

NORTH TEXAS STATE UNIVERSITY
ORAL HISTORY COLLECTION
NUMBER 38

Interview with
Lieutenant Governor Ben Barnes
January 5, 1970

Place of Interview: Austin, Texas
Interviewer: Dr. Ronald E. Marcello
Terms of Use: Open
Approved: Ben Barnes
Date: April 21, 1970

Oral History Collection

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Dr. Marcello: This is Ron Marcello interviewing the Honorable Ben Barnes, Lieutenant Governor of Texas, for the North Texas State University Oral History Collection. The interview is taking place in Mr. Barnes's office in Austin, Texas, on January 5, 1970. Now, Mr. Barnes, in practically every legislative session, of course, the raising and the appropriating of money is probably the paramount problem facing every legislature. Very early in the general session of the 61st Legislature, you came out in favor of the one-year budget. Now, I'm sure this is all part of the public record, but for our record, at least at North Texas, I wish you would cite once again the advantages of that one-year budget.

Lt. Gov. Barnes: We had enough surplus in the state treasury to operate Texas through August of 1970 without having to have any new tax bill. It would have been possible for the Regular Session of the Texas Legislature to meet and appropriate money for the next year's fiscal needs and not have to impose any new taxes on the people of Texas. I thought this was a particularly good idea. I think it's a good idea every year because I'm for annual sessions, but in 1969, with the tax

bill pending before Congress, that will have a real effect upon the Texas economy, with the Nixon's administration pending position on oil imports which would also have a tremendous effect upon our economy, plus the inflationary times in which we live, I thought it was a very unintelligent approach to take to state spending and taxing--to pass a tax bill without any more information than we had in the spring of 1969.

Marcello: Why do you think Governor Smith was opposed to the one-year tax budget?

Barnes: I think that Governor Smith opposed the one-year tax plan because of his opposition to annual sessions of the legislature. Governor Smith has been in state government now for some nineteen years. His philosophy is that what he has done in the past, he feels, is proper and correct for the present.

Marcello: What did you think of Governor Smith's original tax proposal, the one which I believe originally totaled \$260,000,000?

Barnes: Well, I thought Governor Smith was very dedicated in his proposal. I did not disagree with him, so far as the intent the Governor might or might not have had in recommending the program. I thought the chemical tax, or the gross receipts tax for any industry, was unfair. Of course, the Caveness Plan which would have removed money from the permanent school fund was ruled unconstitutional by the attorney general. I think the other aspects of the tax plan, however, were very palatable, and most of those recommendations became a part of the final tax bill that was passed.

Marcello: There was some speculation, of course, that his proposed tax on

the chemical industry was politically motivated. Do you feel that this is the case?

Barnes: I really wouldn't care to comment about that.

Marcello: During the 61st Session of the Legislature there was also quite a bit of social legislation passed. One of the things, of course, I believe, was increased welfare benefits. What was your position on that particular matter?

Barnes: I worked very hard to increase the welfare benefits; plus I think every piece of constructive social legislation that was passed either had my public endorsement or my private support. I think the 61st Session of the Legislature did more, as far as passing legislation to alleviate the social conditions in our state, than any other previous session in the history of Texas.

(Tape pause)

Marcello: In general, then, were you satisfied with the amount or the extent of the social legislation that was passed during the . . .

Barnes: Well, I don't suppose that you're ever satisfied, but we did take some steps forward. Our welfare system in Texas needs a complete re-evaluation, overhauling, which I hope that the interim committee I've appointed is going to do. But I think overall that the 61st Session of the Legislature was very productive as far as social legislation is concerned.

Marcello: How about the field of education? Were you in favor of the new colleges which were created by the session of the legislature?

Barnes: Some of the new colleges I favored. Others, I was not as enthusiastic for, perhaps. I think in higher education we went

further toward meeting the need than we did public education. We financed higher education at a level higher than ever before in the history of this state. I think the legislature should be commended for that. We failed to pass much of the public school legislation that was part of Governor Connally's fifteen-man study committee recommendation which is vitally needed in Texas. I think that's the area of the greatest failure of the 61st Session, although we did pass the largest teacher pay raise in the history of this state or perhaps the history of any other state in one single legislative session.

(Tape pause)

Marcello: Do you feel that adequate legislation was passed to deal with student unrest on the state college campuses during the last session?

Barnes: Oh, yes, I think adequate legislation was passed. I think, perhaps, some legislation might have been passed that wasn't even needed. Our administrators on our campuses of our colleges and universities have the tools with which to deal with their student unrest. They know what to do. It can be done.

Marcello: What are your feelings with regard to unrest among college students?

Barnes: Oh, I think a great deal of it is futility on the part of the students. I appreciate their concern. In fact, I'm very pleased they're interested in correcting a lot of the wrongs and a lot of the evils in our society today. But I don't think they are using very good political judgement in the selection of the appropriate vehicles with which to bring about these changes they've brought

about. I'm thoroughly convinced that young people can have a very great impact on the political process of this country if they will just work within the existing framework of our own political structure, rather than trying to tear up the system we have today.

Marcello: Let's move on to the Special Session of the 61st Legislature. Just for the record what necessitated the convening of the Special Session?

Barnes: Governor Smith vetoed the one-year appropriation bill, which necessitated the passing of the two-year appropriation bill and over \$300,000,000 in new taxes to pay for this appropriation bill.

Marcello: Now, also, I believe between the time of the regular session and the beginning of the Special Session, there was about a \$90,000,000 increase in the amount of money proposed. What was the reason for this increase?

Barnes: . . . \$25,000,000 of it went to pay the cost for the welfare amendment that was passed. Other necessities in spending arose during this time and the legislators felt they needed to appropriate money for them.

Marcello: Several legislators felt that this increase could only be met by an increase in the state sales tax, because they said it was impossible to raise the \$350,000,000 by any other means. What was your position on this?

Barnes: Well, I felt like the sales tax had to be broadened or increased, but I felt that the tax plan should have had better balance than what Governor Smith recommended or what the House passed on three different occasions. My role as Lieutenant Governor and the role

of the majority of the members of the Senate was to balance that tax program equitably between business and consumer taxes.

Marcello: Of course, one target was an increase in taxes on alcoholic beverages. Could you tell us what you know about the activities of the chief lobbyist for the breweries, Homer Leonard, during the Special Session?

Barnes: Well, Mr. Leonard was a very good personal and political friend of the Speaker of the House. The beer industry had a great deal of influence in both the House and the Senate. They worked hard, as any industry would, to keep new taxes from being levied against that industry. Well, personally, I favored including alcoholic beverages under the sales tax as thirty-nine other states do. Now this was the greatest area of disagreement between the House and the Senate in the legislative leadership. It finally was resolved only by my making a speech on the floor of the Senate at the time and virtually served notice to the beer industry that they were going to be a part of any tax bill that passed.

Marcello: How close are these ties between Speaker Mutscher and Homer Leonard? There's been a lot said about this.

Barnes: Well, I really wouldn't want to comment. I have great faith in Speaker Mutscher's character and his ability. All of us have friends, both personal and political. I respect Speaker Mutscher's friendship with Homer Leonard, but I did not think that this should be the roadblock to keep us from getting the session completed.

Marcello: What was Governor Smith's position with regard to a tax on beer and liquor?

Barnes: He had recommended this. I was disappointed that he did not work harder for it from time to time, but he had recommended a tax on alcoholic beverages.

Marcello: What exactly was the beer industry's position on increased taxes? Were they in favor of putting beer under the sales tax or did they want to increase the excise tax?

Barnes: They were not in favor of increasing the excise tax or putting it under the sales tax. They were opposed to any form of new taxation on that industry.

Marcello: Smith, of course, followed the lobbyist's request to a certain extent. What effect did this have on relations between Mutscher and Smith?

Barnes: Well, I think probably Speaker Mutscher and Governor Smith got along as well as any governor and speaker have gotten along. It's difficult for me to analyze. I never doubted the sincerity of either man in the positions that they took during the Special Session.

Marcello: Well, on the first vote, of course, for the inclusion of beer under the sales tax the Senate voted in favor of it. What was the reaction of the House conferees to the Senate inclusion of it?

Barnes: The House conferees' position was that they could not go back there to the House with a tax bill that included any increased taxes on alcoholic beverages.

Marcello: I think it was on August 21st then that the Senate as I recall, rejected the House's compromise. Why?

Barnes: Because it did not include a tax on alcoholic beverages.

Marcello: In the meantime, of course, attention focused on the inclusion of food under the sales tax. Can you relate any of these behind-the-scenes maneuvering or gestures among certain senators that led them to promote the inclusion of food?

Barnes: Yes. The House conferees said the only way that they would take a tax on alcoholic beverages in any form or fashion would be to include food under the sales tax. I told Senator Wilson, who favored increasing state franchise taxes to raise additional money and no increases in the sales tax, and Senator Creighton, who favored broadening the sales tax to include food . . .

Marcello: Creighton was the one who originally brought up the question, was he not?

Barnes: Yes, this is true. I told them that the first man to go out and get a majority of the members of the Senate to support his program that I would then encourage the Senate to send the bill to the House. Well, Senator Creighton was successful in getting fifteen votes for that tax bill. Those fifteen men weren't voting to put a tax on food. They were voting to get a bill to the House that would break the House bargaining position there, you see, and allow us to write a reasonable and fair and equitable tax bill. And this is exactly what happened.

Marcello: I assume or I get the impression that by this time you were more or less in favor of any tax bill which would pass.

Barnes: Well, I felt that we had to include alcoholic beverages under the sales tax because there had been so much attention focused there on it. The spotlight had been brought to bear, and I didn't think

the public would approve of a legislative action that excluded these two items from the sales tax then passed \$350,000,000 in new taxes. I felt like any bill that the Senate passed to the House that included the items that the House requested to be included under this would weaken the House's bargaining position. This is exactly what happened. A lot of people who did not understand the political interplay that was involved were highly critical of the Senate's decision to include a tax on food, you see. But this was not what the play was at all. As time has told, that act by the Senate really broke the House's back, and then we were able to complete our work.

Marcello: Now Senator Oscar Mauzy of Dallas, who led the anti-food tax forces, used both quorum breaking and filibustering tactics. What did you do personally to combat the activities of this filibuster?

Barnes: Oh, it wasn't a matter of combating the activities of the filibuster. I just kept the Senate in session and told them that they were either going to pass that tax bill or some other tax bill, and that we were going to stay in session until we passed a tax bill. We were in the middle of the second special session. We didn't have time for any more activity on the part of either the House or the Senate that was not directed toward giving a final and ultimate tax bill.

Marcello: When members of the Senate were first mulling the question of putting food under the sales tax, at that particular time did Speaker Mutscher feel that he could muster the necessary support in the House to . . .

Barnes: Yes, Speaker Mutscher told the members of the Senate Tax Conference Committee on several occasions that he could pass this in the House. I don't think any of the Senators believed that he could.

Marcello: Did you?

Barnes: No, I didn't.

Marcello: When the filibuster did take place, Mutscher recessed the House, did he not? He adjourned the House over the week-end. And I think most people will agree that that was generally a mistake on his part, was it not, because it did give public sentiment a chance to jell?

Barnes: Yes, I think that could probably be a correct analysis.

Marcello: While this was taking place, this debate over the food tax, what was Governor Smith doing in the meantime? Was he in favor of it? Was he opposed to it?

Barnes: He said he would sign and would support the broadening of the sales tax to include food.

Marcello: Eventually, of course, the food tax bill did pass the Senate, did it not?

Barnes: Yes.

Marcello: I guess that was on Sunday, if I remember correctly. A sixteen to fifteen vote. Do you feel that it would have passed without your help? Do you feel that your role was pivotal in the passing process?

Barnes: Oh, I think probably if I had not have kept the Senate in session it probably would not have passed. I think my role of keeping the Senate in session and not letting them adjourn helped, but I would

have kept the Senate in session for Senator Wilson's bill. Well, they were going to stay in session until they passed a tax bill of some form.

Marcello: Nonetheless, I suppose then that both you and Speaker Mutscher decided to let the House kill the bill. Why was this the case? Was it because of the irate public opinion or just that he simply could not muster the necessary votes?

Barnes: Oh, I think it was because Speaker Mutscher could not muster the votes. He made that decision independently. He did not let me participate in it. I still think that there was not as much public reaction to the sales tax on food as what the newspapers would lead you to think. In the polls that we've conducted after the session was some three months behind, no one mentioned the tax on food. Out of some 3,500 people that we surveyed, no one even remembers that the legislature considered a food tax. There are some thirty-three states that tax food under a sales tax. I think that if people have an opportunity to know that they're going to have some kind of income tax some day in Texas--and I don't think it's going to come even in the next ten years--I think when the public is polled, though, and they're asked their feelings on whether the sales tax ought to be broadened to include everything or whether they ought to pay a state income tax, the majority of the people would favor broadening the sales tax, as other states have eventually had to do.

Marcello: While you're mentioning the subject of a state income tax, how close was the 61st Session to passing a state income tax?

Barnes: Not very close.

Marcello: Do you see it in the near future?

Barnes: Oh, I think someday Texas will probably have to have a state income tax.

Marcello: By this time, of course, after the rejection of the food tax proposal, most senators, I believe, felt that some sort of business tax was the only solution. Then, of course, Senator Ralph Hall of Rockwall introduced his compromise package. Generally speaking, were you in favor of his compromise package?

Barnes: Yes, I was in favor of Senator Hall's compromise package. I was in favor of business picking up somewhere between \$75,000,000 and \$100,000,000 more in taxes than what Governor Smith had recommended. Senator Hall's bill raised some \$85,000,000 in business taxes. This fit right in to a compromise plan that I had in mind all along.

Marcello: Then I take it that you, generally speaking, were in favor of his destination tax.

Barnes: Yes.

Marcello: I think it was the heart of his compromise.

Barnes: Yes, that is correct.

Marcello: Okay, let me ask you some general questions then concerning the 61st Legislature. What responsibility must the governor bear in this impasse over the revenue bill during the Special Session?

Barnes: Well, I think the governor of Texas has a responsibility not only to recommend but to try to pass his programs. I would offer the constructive criticism of Governor Smith's administration in that

he did not work hard enough to pass his legislative program. He recommended it and then sat back and waited for the legislature to act. I think in these times in which we live the state governments are so handicapped because of their lack of flexibility, their constitutional prohibitions, the straitjackets that we find ourselves placed in, that we must have a very active, energetic chief executive who works continually to pass his program, or the legislative process in Texas will not function properly.

Marcello: You would agree that those people who have termed Smith as a . . . or who have labeled Smith a legislator's governor in that he, really, played a rather passive role in the session.

Barnes: Yes, I would agree. I feel very strongly that the governor of Texas needs more authority. We have too strong a legislative branch in Texas and too weak an executive branch. That might seem strange coming from a man who is more a part of the legislative branch than he is of the executive branch. But the governor of Texas needs more power.

Marcello: What type of tax bill would you personally liked to have seen passed?

Barnes: I think the compromise tax bill would have been as close to working out a tax bill. I would have liked to have seen the sales tax remain at 3 per cent and us broaden it to include repairs, not to include food, of course, but to include some other items and leave the sales tax at 3 per cent. I think the one-fourth of one per cent addition placed a very difficult burden on the merchants in tax collecting.

Marcello: While we're on the subject of taxes, how much credence do you give to the so-called "taxpayer's revolt?" Do you think there is one in Texas?

Barnes: Oh, I think there's a taxpayer's revolt everywhere, so to speak. People are worried about inflation; they're worried about tight money. Some people could, perhaps, describe it as a recession. People are getting taxed at all levels too, perhaps, near the saturation point. But I still think that when people are given a choice of whether they want the services and new taxes or don't want the services and don't want any new taxes, that they'll choose the services and taxes, and particularly in the field of education.

Marcello: Now I think you will probably agree that there was a substantial amount of bickering among the members of the 61st Legislature. How do you think this bickering or this trouble over the revenue bill in particular will affect the status of the legislature with the voters?

Barnes: Well, I think the people are somewhat unhappy with the legislature, not, perhaps, as much as some people might think. But I definitely think that this legislative session could have been much more productive than it was. I think the legislative branch, the governor and the lieutenant governor and the speaker all must share part of the blame. I think we failed from time to time in providing a strong enough leadership.

Marcello: Do you think the failure of the voters to approve the referendum calling for increased legislative salaries was indicative of their disenchantment with the legislature?

Barnes: Well, the people have failed to pass legislative salary increases on three different occasions. In Texas, people are generally opposed to legislative salaries. Congress has just given themselves a very handsome pay raise. I think this hurt the Texas legislative salaries. I think one of the greatest needs in Texas are for increased salaries and, of course, for annual sessions of the legislature. I think it's going to take a great deal more public support and a better campaign carried on to inform the people about what the legislature's responsibility is before a salary raise will ever pass in Texas.

Marcello: Why do you believe the voters defeated the constitutional amendment which called for annual sessions of the legislature?

Barnes: Well, it was passed, and it was submitted to the people in a special election where less than a half a million people went to the polls. The water amendment created a great deal of controversy in South and East Texas. And where the water amendment was defeated four and five to one, I think this got out the "against" vote and caused the defeat of annual sessions. I feel that some 65 or 70 per cent of the people of Texas favor annual sessions of the legislature.

Marcello: The next question I want to ask you is perhaps somewhat loaded. Some senators with whom I've talked in the course of my interviews have declared that the present House is one of the most irresponsible in recent Texas history. Would you care to comment upon this?

Barnes: No, I really wouldn't want to comment on it. I think from time to time, naturally in my eyes, I would feel that the House failed more times than the Senate did. But this is all part of the

legislative process. If I was a senator I would be quick to criticize the House. As the president of the Senate certainly I feel that the Senate was much more progressive, much more constructive, took a much more statesmanlike approach to the problems. But I don't want to be in a position of being a critic of the House.

Marcello: Asking a few personal questions, for our record at least, and I know this is a part of the public record also. Why did you decide to become a candidate for re-election as lieutenant governor?

Barnes: I feel that as lieutenant governor I would have an opportunity to have a greater impact on the destiny of Texas during the next few years than I would in any other office. I think to divide my party by running for the Senate or to run for governor, which either one of these campaigns would have done, would have sometime later in my political career come back to haunt me. Most of the things that I want to see done at a state level, I'll have a better opportunity to get them done as lieutenant governor than I would as governor.

Marcello: What would have been the pitfalls of your opposing Smith, let's say, for governor?

Barnes: Running against an incumbent governor for a second term whose financial support came by and large from the same area as my financial support comes could have been detrimental to the Democratic Party that's been the governing party of Texas in the past fifty years.

Marcello: What would be the pitfalls of opposing Ralph Yarborough, let's say,

for the senatorial nomination?

Barnes: Senator Yarborough is considered the darling of the Texas liberals. I feel that I could have defeated Governor Smith or Senator Yarborough. But I think if I had defeated Senator Yarborough I would have been antagonizing a group of people that really have no reason to oppose me and who would not support me in my political career later--if I have a political career.

Marcello: Then I assume that had you defeated Yarborough you would have gone to Washington as a Southern Democrat who had defeated one of the few Southern liberals.

Barnes: That is correct. And I think the South does not need to send Democrats to the Senate who can be painted into the ultra-conservative Southern corner as many of our Southern Senators have been painted in the past. We need to send moderate-thinking people who can represent the New South and the New Southwest on the Washington political scene.

Marcello: A while ago you made the statement "If you have a future political career." Would you care to elaborate on it?

Barnes: Well, I have spent ten years now in politics taking a great deal of time away from my business and my family. My family relations have suffered tremendously from this, and my business has suffered. I am at a crossroads, I feel like, in the next few years, and I must make up my mind whether I'm going to continue in politics or not. Anyone who feels that I am burned up with ambition and could not leave politics is completely wrong because I have no intentions at this time of running for high office as the Senate in 1972.

Marcello: Now, another question that comes up periodically in Texas politics, especially in Texas legislative activity, is this old struggle between the liberals and the conservatives. Do you feel that most of the problems in Texas are of a liberal-conservative nature or do you feel that they are really urban-rural in nature?

Barnes: I don't think they're either one. I think the term liberal and conservative are two tired old terms that don't have any real meaning as far as the future of Texas is concerned. Political parties are issues. Certainly there are some divisions between rural versus urban, but there is a much more of a division between those who think that Texas should perhaps walk or run and others who think that Texas should crawl. I think it's how Texas meets the problems of urban Texas such as water pollution, air pollution, constitutional revision, annual sessions, mass transportation, housing, education. All of these problems that are going to be a part of the '70's are really going to determine the future of Texas. But I really don't think that you can draw either the problems or their solutions along the lines of liberal-conservative or rural-urban, although most of the problems are in urban Texas.

Marcello: In conclusion how would you assess the performance of the 61st Legislature overall?

Barnes: Well, I think it's unfortunate that the thing about the 61st Session of the Legislature that is going to be remembered by the people is the bickering over the taxes. I think much constructive, progressive legislation was passed. Certainly we failed in many areas. But I think overall I would give this legislative session above a

passing grade. I would have to give them a "B" in the course, certainly not an "A," but a little bit better than a "C."

Marcello: What do you think were the major failings?

Barnes: Attacking the problems of urban Texas--not doing enough. And, as I mentioned earlier, in the field of public education.

Marcello: What were you most satisfied with so far as the accomplishments of the Texas Legislature is concerned?

Barnes: I think the appropriations bill where we, for the first time, financed a higher education in Texas at a level that places our state supported colleges and universities in a position to be competitive with any other state in the United States. Texas is on its way toward true excellence in higher education if we don't run off the track. I think the 61st Session of the Legislature has demonstrated great statesmanship in this area.