issue was finding ways to equalize educational opportunities. Second was the whole issue of how many dollars we could push into the bill for the TSTA. So issues were really getting confused.

But basically the TSTA bill was the TEA bill with the salary schedule in it. I was pretty much in favor of that. I thought the TEA bill was the best of the several that floated around. Unfortunately, in the very end--and I think it was a sad commentary and maybe explains sometimes why the courts end up getting involved in this--far too many members ended up going into the computer printouts to see exactly what that bill did for their own districts. They were all over the Legislature with those printouts, and we all quickly learned which columns to look at--pluses and minuses--to see how it affected our districts. Far too often I think members would take a bill and say, "Where's the printout on this bill?" look at the bill, and decide how they were going to vote. I think that was wrong, for it's not the approach that will ultimately solve the problem.

But I think the bill we passed was a start, and a step in the right direction. I think that we

can work from there. I'm in hopes that the TSTA and other teacher lobby groups, now that they have a very substantial increase--and I realize it wasn't what they wanted and there still are some militants that are talking about ten thousand dollars starting pay--will become as concerned with equalization as they are their take-home paychecks.

Marcello: I think a lot of people were turned off by the fact that TSTA seemed to be thinking only in terms of increased teacher salaries and seemed not to care at all for trying to implement that Rodriguez decision. The whole emphasis was on teacher salaries.

Bynum: I agree with that. I consider myself a friend of TSTA and have always voted for substantially higher salaries. In fact, I'm for ten thousand dollars if we can find the money to pay them. Yes, I think TSTA put themselves in that position. At the same time they were talking about what TSTA believed in was education of the child in the classroom, it seems that what they were really interested in was how many dollars they could take home.

TSTA, it seems to me, has not been very responsible in the field of trying to improve their own profession either. There was a period of time, I guess in '71, when we had a great teacher shortage.

We don't have a teacher shortage anymore. When we don't have a shortage, I think then we can find ways to talk about excellence. TSTA doesn't seem to do that. I've always been concerned about the kindergarten program. We suggested to TSTA that they come in with the rationale of why children can learn at a younger age, which I agree with, and why we ought to have the five-year-olds in school. You say that's great, and that's a good idea. Let's get them out sooner and get them into colleges and get them a job. Let's do away with the twelfth grade, just move everything down. That's not a good idea at all.

I can't help but get the impression sometimes that TSTA is interested in creating more teacher jobs as opposed to really being concerned about what's best for the student. I think that, as a result of our educational processes and as a result of television, young people learn faster now and can retain more knowledge. That's one of the reasons why I didn't hesitate to vote for eighteen-year-old voting rights. I don't see any reason why we're locked in on twelfth grade or that they have to finish when they're eighteen. I think our system's too rigid.

Marcello: I gather that TSTA did put on a rather heavy lobbying effort in the session to get their particular bill passed.

Bynum: Well, there's no question about that. I think it was in the last session that a group of University of Texas students did a survey of the Legislature to see which lobbies were the most influential and powerful. Most people were surprised at the results of that. Most people, when you talk about lobbyists, think about the oil and gas and insurance lobbies. It came out that the teachers were first; second were the trial lawyers; third was the Baptist church; fourth were the Catholics; and fifth was organized labor. So that surprises a lot of people sometimes.

But I don't think there's any doubt that TSTA is an extremely effective lobby because of their continued attention to it and the fact that they pay so much attention to it at home. They're smart enough that they have their local people meeting with legislators when they're home. For instance, next week the local classroom teachers are having an appreciation social for all the legislators up there. Three weeks from now in Amarillo, they're going to have their regional meeting, and the dinner before is in honor of the legislators. At the convention they will

introduce us. They are really very careful to give a great deal of attention even though they don't have much money.

But really in truth and in fact--and a lot of people don't realize this--the lobbies that know how to impress legislators with their votes are much stronger than those that can make big campaign contributions. You know, that's why organized labor has the strength it has. Everybody thinks organized labor gives all of these millions of dollars to candidates. I really don't believe that. I think organized labor's real strength is in its ballot box, at least fear of the ballot box. I'm not so sure that the leaders of organized labor can produce near as many votes as they talk like they can. At least the fear of it, I think, gives them a lot of their clout.

Marcello: Of course, any educational bill that came through the Legislature had to be worked out in the context of the governor's vow that there would be no new taxes.

Bynum: No question. As I think we said earlier in the interview, when it finally came right down to it, we put a pencil to it and said, "How much money is left in the budget, and that's how much money we're going to pack into that final teacher salary." And we packed it in there to the penny.

Marcello: I gather you didn't believe Briscoe was bluffing?

Bynum: Oh, no. No, I never thought Briscoe was bluffing at all. If I would have had my personal way, I would have passed a tax bill in several areas and tried to override his veto. For instance, I think that whether we need the money or not, or even if we just put it away, we're crazy in Texas not to really significantly raise the taxes on our natural resources--our severance taxes, our refinery taxes. I'm really sick of being forced by the Federal Power Commission and the politicians on the East Coast into producing a product at a regulated low price. At least if we're going to have to do that, the one thing we can do in Texas is tax it while we've still got it, while it's still here, and use that money for education and highways and whatever else we need.

I really think Briscoe is absolutely irresponsible with his no new tax program with regards to that. I think that if he doesn't want to have a general tax or doesn't even want a sales tax or income tax, fine. But I really do think that a tax on Texas' energy production is a responsible energy program for Texas, and I think it's a mistake not to do that.

Of course, the oil and gas companies just go crazy when I say that. I don't care. They say,

"Well, if you tax us anymore, we'll leave Texas."

Well, where are they going to go? Louisiana's taxes are basically three times higher than the Texas taxes. I haven't seen anybody leaving Louisiana. So I think they're bluffing. I really do think and hope that in the next session that will be the first area where we look, because we do need money. I wish we'd have tried this session.

Marcello: We were talking awhile ago about the power of the TSTA as a lobby, and to some extent I think that was reflected in the . . . well, in one of the first bills that had to be voted on with regard to public school financing. The ten thousand dollar minimum salary, as I recall, received a tremendous number of votes the first time around because it seemed as though every legislator wanted to get on the record as having voted for it. But then they kept tacking all sorts of other things onto that bill.

Bynum: Well, you know, it was a funny thing. The committee or whoever was carrying it on the floor came out with about, as I recall, seventy-five or seventy-six hundred dollars, somewhere in there. The first amendment was the ten thousand dollars, and it failed just by four or five votes. Then they came up with a ninety-five hundred dollar amendment. It passed and

it went on there. Everyone knew there wasn't ninety five hundred dollars there. Then the conservatives decided, "Well, you know, if they're going to play that game and be irresponsible we're going to load this boat down." So, they came up with ridiculous amendments of free lunches, free busing--I can't remember all of the things--total bilingual programs at the cost of untold millions of dollars. There aren't teachers to teach even if we funded them. They proposed a lot of programs that a lot of the liberals had been fighting for all of these years. They couldn't vote against them, you know, and be on record against them when the conservatives threw their votes in there trying to sink the bill. It was ludicrous. There are ways in the Legislature you have to do those things to prove a point.

But, of course, what ultimately happened is that the bill was so gobbled up after the first day that, as I said before, the speaker finally just had to pull people in and say, "Now, we've got to get this worked out. What can you live with?" And at that point the governor's office . . . really, the speaker's office during that period--that three or four-day period--was just a beehive of activity. There were TSTA people there. The speaker had

several education experts on his staff. They had the governor's people all there together--legislators coming in and out--and finally getting the leadership all pulled together on the bill that finally passed.

Marcello: Now there weren't actually too many people that were in favor of that weighted pupil approach. Certainly Clayton was not in favor of it.

Bynum: There were a few legislators. Generally, the liberals were bitterly opposed to it. Well, I take that back. That's not necessarily so. After all, Dr. Pitney was the leader of the weighted pupil approach. Mrs. Wilhelmina Delco, a new black lady legislator from Travis County, who had been on the Austin school board for eight years, was a strong believer in the weighted pupil approach. So there were those in the Legislature.

As a matter of fact, the weighted pupil approach, as the bill got more and more gobbled up, was gaining strength. I think one of the things that finally caused TSTA to agree to the compromise, come to a dollar figure, and go ahead and vote it out was the fear that if they stayed in a quagmire many more days that the weighted pupil approach might get enough votes to end up in the bill. I think the fear of that caused TSTA to reluctantly--very reluctantly--

agree to the compromise. They didn't publicly agree because they had said, "We'll never accept anything less than "\$10,000." But privately they said, "Well, we don't like it but . . . " So that's what happened.

Marcello: Okay, another one of the major issues that came up during that session was the establishment of a public utilities commission. First of all, did you feel that there was a need, or do you feel that there is a need, in Texas for the establishment of some sort of a public utilities commission?

Bynum: I have mixed emotions about that. I voted against the bill. I think that I was one of the only twenty-five or thirty that did. It was a very small group of us that voted against the bill. I had the feeling during the session and before the session, that between the energy crisis which had brought a public outcry about all utility rates, plus the scandal that was going on in San Antonio and other cities in the state with the phone companies, obviously the time had come for Texas to join the other forty-nine states and have utility regulation. The bill was virtually an inevitable bill. It was only a matter of what form it finally came out in.

My concern about the bill involved several things. First of all, I don't like legislation by

crisis, which was what we were really doing on the utility thing. I had urged utility companies in both of my sessions to sponsor a utility commission bill that they could live with because I knew sooner or later that was going to happen. Needless to say, they didn't pay attention to me.

But my concern was that we would pass a commission in the heat of consumerism in regards to utilities, and we would destroy our own utilities in Texas. As you know, Con Ed in New York and the New England utilities are really in the kind of position that not only can't they build anything because of their bond problems with their regulatory boards, but they may be on the verge of going broke. It's kind of like insurance rates. We don't like insurance companies, and we don't like to pay higher insurance rates. On the other hand, if the insurance companies are losing money on their product, they're not going to sell it, and we have to have the insurance. So utilities are somewhat the same way. We don't like it, but you can't deny the fact that with rises in raw material costs and inflation it's going to happen. So I was concerned about that.

Plus, as we got into it, I was very concerned about regulation of natural gas in my area, regulation

of irrigation gas, which I barely got out of the bill at the last minute. There were some very specific problems regionally that I have that I was concerned with. In addition to that, there was no real pressure in my area for it. We have a private electric company and a private gas company that have been very far-sighted in their building reserves, and they had not the increases that they have down-state. The people in Amarillo have never heard of Lo Vaca. There was just no real pressure for it, no public outcry.

But anyway, I was against the bill, although in my heart of hearts I suspect that there is a real need in any given state for regulation of monopolies. I think that's the case, whether it's the phone company or utility companies or whatever. I think that a good regulatory authority is a necessary thing. So although I voted against the bill, I really don't have any bad feelings about the fact that we established a utilities commission. I just hope they're able to handle it well.

Marcello: Evidently, the House bill was much stronger than the Senate bill.

Bynum: Well, in my opinion the House bill was a punitive bill. I think that's bad. I don't think that you should pass a punitive bill. I've never been on

any of those natural resource committees, and I don't pretend to be very knowledgeable in that area. I can't speak about natural resources with the authority I can some other things. But I just generally felt that the House bill was really a very punitive bill.

I think the final compromise was better than either the Senate bill or the House bill, and I liked it better in the end. I suspect that if my vote had made any difference, I would have probably voted for it if I'd have had to. I would have figured that anything like that with such a foregone conclusion as that, if something bad was going to happen, I could always smile for once and say, "I didn't do it! I didn't do it! I didn't do it!"

But I seriously don't think it was too bad a bill. I do think the original House bill was probably an attempt by the political figures to go home to their constituents and say, "Look what I did to those no good utilities!" I just don't think in the end that serves anything.

Most of the utilities involved are municipally-owned utilities. The ones that people are so upset with are generally municipally-owned utilities, and everyone knows that the people at Coastal States and LoVaca are a bunch of no-goods. But they really

ought to be about as mad at their own local political people that entered into some of those ridiculous contracts five and eight and ten years ago with absolutely no foresight whatsoever. It's easy to get mad at Oscar Wyatt, the president of Coastal States.

I was just never ever very involved in that bill. It wasn't my field and I had too many other problems to worry about. I was pretty well convinced that it was going to pass, and I knew how I was going to vote.

I did have a small amount of interplay with some of the people working on the bill concerning some amendments. I did get them to accept some of my gas-line . . . we've got some problems in the panhandle with people that have very specific gas gathering lines that are used for irrigation well purposes. They were trying to cover gas gathering lines in the bill because of the Coastal States problem, and gas gathering lines have nothing to do with utility regulation. If they're going to be regulated, they ought to be regulated by the Railroad Commission. But it found its way into the bill, and fortunately I was able to get it out. But my involvement with that bill was very minor.

Marcello: I gather that as chairman of the Insurance Committee, which examined some pretty important topics during this past session, your time for the attention that

you were able to give to other matters in the Legislature would be somewhat limited.

Bynum: Between my involvement with constitutional revision and insurance, it was pretty much a full-time job. Being chairman of any committee is very burdensome just because of the administrative work you go through, seeing to it that everything is done that has to be done.

In addition to that, of course, I was very active in some legislative programs. The malpractice crisis broke on our head in February. This is something we were not prepared for and didn't know about. No one, including the medical profession, expected it. I didn't know what a medical liability policy was in November, and by February I was just up to my neck in medical liability.

Yes, I think you're right. Just the day-to-day routine problems that your constituents bring you and, "How am I going to vote on this bill or that bill," pretty much filled my schedule. I would say that my legislative focus this last session was on insurance and constitutional revision. I spent a great deal of time in those areas.

Marcello: In your opinion what was perhaps the most important topic that the Insurance Committee had to face during this session?

Bynum: Well, in my opinion the most important topic the Insurance Committee had to face this session was competitive rating, which turned into a very personal fight between Joe Christie and I, with me in favor of competitive rating and Joe Christie bitterly opposed to it. Ultimately, that bill did not pass.

Marcello: What is some of the background on competitive rating?

Bynum: Well, the background is that in Texas we have fixed insurance rates for property, casualty, and life. This goes back into the 'teens when--primarily in San Antonio and some other cities--insurance companies became so competitive by lowering their prices for fire insurance that when there were a couple of fires, they didn't have the money to cover the losses and they went under. So in an effort to correct that situation, Texas went through a fixed rate and let first the commissioner and then the Insurance Board set the rates for fire insurance and later casualty and auto insurance and later homeowners and the whole line. In Texas, traditionally we have had a system where the State Board of Insurance promulgates a standard policy and a standard rate charged for that policy.

That was an absolute fixed rate in the state until two years ago. Two years ago there was much

pressure for a more flexible system. Preston Smith called a special session in the waning days on that subject. That, of course, was a hoax. He really didn't care about competitive rating. He wanted a legislative session so he could add to the call some medical schools and other facilities for Texas Tech, which he managed to slide through, and the competitive bill never did pass.

But then in the next regular session when Christie was appointed to the board, he came out for the bill, the original Caveness-Bynum Bill. We passed that bill. That bill allows a company to go to the board and request a deviation off of that standard rate--up or down--if the company can justify a deviation. The board then has thirty days to approve. After the board has studied it and if they approve it, then the company can use a deviated rate. Joe Christie and Dolph Briscoe now refer to that as their competitive bill, which they really had nothing to do with except they supported it long after it had been introduced in the Legislature. That form is really not competitive at all. It is a prior approval system, that is, the board still sets a promulgated rate, and there must be prior approval of any deviation.

I am strongly in favor of a system of insurance rating where you have a file-and-use or a use-and-file system. This is the California system. Certainly, California has been using it very successfully since 1949. New York went to it six years ago, and it has proved very successful in New York. States are moving that way. In the '30's and '40's the idea was to have promulgated rates not to keep the rates from being too high, but that was the way the state kept insurance companies from going broke by charging rates that were too low. So they began to have promulgated rates.

Well, now with more sophisticated reporting and with computers, the regulatory bodies in these states can keep up with a company's assets. Companies can't hide their problems like they used to. I'm convinced that to keep a company solvent you no longer need to see to it that they're charging adequate rates.

So I think we can be much better served by having a system where a company can use a rate and then file it. If the board finds that the rate is excessive, inadequate, or discriminatory, they can roll it back. I just think you'll find that the public will be much better served. Plus the political side of it's better. You don't have those

circuses where you have the hearings and all of the publicity of "Insurance Rates Go Up 17 Per Cent." Different companies will be moving at different times, and you won't feel the bite.

People can shop. Particularly involving automobile insurance rates since you've got 350 companies. I just think it's a better system. I'm convinced it's a much better system. I really believe in it strongly.

I introduced a bill originally that was the California system. The California system is wide open. In California the companies don't even file the rates. They just make a memo and put it in their own files at their company. If their state insurance board wants to come and check that, they have to go to the company. I'm really not in favor of that. I think that the companies ought to have to make an official filing with the board as to what rates they're using so the board can check it easily. But I originally introduced that bill.

Grant Jones introduced a similar bill in the Senate, but he maintained filing, and he maintained that the board would continue to fix an average but not a fixed rate--just to maintain an average rate so it would have a benchmark.

Ultimately, I substituted Jones' bill for mine in the House. I had the votes out of the House committee, and I think the House, to pass the bill. The problem with the Senate Economic Development Committee, with Christie having been a former senator and having many friends there, was that the committee was divided. We had three votes for us and three votes against us, and Tom Creighton was the deciding vote. He swung back and forth for a few weeks and finally fell to Christie. We couldn't pass the bill. So there was not any point in passing it through the House if we knew it was going to die in the Senate. But nonetheless, I think that was probably, in my opinion, the major issue facing the committee--an issue which the committee never even voted on.

I think though most people would feel that the most critical issue and the issue certainly that gained the most attention was the question of medical malpractice. Of course, ultimately the Legislature ended up passing two temporary bills and defeating the third of TMA's bills by two votes--the one that would have put a limitation on medical doctor's liability exposure. Of course, that turned into a tremendous fight between the trial lawyers and the medical doctors--incredible fight, incredible pressure on the Legislature.

Marcello: Two very powerful lobby groups.

Bynum: Oh, no question--two of the most powerful. I tried. I spent untold hours. When I realized the crisis, when I realized the potential fight, I had a real desire to save the House from that kind of a vote. There were many members there who had long been associated with and received contributions from both groups. Boy, they were wanting to run for cover, literally! I tried and tried. I spent . . . well, just untold hours--probably fifty hours. One weekend I even went on a shuttle. I felt like Kissinger. I was in San Antonio one morning with the doctors at their congress, and I flew out of San Antonio at one o'clock and met with the board of directors at the Airport Marina at D-FW Airport to try to convince them to come to terms.

We were very close; we almost did it. In fact, we had their lobbyists, and representatives of both groups in agreement one night. We were actually going to come back the next night and put our verbal agreement into writing. When the doctors came back, they had gone to their board, and their board had said, "No." So it was that close.

After I tried for some two months, in the closing hours when it really began to get tight, the speaker made another effort. He called in both sides and read

them the riot act and told them to agree. They couldn't. Finally, the last day even the governor called in the representatives of the two sides and said, "Agree," and they couldn't. So we finally ended up with the great vote and the doctors lost.

We did pass two bills--461 and 499--both two-year bills. One bill set up the joint underwriting association to assure availability and created the blue ribbon panel which is now trying to come up with recommendations. The other bill limited liability on the statute of limitations, cut the long tail off the statute of limitations. So we did pass some legislation which certainly helped the situation. But it's a critical problem, a kind of problem that couldn't have been resolved in three or four months. We tried and, I think, probably did the right thing to put a bandaid on it in hopes we will come back in two years and do something about it. It's a problem all over the country.

Marcello: With reference to that medical malpractice insurance, what sort of a reaction did you perceive on the part of the public? Did you find a great deal of sympathy for doctors and the plight of doctors?

Bynum: Well, it's really funny, Ron, how that worked. People feel differently. A lot of people are very aware of the fact that lawyers are always trying to sue, sue,

sue. Anybody that's been sued or been close to anybody that's been sued is very sympathetic with the doctors and the harassment. Yet, you're talking about the general member of the public. That guy thinks doctors are overpaid and underworked, and they really don't have much sympathy. The idea of the old country doctor that was the friendly old fellow that everybody liked and everybody really thought was the pillar of the community . . . that concept of the M.D.'s is gone. M.D.'s have, I believe, some real public relations problems. Many of their problems they've brought on themselves.

I think there's no doubt that we have problems. There's no doubt that some of the rates are just excessive with regards to this. We don't need to go into it here. I think there are some things we can do. I've come to the conclusion that the limitation on liability was a bad thing, and I'm glad we didn't do it.

But nonetheless, I think you're right. I think the average Joe Citizen does not find himself in great sympathy with the doctors. The guy that's been paying those bills knows that his doctor drives a Cadillac and is a member of every country club. He's not too sympathetic with his insurance rates.

The doctors that have tried to build up some public support, they've put signs in their offices and tried to point out to the public that all of these extra rates they're having to pay are going to be passed on to the public. So I'm sure that a goodly number of the public probably don't want the insurance. They don't like the insurance companies either.

It's a funny triangular fight. We've got the insurance industry and the lawyers and the doctors all in a triangle. Each one of the two can join hands with the other and point fingers. The doctors and the lawyers can get together and say, "Oh, it's all the industry's fault." Then the doctors and the industry people can get together and the doctors will say, "Well, we know the insurance companys' problems, and we know you're losing money on this insurance. If only those damm lawyers would just quit sueing us all the time." Then the lawyers and the insurance industry both get together and talk about what irresponsible, no-good S.O.B.'s the doctors are, and haven't policed their profession. They're full of quacks and butchers, and if it wasn't for them, there wouldn't be any of these problems. It's amazing.

We had a hearing . . . the first hearing the Insurance Committee had on it started at eight and lasted until 3:30 in the morning.

Marcello: It started at eight o'clock in the morning?

Bynum: No, it was at night and lasted until the next morning at 3:30. It would have gone on longer if Chairman Bynum would have let it (chuckle).

But in any case, it's a real problem. It probably got as much public attention as anything the Insurance Committee could do.

Marcello: We haven't talked much at all about Governor Briscoe yet. This was his second term as governor. Did you find any changes in Briscoe between his first term as governor and this time around?

Bynum: They tried to keep Janie out of the limelight. That's the only change I saw. You know, I think his same inimitable leaderless style came through once again (sarcasm).

Marcello: You're not going to say anymore (chuckle)?

Bynum: I can say all you want me to say. I have no real hostile feelings or strong objections to Briscoe. I don't think he's done anything bad particularly. I just think he hasn't done anything good, either. I think that he is a phantom governor. I think he's very bad about not making decisions, not making up his mind,

not letting the Legislature know where he stands, until it gets too close to the final decision. Then he makes his mind up and is in concrete. I can't sit there and think of any great specifics on that.

But I can think of a number of times that he would offer no suggestions, no constructive leadership, until the Legislature had already acted. Then he would tell us he didn't like it and to pull the bill back and redo it. He did that during the Constitutional Convention several times. We had a real problem on the veto. He got upset about the percentages we set for the veto, but he never told anyone. He never let the committee know that he felt strongly about that. He wouldn't come to the committee. He waited until it was on the floor and waited until it could pass. Then he sent word that he just really was upset about that provision. We had to go back and undo what we had done. I just think he's indecisive. I think he's not there, he's not visible. I think he doesn't know the Legislature, really.

There's no governor's team or governor's friends and no people that he communicates with. I think his staff is generally and absolutely inept. I think the only person that's around him that is good, capable, qualified, and intelligent is Mark White, who I fought

with bitterly during this session over my House Bill 4, the campaign bill, but who I think is extremely capable, extremely intelligent. He is the only person really in Briscoe's family that is capable and competent. I think the other members of his staff, particularly the ones working with the Legislature, are absolute jerks. I just think, you know, people like Cotten and Howard Richards . . . you know, I don't think they could find the basket in the back of the Legislature if you showed them where it was.

Marcello: Is this a matter of their not doing their homework when they come to the Legislature or just their general attitude or . . .

Bynum: I think they're just jerks! I think they're just out of their field. They don't know what they're doing. They don't have the background to cope with it. They just literally do not have the ability.

And let me say that I think the governor is strictly responsible for that. It's his staff. I think frankly from what I can observe that part of the problem is that they have no direction from the governor's office. They are just floating out there with no real direction, and they're afraid to say things for fear it'll be wrong. Then they get these absolute marching instructions too late, and they run

to the Legislature and have to say, "Oh! The governor wants this, and the governor wants that." You know, maybe that impresses some legislators but some it doesn't.

There's a great theory that the people of Texas like a weak governor, and they like a governor that doesn't do anything because if he doesn't do anything, at least he's not doing anything wrong. Briscoe fills that role absolutely. I can think of nothing that Briscoe has provided any leadership on. The only thing is his one piece of negative leadership, and that is to say absolutely no new taxes. I'm sure that is very popular with the people. But as far as doing anything for the State of Texas, I think he's been terribly negligent in the field of energy. Governor Edwards in Louisiana came out strongly, called a special session of the Legislature when the energy crisis hit, passed a number of bills which at the time he said, "These bills are probably unconstitutional, but they protect our resources, and it'll take about two or three years to work through the federal courts. During that time we'll have them in effect." I think Briscoe should have been doing that sort of thing.

His whole attitude and position on the constitution is to me just incredible. Every governor since Coke Stevenson has talked about constitutional revision

and constitutional reform. If I were a governor of Texas right now, I can think of no greater mark in history than to say, "While I was governor, I gave the people of Texas a Bicentennial gift--a much-needed, new constitution." And, yet, Briscoe isn't for it and he isn't against it. He did nothing to help us during the convention. Briscoe could have made the difference in those three votes--there's no doubt in anyone's mind--had he been involved. He could have gotten those other three votes.

Now that the Legislature has passed it, he seems to take the position he doesn't know what he thinks about it, which is amazing since the document's been floating around now for nearly eighteen months. He keeps giving the press and people the "I have to study it" sort of thing. He said, "I know I don't like annual sessions, but maybe I like the rest of it." I just think it's incredible, and it's sad because we all know that the reason that the Louisiana constitution was passed in April of '74 is because Edwards got so strongly behind it.

Dolph Briscoe could pass this constitution if he would come out strongly for it. There's no question in my mind. It's very sad that he won't. In my mind it's just another example of this absolute lack of

leadership ability, his ineptness. From knowing him, from being around him, he's a good businessman. I don't think he's indecisive particularly in his decisions. He seems to have to study things too long. He doesn't want to lead. He wants to wait and let all of the facts come in and then finally make a decision. Well, the only problem is that in the political arena, when you operate that way and whole legislative bodies or whole bureaucracies work through a process and make a decision and then it finally gets to the governor's desk when he's given them no direction whatsoever, when he decides he doesn't like it, they have to start from scratch again. It's very burdensome, whereas, if he would just say at the outset, "Find me a decision, but the ballpark is here, and you can't do this and you can't do that, and look at this," then they come up with some decisions. It's just sad that he does that.

A good example is the strip mining bill. He asked Senator Sherman from Amarillo to chair that Energy Resources Advisory Committee. That was where they got into strip mining. Sherman studied it. Sherman's committee recommended the bill. Sherman carried it through the Senate. It passed in the House over the speaker's objections. Finally, it got to

Briscoe's office, and Briscoe just tetered for days on end as to whether or not he was going to sign it. Whereas he should have just called Sherman anytime during the session and sat down with him and said, "Now senator, if you'll put this and this and this in it, it'll certainly be acceptable." He gives no guidance or direction to Senator Sherman. Finally, after it's already passed and on his desk and the Legislature's out of session, Senator Sherman had to go to Austin and just beg and plead with Briscoe to sign it, which finally he did.

I was one who, incidentally, voted against it. I voted with Clayton. I thought it was a little bit too rough. But the point is that the governor was just so totally without direction in the whole matter. I just object to that. I think this kind of state, growing the way we are, needs leadership. We need to have an activist governor, and we don't.

Marcello: You talked about a topic awhile ago that I think would fall under the category of your personal legislation. Of course, this is something that I always ask the legislators to talk a little bit about. You mentioned the election reform bill. Before you talk about it specifically, I would assume that there wasn't too much of a carry-over

in the Sixty-fourth Session of that reform movement that we saw in the Sixty-third Session.

Bynum: Well, I think there was more of it than perhaps surfaced because Clayton was speaker and conservatives seemed to be the dominant force. You had some feeling that all of that Daniel reform was so much icing on a cake. You know, I am--if that's the term--still and was and have been a Daniel reformer. I think we ought not have too much power in the chair. I believe in open government. I believe in public disclosure. That doesn't change with me depending on who the speaker is. So open meetings, open records bills--things like this--are things that I'm for no matter who's speaker. I think a lot of members are like this. I think there's some cooling of the ardor, and we didn't have to go down there and prove anything because of the Sharpstown thing. As I said before, I don't think any speaker--Clayton, Parker, anyone--could have gone into that chair and tried to restore the kind of authoritarian type of leadership that Barnes and Mutscher used. That is a thing of the past. The Legislature will never accept that. So from that standpoint I don't think reform was dead.

Marcello: I didn't mean to imply that either. Would it almost be safe to say that the whole business of reform was

so successful during the Sixty-third Legislature that perhaps there wasn't a whole lot that had to be done in the field of reform going into the Sixty-fourth Session?

Bynum: Well, yes, I think that, plus we'd make some mistakes. There was no question that in the lobby control bill we had really done some things that we didn't intend to do. We didn't intend to fix it so that my chamber of commerce couldn't come down and talk to me about the legislative problems that we have in Amarillo.

Marcello: Or I couldn't have bought your lunch today (chuckle).

Bynum: Right. That sort of thing. No one intended to block the right of access of the people to their government. Then we had changed the bribery law on the penal statutes, which really wasn't any part of the reform movement. We'd done a general penal reform.

And they'd defined bribery in such a way to at least imply that any gift to anybody in public office was a bribe. This was bad because you couldn't tell what was and what wasn't. Everybody was running around afraid of their local district attorney. That was a problem.

Then in the campaign bill, which I authored in the Sixty-third Session, I had promised . . . it was a very complex bill, and I promised at the time, I

said, "This bill is not perfect. We will have to continue to work on it and to revise it. I'm going to personally work on it." Which I did. One of the reforms was to make committees report. Under the old law, the way you always got around it, you formed some bogus committee, let all the individuals you didn't want to name give to the committee, and you reported the committee. Well, we stopped all of that. What we didn't see was that there's a very different kind of committee between the Ben Bynum Dinner Committee and the on-going MEDPAC, which is all the doctors that give into a fund and then it's distributed; or TREPAC, which is the realtors, and so forth and so on. They're all these . . . the trial lawyers fund or whatever. They operate so differently that they need to be treated differently in the law.

So we had some cleaning up to do, and the Farenthold-Briscoe suit pointed out just literally the bad grammar in the bill that the Briscoe people were trying to use as a loophole. So we knew we had to clean up that bill.

But just generally I think your statement's right. I think that we have had our reform session and that people were happy about it. Some people

have tried to imply that now that things have calmed down and no one was looking we were going to undo our reform. I don't think that was an attitude at all. There were some real problems that had been created that needed to be corrected, but I don't think we were undoing reform.

Marcello: Is there any other personal legislation that you would like to talk about and get as a part of the record?

Bynum: I would just very quickly add a few things on House Bill 4 because we've talked about it, I think, in previous sessions. I did carry a new House Bill 4. It had the same number, and I had it numbered the same. One of the things that had happened is that under the old House Bill 4 we created an elections commission. You know, we couldn't pass the Ethics Commission in the Sixty-third, but I did pass the elections commission. Then it was ruled unconstitutional because I put some judges on it, and they would then be recommending charges that were to be preferred, and then they could later sit in on them. I think the attorney general was right in declaring it unconstitutional.

I still believe, and will continue to believe, that we ought to have an elections commission. I don't think that any one person ought to be the chief

elections officer of the state, and particularly oversee campaign disclosures--especially the secretary of state. The secretary of state is the governor's right-hand appointment. He should not oversee all campaign reporting and disclosure. We should have a bipartisan commission.

So I introduced House Bill 4. I cleaned up the problem, separated the committees, put some good language in there outlawing dirty tricks. Watergate taught us a few things, and we've added a section in there that says it's against the law now to make any kind of contribution in somebody else's name. In other words, I couldn't give mine to you and say, "Don't tell him it's from Bynum, but report it for me." We made that illegal. We made the Muskie-McGovern thing illegal. We said it's illegal to make any kind of a contribution in somebody else's name, which I think was good, and then set up the commission.

I was having somewhat of a fight with Mark White. He wanted to keep that in his office, and it's typical of bureaucrats. They don't want to lose any of their power and authority. I beat him good on the House floor--about eighty-three to forty--to keep the election commission in the bill.

It went to the Senate, came back without it, and the Senate also added this verbiage about public

officeholders and included them in the use of funds, which is going to be a real problem for the next two years. I'll have to clean it up again next year.

But, for the record I would say that Mark White and I are good friends. I think he's very capable and competent, and I think he's a great guy. The only other thing I can think of that I really got upset with in this session was--and White and Christie were the two that upset me--that appointed state officials should not advocate and lobby for legislation. They should not have press secretaries. They should not use their appointed offices as stepping-stones for future elections they may want to run in. I think we've seen a lot of that.

As far as paid state employees lobbying, the worst example I saw of that was the attorney general's office--a guy by the name of Ron Luna, who was an assistant attorney general. He had written this mobile home bill that's created so much flak. He called me off the floor, sent me a note just like a constituent or a lobbyist would call me off the floor, told me his name and said he was there representing Attorney General Hill and did I have any questions about this mobile home bill. I told him I didn't have any questions about it. I was going to vote against it. He said, "Oh, you can't do that! Let

me explain it to you. Attorney General Hill and I really want you to vote for it." I said, "You tell me that you're a state employee out here lobbying for a bill?" He said, "Yes." I said, "I won't even talk to you anymore!" It infuriated me. It's wrong. It shouldn't happen.

I am, in the next session, going to introduce legislation to deal with this. If I can't prohibit it, at least I'm going to make them register as lobbyists just like everyone else has to do. You know, for Joe Christie to come over and openly lobby for bills, I think that's wrong. I think those people should be available. If we ask them for their opinion, they should give it to us. They should give us any information that we need. Joe Christie called insurance company lobbyists and asked them to help him exert pressure on members of my committee for things that he was for and against. I think that's bad, and I think that will have to be changed. But we'll talk about that the next time we get together for an interview.

Marcello: Okay, well, Ben, that's all the questions I have, and I want to thank you once again for participating in the Oral History Collection's Legislative Project. As usual your comments have been most candid, and it's always a pleasure to talk to you.

Bynum: I'll be back.