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Interview with  
Representative L. DeWitt Hale  
September 30, 1973

Place of Interview: Austin, Texas  
Interviewer: Dr. Ronald E. Marcello  
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Oral History Collection  
Representative L. DeWitt Hale

Interviewer: Dr. Ron Marcello

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Dr. Marcello: This is Ron Marcello interviewing Representative L. DeWitt Hale for the North Texas State University Oral History Collection. The interview is taking place on September 30, 1973, in Austin, Texas. I'm interviewing Representative Hale in order to get his reminiscences and experiences and impressions while he was a member of the regular session of the Sixty-third Texas Legislature.

Mr. Hale, before we get into any specifics of the legislative session, I want to ask you some general questions first of all. Most of these concern the new members of the House of Representatives. Now did the presence of seventy-six new members affect House business?

Rep. Hale: Well, the presence of new members always slows the legislative process. Unfortunately, many new members come here with very little, if any, exposure to parliamentary law or parliamentary procedure. It doesn't

matter, really, how capable a man is in the field of law or in the field of politics. If he doesn't have some knowledge of parliamentary procedure, he's going to be lost in the Legislature for a period of time until he familiarizes himself with the intricacies of parliamentary law. I would say that we had an unusual group of new members this time. Some of the most capable young men and women that I have had the pleasure of serving with were in the group that was elected for the first time. I would, by the same token, say that some of the worst that I've ever served with were also included in that group. I think the group of seventy-six new members pretty much ranged the entire area of the political spectrum.

Marcello: Who were some of the ones that you think potentially are going to make very good legislators if they stick around?

Hale: I think probably one of the most capable members among the new group is Craig Washington. Craig is a black lawyer from Houston. I had the pleasure of having him serve on the Judiciary Committee, which I head. I can say from hours and hours of working with him on that committee that he is one of the most able and capable

and dedicated members of the Legislature. We had a number of new members of his caliber. I pick him out because of the fact that he happened to be on the Judiciary Committee, and as a result, I was more intimately associated with him on many areas and worked with him a lot more than I did some of the other new members. Hawkins Menefee from Houston is another outstanding member of the House. For a new member, he did a tremendous job. Buddie Temple from East Texas, Diboll, and the area around there, certainly was outstanding. There were others. Those are three that come to mind, though, that really made a contribution. I won't pick the worst ones, but we did have a number of them as we do every time, a number of members who come here and don't add anything to the legislative proceedings except their vote and their "wisdom" in passing judgement on what somebody else is doing. So the Legislature's no different from any other organization. You have a small, dedicated group in the Legislature that do 90 per cent of the work. I think that's true in other organizations. I know it's true in organizations I belong to. It's true in my church, for instance. There's a handful that do all the work in the church, and the rest of them just

go along for the ride. So the Legislature's really no different in that regard from other organizations.

Marcello: Were most of these individuals elected mainly on a reform platform? In other words, was ethics legislation the sort of thing that was of the most interest to these new members?

Hale: I think you'd have to say that reform--and I would put reform in quotation marks--dominated the thinking of this session of the Legislature. Most of the newly elected members felt like that they had been elected on a platform of change, that the people were casting a vote against what they considered to be "Mutscherism," and that they, as new members, were part of the tide of public opinion that was going to compel change in state government. As a result, if there was any dominant theme in the entire session of the Legislature, it would have to be the theme of governmental reform.

I happen to be one that was really in an ironical position. As a long-time member of the Legislature, I have been known as a reformer, I have consistently through the years introduced resolutions and bills trying to make changes in the organization and procedures

of the Legislature. Most of the reforms with which I've been associated have been directed primarily at the Legislature itself rather than outside the Legislature. Yet I was in the rather ironical position this last session of the Legislature of being in the position of an anti-reformer because I felt that the pendulum was swinging too far. Nothing has happened during the session that's changed my thinking on that. Now that I look back at the session after we finished it, I am more convinced than ever that the pendulum swung too far. I think we've gone overboard on the question of reform. I think you're going to find that the next session of the Legislature, and maybe for two or three sessions, is going to have to go back and undo some of the so-called reform bills that were passed by this recent session.

Marcello: In what ways do you think that the pendulum has swung too far, to the extreme, where reform was concerned?

Hale: Well, for example, we passed several reform bills that had to do with campaign contributions and attempts of people to influence members of the Legislature. As I read these bills, now that I have time to really study and analyze them, which we don't have time to do during the

session, I can see that we have gone to ridiculous extremes. For example, under the new bribery statute, the form in which it's in now, if you and I sit here in my office in Austin on Sunday, September 30, 1973, and you mention to me that you are interested in the appropriations for North Texas State University, and during that conversation you buy me a cup of coffee with intent to influence my vote on appropriations for North Texas State University, you and I both have committed a felony. I think that statute has gone much too far. In the first place, if anybody is going to be influenced by a cup of coffee or by a T-bone steak, he doesn't have any business being in the Legislature anyway. If he can be influenced that easily, if his vote is that subject to the whims and caprices of outside influences, the people made a bad mistake in ever electing him to public office.

It seems to me that the bribery statute, the influence statutes, and the lobbying statutes have all gone to such ridiculous extremes that it's going to probably result in a lot of it being declared unconstitutional because it's going to interfere with normal



contacts between members of the Legislature and other public officials and their constituencies. The right of petition for redress of grievances is written into the United States Constitution. You or any citizen of this state has a right to come to me, talk to me, and try to influence me in what I do here as a state representative. I don't want to change that, and I think we have changed that in a lot of these statutes. A delegation from North Texas State University might come down here and have a public reception. That's probably outlawed under this new statute.

The Chamber of Commerce in Corpus Christi frequently has a luncheon for our legislative delegation and invites the business leadership of the community. The purpose of the luncheon is to attempt to influence us in our votes and our activities, to do those things that the Chamber of Commerce thinks is for the best interest of South Texas. If they buy our luncheon, I think under that statute, by literal interpretation, they have committed a felony.

So I think that's one example of where we've obviously gone much, much too far. The pendulum has swung too far. I think a number of them are going to be declared unconstitutional.

I want to put a plug in for Lieutenant Governor Bill Hobby for trying to slow this process down. He took a lot of flak during the Legislature and a lot of heat from a lot of sources and a lot of criticism that he was against reform. Well, he wasn't against reform anymore than I was. But he could see the danger, as could a lot of older members, of the pendulum swinging too far during this reform movement. He tried to slow it down and did slow it down in the Senate. I think he is due a lot of credit for toning down some of these measures. We didn't get to the radical extremes that many wanted.

By the same token, while I'm very close to him, I would have to criticize the Speaker of the House, Price Daniel, Jr., for being too radical in his views on reform measures. He just went completely overboard. He keyed this whole session, and he pushed everything aside and gave priority to these ten so-called reform measures. He was willing to sacrifice everything else in an effort to get these passed in the most extreme form. While he and I get along fine and he honored me by reappointing me as chairman of the Judiciary Committee and we have worked in harmony, at the same time, in the

area of reform I think he went much too far. He knows I think that. I've counseled with him. I'm not saying anything here today that I haven't told him many, many times to his face--that I violently disagreed with his posture on reform.

**Marcello:** Let me ask you two questions at this point. One has to do with Lieutenant Governor Hobby and the other with Speaker Daniel. As you mentioned, Lieutenant Governor Hobby did receive quite a bit of flak from the press and the news media in general because of his activities in slowing down reform. Would it be safe to say that some of those House reform measures were rather hastily conceived and that in the Senate, where there are more lawyers, there was perhaps an attempt made to refine some of those reform measures?

**Hale:** Yes, I certainly think that's a true statement and a fairly correct evaluation, except for your opening statement that they were conceived in haste. I think a lot of thought went into the package of reform, over a period of many months. In fact, the reform package of ten bills actually developed over a period of about a year or a year-and-a-half. Price Daniel, Jr., when he started out

on his speaker's race, originally proposed a package of four or five bills. Then I think he picked up a number of these other bills, that ended up as a part of his package, from an organization that's known as Common Cause.

I'd like to say this about Common Cause. I think it's getting to be one of the most dangerous organizations in this state. They talk about reform and openness, and yet they're one of the most secretive organizations around. Nobody can find out where the money comes from that finances Common Cause. They have spent a lot of money here in Texas during the last session of the Legislature. I'd like to know where that money comes from. I'd like to know who's behind Common Cause. For a number of weeks, they had an open door to the speaker's office. I finally went to the speaker and told him the talk that was going around. What's the difference between a lobbyist known as Common Cause having free access to the speaker's office under Price Daniel and a beer lobbyist having free access to the speaker's office under Gus Mutscher? It's one and the same thing. I said, "Look, you're getting yourself in the same box Mutscher did." As a

result, I think Price Daniel finally ran Common Cause out of his office. At one time Buck Wood, who is head of the Texas office of Common Cause, hung around the speaker's office so much that you'd think he was an employee of the speaker.

Marcello: Awhile ago you made the statement that you consider Common Cause to be a dangerous organization. In what way?

Hale: I think it's dangerous in the sense that any type of lobbying organization is dangerous when it purports to speak for the public interest and yet it's actually speaking for special interest groups. Now I don't know what special interest group it speaks for. That's part of the problem. I'd like to know. But somebody's putting up a lot of money, and I just don't believe they're getting all the money they're spending from \$3 contributions from interested citizens around over Texas. The citizens of Texas are just not that dedicated to government. I don't believe they have enough \$3 contributors to raise the amount of money they're spending. If they are doing it that way, then why don't they release the names of those who are contributing

the money? I'd like to see a detailed financial report showing where all their money comes from and where it goes. That's one of the things they've been arguing for in a lobby control bill, so it seems to me they ought to lead the way and be the first to come out with openness on everything they're doing.

Marcello: Who were some of the people that were advising Speaker Daniel in the formulation of this ten-part reform package?

Hale: I presume he received advice at some time or other from every member of the House. In his campaign for speaker, he talked to all of them. Common Cause, I think, had really an unhealthy influence on the speaker. I think it was just as unhealthy as the influence of the beer lobby on Gus Mutscher. But beyond that, I think that the ones who sponsored the ten bills would probably be the ones that were closest to him in the reform movement. I presume, at least, if he didn't personally select the ten sponsors, he certainly approved them. Those were the ones, I presume, with whom he counseled mostly. I believe Buddie Temple from East Texas sponsored one of

the ten. He was a co-sponsor on several of them. I know he was one who was just gung-ho for anything with a reform label on it. Much of this among the new members, to my way of thinking, was a very irresponsible attitude. They didn't care what was in the bill. As long as it was changing something, they were for it on the theory that any change is for the good.

Marcello: In other words it was kind of like a knee-jerk reaction? If it's reform, it's got to be good, and we vote for it?

Hale: That's true. Let me just give you one good example that comes to mind--the open meetings bill. Well, I'm for open meetings. I feel that the people of Texas are entitled to know how I stand on various issues. They're entitled to know how I vote on all controversial matters. They're entitled to judge me on the basis of how I vote and the results that are achieved. But I don't believe they're entitled to know all of the mental gymnastics that I go through in arriving at the decisions which I make. That's where I come to a parting of the ways with some of these reformers. I feel that there are times when any governmental body, whether it's a legislative committee or a city council or a school board or whatever,

needs closed meetings. There are times when the members need to get together on an informal basis to explore each other's thinking, to exchange ideas and to have free and open discussion. You can't do that if it's going to be reported in the news media. After being misquoted two or three times--not misquoted, but misinterpreted is probably more accurate--after being misinterpreted two or three times in the press, you soon learn just to keep your mouth shut. So you just don't say anything.

All right, that's one example. Now what happened on that? The State Affairs Committee of the House, which is one of the most important committees in the House and should be one of the most responsible committees, reported out this open meetings bill on a unanimous vote. As it was reported out of State Affairs Committee, it went to such ridiculous extremes that had I, as chairman of the Judiciary Committee of the House of Representatives, walked across the floor of the House and talked to Ben Grant, who was vice-chairman of my committee, and discussed with him the agenda for our committee meeting for the following Tuesday night without having posted a notice on the bulletin board in advance, he and I both



would have been guilty of a felony. As that bill was reported out of State Affairs Committee, if the mayor of the City of Corpus Christi had gone into the coffee shop and had a cup of coffee with one of his city councilmen and they had discussed anything pertaining to city business during that cup of coffee without having posted a notice of that meeting on a bulletin board somewhere, they would have both been guilty of a felony. I think that is absolutely ridiculous.

Now, of course, the bill didn't pass the Legislature in that form. But it did come out of a twenty-one member House committee, supposedly the most responsible House committee we have, and came out unanimously. That means that there were twenty-one members of the House who were so gung-ho for reform that they were willing to put their stamp of approval on such a ridiculous piece of legislation.

Even as finally passed the open meetings bill is much too strong. Again, I go back to what I think the public is entitled to know: my position and how I vote and how I stand and what results I achieve. I don't think they're entitled to a blow by blow description of what brand of soap I use when I take my shower in the morning.

I just don't think that's any of the public's business. I don't think it's any of the public's business to know what sort of discussions go on in the process of formulating decisions on all of these matters.

As a matter of fact, I think the open meetings law is going to hamper government activities, and I think the people themselves are going to suffer. You're not going to get as good government as you would otherwise.

I can give you a good example of that. The Judiciary Committee of the House of Representatives has completed a three-year interim study on the posture of the judiciary in Texas. We have released a very comprehensive report in which we recommend far-reaching changes in the judiciary. There were several times during the three years that we were conducting that study that I called what I considered to be working sessions of the committee. There was going to be no public testimony and no votes. I simply wanted to sit down with the members of the Judiciary Committee and get a feedback from them as to what their reaction had been to a lot of this public testimony. We'd been

holding hearings all over Texas. I needed to know generally the thinking of the members of the committee. My staff needed to know the thinking of the members of the committee. We were trying to draft a final report, and we wanted it to reflect the thinking of the members of the committee.

At every meeting we called there were always members of the press. As a result, at the first meeting we had some exchange of ideas. Then two or three members of the committee, including me as chairman, felt that we had been misinterpreted by the press. As a result, in every other working session of the committee, nobody would say anything. I couldn't get a free exchange of ideas. Even till this day, I don't have that free exchange of ideas. I think that our report suffers as a result. To some extent, it does not really reflect, possibly, the thinking of a lot of the members on the committee.

I think the same thing would be true at the County Commissioner's Court level. I think the same thing would be true at the city council level and the school board level. I think there are times when the

members need to exchange ideas with each other. Now if they're going to take any votes or make any real decisions, it ought to be an open meeting. But as long as they're just going to have a bull session and explore each other's thinking, and each one trying to get feedback from the other to help him in making his own decisions, I think they ought to be able to have secret meetings, or closed meetings. I hesitate to use the word secret. They should have closed meetings for that purpose where the public and the press are not entitled to be present.

Marcello: At the same time, do you think it's also possible, as a result of the open meetings law, that certain individuals might take advantage of this situation and use it as a public forum of sorts or as a publicity device for their own personal interests or purposes?

Hale: I think you're going to find the open meetings law more and more exploited by minority groups to embarrass public officials who don't yield to what they want. They will use the open meetings law as a vehicle for attacking those officials who don't yield to their pressures. It's easy enough. For example, suppose I'm on the school

board and we're discussing the major problem in schools today, racial distribution among the schools. I raise a question during our discussion, "Well, what is the racial balance in one of our schools?" The minority groups might get the impression from that question, "Well, he's against equal rights for everybody. He's trying to discriminate against us." They might start attacking me simply because I dared ask the question.

As a result, the tendency in an open meeting will be not to ask questions. Vote in ignorance. Don't be informed because if you start asking questions, they will jump on you about it. That's the danger. I think the public in the long run will be the big loser by having such a tight open meetings law.

I think the press has to be blamed for part of this excess reform. I think the press has been very irresponsible. They've been the same as some of the new members, that is, anything that was labeled reform was good. It didn't make a damn bit of difference how radical it was. If it had the reform label, it was

bound to be good for Texas. So I think the press has been very irresponsible in this whole area of legislation during the last session, and they must bear part of the responsibility for the extremes to which some of this legislation's gone.

Marcello: Now we've talked about one of the specific pieces of reform legislation, the open meetings law. Before we get on to the other specific pieces of reform legislation, I have one more general question to ask about reform. There was obviously a great deal of time spent on this reform legislation. As a result, how did House business suffer? In other words, was too much time spent on reform at the expense of other important House business, do you feel?

Hale: I don't think there's any question about it. For instance, two of the most important and vital issues in Texas never received adequate consideration. One was the school financing problem and the other was judicial reform, to mention two in which I was personally involved. A great deal of the responsibility for those issues not having received adequate time in debate was because we spent such a great deal of time on these so-called reform bills--ten reform bills that practically

dominated the entire session of the Legislature for the first two or three months until they were finally passed through the House. Then the House finally got around to working on some other things. Even after they had passed the House, because of the fact that Hobby slowed them down over in the Senate, they still tended to influence action by the House and diverted some of the energies and attention that should have been going to other state problems.

Marcello: Okay, let's talk specifically about some of the pieces of reform legislation that were passed other than the open meetings law. I think we've covered that fairly well. Now I think perhaps the first of these bills, and correct me if I'm wrong, was the one calling for financial disclosure. I believe that was perhaps the core of the reform legislation, was it not?

Hale: House Bill 1 by Nugent was the one on ethics for top state officials and elected members of the Legislature and others. Well, again, I'm one of those that think the bill went too far. Financial disclosure is good up to a point. I think the public, by and large, is entitled to know about me, if I have any financial

interests that are in an area likely to create a conflict of interest between my duties as a state representative and my personal financial situation. I don't think they're entitled to know anything about my financial situation other than that. Under the bill that was passed, it's going to require a fairly detailed financial disclosure. I know of several public officials who have already made the remark in my presence, not necessarily directly to me but in conversation, that they were not going to disclose certain things. If the courts forced them to do so, they would resign. They simply did not intend to give their business competitors some of the information that was called for in House Bill 1. As a result, I think you're going to find that a lot of fine men, business leaders, who otherwise might conceivably be prevailed upon--some of whom, at least, might be prevailed upon--to run for public office and hold public office are not going to do so as a result of some of the personal disclosures which this bill requires.

Marcello: I gather that in the ethics bill as it was originally presented, a tremendous number of people would have



had to have disclosed their financial holdings. As I recall, it went all the way down to members of the school board and this particular type of individual, isn't that correct?

Hale: I believe that's correct, yes.

Marcello: Then I think a great deal of that was remedied probably through the Agnich amendment. How did you stand or how did you feel on the Agnich amendment to the ethics bill?

Hale: If I remember correctly, I voted for the Agnich amendment. I thought it was a good amendment.

Marcello: I guess this ethics bill was probably the cornerstone of the whole reform package, was it not?

Hale: Well, it was certainly an important part of it. I don't know. Although it was referred to as a package of bills, actually there was not a great deal of relationship between some of these bills with other bills. There was just a number of different areas where Price Daniel, Jr., and Common Cause felt like we need some changes. So they said, "Well, let's change this and let's change that." It ended up as a so-called package. I presume that the code of ethics was certainly one of the top priority items in the package, yes.

Marcello: I think one of the portions of the Agnich amendment called for sealed financial disclosure, did it not? Financial disclosure with the secretary of state. Now were you in favor of this sort of procedure, or were you in favor of some form of a state ethics commission? The ethics commission apparently became a stumbling block in the passage of this ethics bill.

Hale: Well, I wasn't in favor of a state ethics commission and am still not. I think all you're doing is giving one group the authority to beat another group over the head in a political campaign. I think really that a lot of this reporting is designated to do that. There's more political motivation in some of this stuff than meets the eye. I guess I'm cynical. I've been hanging around government either as an observer or as a participant all of my adult life, ever since I was in the University of Texas in the mid and late 1930's. I'm one who is convinced that you can't legislate integrity in public officials. You can create an ethics commission every day for 365 days and you're still not going to make an honest

man out of a fellow who wants to be a crook. As a result, I've been against an ethics commission. I think what we should do in the field of ethics is set certain standards by statute and say that these are the standards which we expect our public officials to live up to. If they don't live up, then I think it's up to the people to make that decision by rejecting them at the polls when they come up for re-election. Again, I'm one who believes that if the people in an area want to elect a crook to public office, in a democratic form of government, that should be their privilege. I know that in the state of Massachusetts at one time--I believe it was the city of Boston, wasn't it--that re-elected its mayor while he was serving in the United States penitentiary? He was serving a term for income tax violation or fraud or something and was re-elected while serving his term. Well, I think that's the privilege of the people of Boston. If the people of Boston have that much confidence in this gentleman, if a majority of them want him for mayor, then I think they should have him for mayor. I don't think we should prohibit it by some so-called ethics commission.

Marcello: What sort of political overtones or dangers do you see in an ethics commission as it was proposed in this reform legislation? The ethics commission did come up in more than one of these bills, did it not?

Hale: Yes, there were several of these bills that proposed the creation of an ethics commission. Of course, you've got to keep in mind who was pushing this legislation. The people who were pushing this reform legislation are the group in the House that's generally labeled as liberals. Now I recognize, probably more than anybody, how misleading labels can be. I've been labeled a variety of things in the years I've been in the Legislature, so I use the term in a very loose sense. This legislation was being pushed by and large by that group of people who are on the far left of the political spectrum. What they want to do, of course, is to get more liberal-thinking people elected to public office. Well, the more conservative people are usually those who have accumulated some financial empire or some financial resources. The liberal members of the House are ordinarily those who don't have a crying dime. They don't have anything to reveal when you talk

about filing a public statement. They don't own any stocks and bonds. They don't own any office buildings. They don't have any oil and gas leases. They have nothing to reveal. They say, "Well, why shouldn't everybody reveal these things?" Well, one advantage they see from imposing these tight restrictions is a tendency to keep out of public office these people whom they regard as political antagonists. They think by doing this they're going to create a situation where there's a better likelihood more and more liberal-thinking people who have accumulated no wealth and have nothing to reveal in a financial report will be elected to public office.

I think that's bad. I don't think that a man, because he's been successful in his private business, should be eliminated as a possibility for being elected to public office. I think you can find many examples through the years, if you'd go back and research it, of men who've been outstanding successes in business and who later moved into politics and made real contributions to their state and to their locality and to their nation. You can mention one right now who is governor of his state, Nelson Rockefeller of New York, who was

eminently successful in private life and transferred that success into a fine administrator as governor of New York. I could readily see where he might not want to reveal certain things about his business interests because it would be of much value to his business competitors. You've had many men like that who have moved into public life after they have accumulated something. They don't want to, and are not going to reveal too much. They will say, "Well, to heck with public office. I'm just not going to make these statements to the public that are required. If I have to do that, I just won't serve in public office."

Marcello: How did you feel about the process by which the members of the ethics commission would be selected? As I recall, the governor would have had a hand, the secretary of state, the lieutenant governor--several people would have had a hand in selecting this ethics commission, would they not?

Hale: Yes, they would. I think that's rather ridiculous. If you're going to have a commission, you probably ought to have the governor appoint it. I think that was just political window-dressing to try to get votes for it by

saying, "Well, we've got a number of different appointing authorities. We're diffusing authority and nobody can ever really control it." Well, it's going to be bad enough. We've got too much control now in my opinion.

Marcello: Something you mentioned awhile ago that I think perhaps needs clarification. When we talk about this reform legislation, did it boil down to a liberal-conservative confrontation? In other words, was it basically a case where the conservatives were lined up against this reform legislation and the liberals for it, or was there crossing of the lines?

Hale: I don't guess you could say it was strictly a liberal-conservative fight. You had some crossing of the lines. Of course, the problem that you had in this session of the Legislature was the fact that the leadership, particularly in the House, and to some extent other leadership, had propagandized "reform" to the extent that it had almost become a sacred cow. To cast a vote against it was practically political heresy, so you found on most of these bills that there was a lot of bitter fighting in committee, although very

little in committee on a lot of them, and on the floor of the House as to some of the details in the bills. But when it finally got down to the point of voting, whatever was in the end-product, everybody felt that they were compelled politically to vote for it. It was like voting against motherhood and for sin to vote against reform this last session of the Legislature. That's part of the danger of the whole situation.

Marcello: Is this what you were talking about when the newspapers quoted you as saying that this ethics bill was nothing more than an over-reaction to an over-reaction? This is a quote that I got out of the Dallas Morning News that was attributed to you in reference to the ethics bill--that the whole thing was an over-reaction to an over-reaction. Do you remember how you made that statement, and if so, what did you mean by it?

Hale: Well, I don't remember the specific quote, but I won't deny it. It certainly was an over-reaction. The whole reform program, in my judgement, was an over-reaction to a situation which in itself was overly reacted to. For example, the so-called scandals of the Mutscher regime have been greatly overplayed in the newspapers.



Mutscher became the political goat for a lot of things that have been going on in Austin. But again I think that situation, like other scandals that we've had in state government through the years, is confined to a relatively small group of people. Yet in the public mind it tended to rub off on everybody. They say, "Well, everybody in state government is a crook." Well, that's just like seeing a drunk sailor on the street and making the statement that everybody in the Navy is a drunkard. It's an over-reaction to a specific situation. I felt that the public over-reacted to Mutscher. I think there were people who sought political brownie points for themselves in pushing the Mutscher issue. They did push the Mutscher issue, and they made Mutscher the whipping boy for all of the public suspicions and resentments against state government generally--and did it very successfully.

The whole deal was not nearly as bad as it had been painted by the press and politicians. Gus Mutscher, whatever you say about him, I'm convinced, didn't consider that he was taking a bribe, It was far different from that. Mutscher is one of the finest young men that ever served in government, despite his conviction. I'm one of those who feels, while the courts haven't acted on

it yet, that the evidence was insufficient to convict in the Abilene trial. I strongly suspect that the case is going to be reversed by the Court of Criminal Appeals when it gets around to ruling.

Marcello: Let's move to another piece of reform legislation, perhaps another one of the more important of that whole group that was introduced, and this was the anti-lobby bill. In your own mind, how much of a need was there for a bill of this sort?

Hale: I think the public is entitled to know who the lobbyists are and generally the extent of their activities. But when you talk about lobbyists, you need to define your term. Lobbying covers a broad political area. Most people think of a lobbyist as somebody that sits in a hotel room in Austin with food and drink for members of the Legislature and other favors for them in return for votes. Well, that's just about as accurate as some other conceptions back in the nineteenth century about other things. The trade associations that are headquartered in Austin by and large represent respected areas of the business community. The task of those who are employed by these trade associations is simply to

represent the interests of that area of business activity before the Legislature to see that their viewpoint is heard, to make sure that the members of the Legislature have information with respect to that area of activity, and not necessarily to influence for evil the decisions or actions of the individual member.

Now when you talk about lobbyists, you're talking about you and me. You're talking about all the schoolteachers in Texas. You're talking about all the members of the Chambers of Commerce over the State of Texas. You're talking about all your city councils, all of your school boards, all of your County Commissioner's Courts, all of your county judges, all of your district judges, your Supreme Court, and your Court of Criminal Appeals. You're talking about all of your farmers, all of your truck drivers, and everybody that works for the railroads. You're talking about everybody that works in the oil and gas industry. When you get down to a final analysis, you're talking about just about all of the eleven or twelve million people who live in Texas. In one way or another all are

lobbyists and are represented either overtly or covertly by some group in Austin that purports to speak for their interests.

So I don't know how you control lobbying. Lobbying is a part of the political process in a democracy. It's part of the guarantee in the Constitution that every person shall have the right to address a petition to their government, to make their views known and to attempt to influence the decision of the officials who are elected to make decisions.

Now how far do you want to go in regulating that? I think you ought to go only a very modest distance. I think those who are professionals, in the sense that they are being paid to do things which are designed to influence legislative or political or governmental decisions, should be required to register somewhere and to make periodic financial report on those funds which they have expended for that purpose. Beyond that, I think the bill is an extreme, an excess. I think it has gone too far. I think that many of those who were pushing

lobby control in this last session were doing so not with the motivation of providing the public with information, but with the idea of trying to embarrass a lot of these trade groups and business groups because those groups had opposed them in their efforts to get elected to public office. This was a means of retaliation. I think to that extent it was punitive in nature and reprehensible.

Again, I think the Legislature over-reacted in the area of lobby control. I think we've gone too far. I think most of these trade associations are honorable-- and I've had contacts with many of them. I've never yet had one of them try to influence me in an unconscionable manner. Every contact I've ever had with any of these trade associations has been with them saying, "Look, here's how some proposal affects our business. We want you to know. These are the facts." I've never had one of them suggest to me yet how I should vote on a bill. I can read between the lines. I'm a reasonably intelligent fellow. I can look at the bill and see what it's going to do. Then if I have the facts pertaining to that industry, I can draw my own conclusions as to how this bill is going to

affect them, and I can be governed accordingly.

Their job is to get me information. They see their job in that way. It's a process of educating me, in a sense, to the problems of this particular industry so that I can make an intelligent decision.

Marcello: Do you think perhaps a better way to curb the activities of the lobbies would be to go to annual sessions and provide legislators with staffs?

Hale: The more assistance you give legislators through governmental channels, the less they will be dependent upon outside channels for information and for assistance and for research and for help. Yes, that's true. One of the problems you have with lobby groups is the fact that most of these trade associations, which are your so-called lobbyists, have a great deal of activity that has nothing to do with government. Lobbying and dealing with government is only one of many activities which those trade associations carry on. They have a full program of educating their own members and working with their own members and carrying out safety programs and insurance programs and a great variety of things among their own membership. For us to come along by law and

require them to make detailed financial reports on all of those activities, to me, again, is an excess. I think it's an over-reaction.

Marcello: What sort of steps did you observe the lobbyists taking in this last session to combat this bill, or had they really accepted the fact that it was going to pass?

Hale: Most of the ones with whom I talked felt that the House in particular, and the Legislature generally, was certainly over-reacting and was going to an extreme. Yet, they felt rather helpless. For them to come out openly and fight would create the appearance that they were trying to hide something. Every one, to a man, who talked to me said, "We have absolutely nothing to hide, but we resent the implications, and we resent having to make public a lot of our activities that have nothing to do with the legislative process or with the governmental process." That I can understand because in the other areas it's private business operation. It's an area of activity where they don't want the public looking in. I think you could crudely compare it to the facts in your personal life. I'm not ashamed of the

fact that I take a shower every morning, but I don't particularly want the public looking in on me when I'm taking my shower. I think that, in a crude sort of way, is the situation as they saw it. They have a lot of activities going on, and they're not ashamed of them. They're really not trying to hide anything, but it's the details which they don't feel is any of the public's business, and they would prefer that the public not know it.

Marcello: Another piece of the reform legislation had to do with campaign financial disclosure, tightening up the rules and regulations and so on with regard to reporting the amounts of money spent during campaigns and from whom the money came. How did you feel about this particular piece of reform legislation?

Hale: Let me deviate just a minute and say that as I criticize all of these bills--and I have criticisms on practically every one of them because I think everyone of them went too far--yet, let me admit that I voted for every one of them on final passage. In most instances I voted on the floor for amendments which attempted to modify some of the provisions and make them less onerous. I was



another of the political cowards who didn't have the courage to vote against these bills when they came up for a final vote. Looking back, I'm disgusted with myself. As I look back on it, I don't see how in the world I could have permitted myself to vote for some of these so-called reform bills, as ridiculous as they are. So that you don't misjudge me, I'm on record for every one of them on final passage.

The campaign reporting bill, as with all of these bills, had an idea behind it which was good. There are areas where we could use some beneficial legislation. Had we had a more rational session of the Legislature, where we weren't in an emotional binge growing out of the Mutscher era, I think we could have taken a more tolerant, a more open-minded, and a more reasonable approach to these problems. Campaign reporting was another one. I think that our laws as they existed prior to this last session in the area of campaign reporting were much too loose. I felt that we did need a strengthening of these laws. I think that candidates for public office should be required to report their expenditures and their contributions to a reasonable degree. Again, I think that the reporting

needs to be confined to those situations that might conceivably lead to influencing the decision of that official in some area of his activities.

Again, the bill we passed was an over-reaction. It went much, much too far. For example, under it, you are required to report every contribution of any kind over the entire term of your office that is in excess of \$10, I believe. Frankly, I don't see how you can enforce that in certain circumstances. For example, there's been some talk on two or three occasions, and there is some talk now, of having an appreciation dinner for me in Corpus Christi. An appreciation dinner is usually held, contrary to the idea of the public, not to express appreciation to the public official but to raise money for his future activities. Politics is an expensive hobby, not just during a campaign but during the entire term that you're in office. You're constantly having to spend personal money in a lot of areas where the government simply doesn't compensate you for it. I do a lot of traveling and a lot of public speaking that I consider to be a part of my official responsibilities where I have to pay my own

expenses. A public official needs some financial assistance. As I read this campaign reporting law, if there is an appreciation dinner for me in Corpus Christi, and we sell tickets for \$10 or more, name and address of each individual who buys a ticket must be reported. I don't see how you can do that because most appreciation dinners have scores of people out peddling tickets. You know, "Buy a ticket to Hale's appreciation dinner." To require everybody who's selling tickets to take the name and address of everyone they sell a ticket to is utterly absurd and ridiculous. If you're going to have a requirement like that on an appreciation dinner, I think the requirement ought to be that any individual who's total contribution exceeds \$100, say, must report his name and address. To report all to whom individual tickets are sold places an impossible burden on those who are sponsoring the dinner. Now, if they don't do it, they're guilty of a crime. I think that's bad. I think the same thing's true in many other areas.

We've gone to ridiculous extremes. For instance, in the area of gifts, there's a prohibition on making gifts to any public official. If some constituent

sends me a bottle of whisky as a Christmas present, and that's going to influence my decision in public office one way or the other, then the people have made a mistake in ever electing me to public office. I think it's absurd.

Marcello: Let's move on to another piece of this reform legislation. This was one that was eventually declared unconstitutional, but I think we need to talk about it anyhow. This was the bill which called for one term for House speaker.

Hale: Well, the attorney general ruled that bill unconstitutional, and that's as far as it went. As a result, the bill did not pass. The Constitution sets out certain basic requirements for many public offices. I think the courts and, as a result, the attorney general, have consistently held through the years that the Legislature, by statute, cannot add to the qualifications which are enumerated in the Constitution. For example, where the Constitution says that to be elected governor of Texas, you must be thirty-five years of age and you must have resided in Texas a certain period of time, if those are the only qualifications spelled out, then anybody who meets those qualifications is

constitutionally eligible to run for that office. The Legislature can't come along and add to those qualifications by statute because the Constitution enumerates the qualifications. The term of office is the same way. If the Constitution does not put a limit on the term of office, then the Legislature can't impose such a limit. I don't think the speaker should be limited to one term, no.

Marcello: How was it that the unconstitutionality of this bill wasn't seen when it went through committee or was proposed?

Hale: Well, I think it was. That bill was a good example of the thinking of a small group that was pushing the reform program in the House. They could care less whether it was constitutional or not. They were just gung-ho for reform and to hell with everything else.

Marcello: This brings up another interesting question while we're talking about this. I've heard a lot of comments by some of the legislators that I've interviewed in which they commented rather favorably about Attorney General Hill. They thought that he did a fairly good job during this session of the Legislature. Do you feel that way, also?

Hale: Yes, I'd agree. I don't think Hill approached the plateau of being the best attorney general Texas ever had. I think he's probably a little too political oriented to ever be a really outstanding attorney general. Hill was an outstanding attorney before he became attorney general. He's one of the best trial lawyers Texas ever had. I'd say he's done a passable job as attorney general.

Marcello: Awhile ago you were mentioning that you did not favor the one term for speaker even if it were constitutional. Now why was that?

Hale: I think that placing an arbitrary limit on terms of office unnecessarily restricts not only the individual but also the political body itself. I do not think that we should have a limit on the number of terms that a governor can serve. I think the people should have the privilege of electing their officials, particularly in jobs like speaker of the House and lieutenant governor. It's been my experience that the speaker of the House is a much better speaker during his second term than in his first term. He spends much of his first term learning what the office is all about, how it functions, and what its powers and possibilities

are. By the time he gets into his second term and/or third term, he really becomes sufficiently expert and sufficiently trained and oriented in the job that he does a lot better job.

Marcello: While we're talking about this one terms for speaker, there were some people who said that one term would perhaps eliminate any autocratic tendencies that a speaker might have. On the other hand, there were some who said that one term would probably increase the autocratic tendencies of a speaker. How di you feel about this?

Hale: I don't have any feeling one way or the other. I'm one of those who thinks that this so-called autocracy of the speaker has been dramatically overplayed in the press and in the public mind.

Marcello: Do you think perhaps a speaker does have to be somewhat of an autocrat in order to keep the House functioning smoothly?

Hale: In the Legislature we have been historically dominated by Democrats. There have been very few Republicans. In fact, up until about ten or twelve years ago, there'd been no Republicans in the Legislature since the Civil War and Reconstruction days. That's slowly changing.

Now we have a sprinkling of Republicans. But as a result of that situation over a period of about 100 years, we have absolutely no party discipline in the Legislature as compared with the United States Congress. In the United States Congress, the individual members are disciplined--and I say disciplined in the sense of trying to develop a cohesive group for program purposes--through the mechanism of Democratic and Republican caucuses. We don't have the benefit of that discipline and leadership here in the Legislature. What leadership is provided in the House must come from the speaker's office, and in the Senate, from the lieutenant governor's office. The dividing line between leadership and autocracy is a hazy and narrow line. What a lot of people call "autocratic rule" is nothing more than a dramatic demonstration of leadership coming from the speaker's office, an effort to create an organized group out of a chaotic mob. So I think that the so-called autocracy in the speaker's office has been dramatically overplayed.

Marcello: Along these same lines, there were some people who said that there was actually too much democracy in the House of Representatives in this session, that, yes, it was



true that everybody did get to have their say and that they talked as long as they wanted to, but here again, as a result, House business suffered. How do you feel about this?

Hale: I think that was certainly true to some extent.

Marcello: Okay, let's move on to still another piece of this reform legislation, and this was the law to end threats and promises and what have you in speakership races. First of all, let me ask you this. How flagrant was this sort of thing in the past, let's say under the Mutscher regime? I use the Mutscher regime as an example because I'm sure the reformers would point to the Mutscher regime as an example where this sort of thing took place.

Hale: Well, I'm sure there were some of these things in the past, and there always will be regardless of this statute. There is going to be some pressure in any political situation. Everybody knows that when a man is elected speaker, he's going to name his top leadership and his responsible committee chairmen from among those men and women who were closest to him, who worked with him in getting him elected, and in whom he has confidence and trust.

Marcello: Which is exactly what happened when Daniel became speaker, for the most part, isn't that true?

Hale: That's true. Daniel did the same thing. Every speaker must do the same thing. If you're going to have anything other than mob rule in the House, you must have a degree of responsibility and leadership in the speaker's office. If the speaker's going to be responsible for the total end-product of the Legislature, which he is in the public mind, then he must have in the key committee chairmanships and other position of leadership men and women in whom he has complete confidence and whom he can trust. So that inevitably, as a candidate for speaker, I don't have to go out and openly say, "Now if you don't vote for me, you're not going to get any important appointments." It goes without my saying it. Everybody knows that the key appointments are going to go to those people who are closest to me and who will be most loyal to me and will work with me and whose ideas coincide with mine on the direction in which government should move at this particular point in time. I think that the use of so-called pressure tactics in the past has been dramatically overplayed. Sure, some

of it goes on. The most conspicuous example is Representative Bill Heatly, who has been criticized many times in the news media. He doesn't have a more consistent critic than I. Representative Heatly and I, while we are good personal friends, have had many bitter floor fights in the years we served together in the Legislature. I don't approve of the manner in which he conducts himself. He is a conspicuous example of why you have an over-reaction to these situations. He does actually threaten members of the House if they don't do what he wants them to do. When he was chairman of the Appropriations Committee, he would threaten to cut the appropriations to institutions or state agencies in their districts. He'd threaten to get them opponents if they were running for re-election. If they didn't pledge the man he wanted for speaker, he'd threaten them with this and threaten them with that. That's an abuse which I think is bad, but I don't think you'll ever stop it.

Marcello: How did you feel about the old pledge card system?

Hale: I don't see anything wrong with the pledge card system. The pledge card system was just a means whereby a speaker candidate was able to get a bird's-eye view of what he

had. Speaker Daniel did this without pledge cards, but he did it by having the ones who were supporting him make a public statement in the newspaper. Well, the newspaper clipping became the same as a pledge card. What difference does it make whether you sign a pledge card or whether you don't? I thought this was an area where the press had attacked a symptom rather than a problem.

Marcello: Moving on to still another piece of the ethics legislation, there was the bill to limit the activities of the conference committees. In particular, of course, I'm referring to the conference committee on the appropriations bill. As you know, in the past a lot of times the conference committee would add things in a great many cases that weren't in either the House or the Senate bill. Now this did not pass, isn't that correct?

Hale: I believe that bill passed in the House and was bottlenecked in the Senate.

Marcello: Right. That's correct. Do you feel that this was a rather flagrant abuse in the past on the part of the conference committee on appropriations? We referred to Representative Heatly awhile ago.

Hale: I think there have been abuses in the conference committee system, certainly. It's an area where change was needed. In fact, I was one of the early ones to advocate change in this area by attempting to write into the rules, the joint rules of the two houses, a prohibition on this type of activity. After many sessions of futile effort, we finally got it adopted in the joint rules this last session. I think that is good. But I think that's as far as we should go. I was not in favor of writing it into the statutes. I'm not sure that the statute would have been constitutional, either. We did it in the joint rules, and I think the reason the Senate didn't pass this bill was because they felt that it was a matter of internal procedure between House and Senate and that the proper place to correct the evil was in the joint rules. We had done that and there was no point in trying to put it into statute form.

Marcello: Now this is something that I think needs to be clarified, and I think it's something that a lot of people don't understand. Since this is perhaps in an area which is really your expertise, it's true that the

House and the Senate write their own rules for each session, isn't that correct?

Hale: That's correct.

Marcello: In other words, during one of the special sessions of the Sixty-second Legislature, there had been a House rule to the effect that the activities of the conference committee on appropriations would be limited to working out differences, isn't that correct?

Hale: That's correct.

Marcello: But this would not be a permanent thing. In other words, that could change with every new session of the Legislature.

Hale: That's true. However, in the past, there has been a tendency, which was fairly persuasive up until six or eight years ago, for each session of the Legislature to adopt, almost as a matter of routine, the rules of procedure of the preceeding Legislature. Once a change was written into the rules, there was a strong likelihood that it would be perpetuated fairly indefinitely. There is still a tendency in that direction, although when Ben Barnes was Speaker of the House, he gave his

blessing--I won't say he took the lead, but he gave his blessing--to me and a few others who felt that the rules needed to be drastically changed in the House, that our whole posture, structure, organizations, and procedure needed to be revamped. We did revamp them under Barnes and made some far-reaching changes on opening day of his second term as speaker in January, 1967.

As a result of that, every speaker and lieutenant governor since that time, looking back and seeing how Barnes got his rules, wanted to be identified with a new set of rules, his rules. So we've moved away from the tendency to adopt the rules of the preceeding Legislature. Mutscher wanted his set of rules. I did for him what I did for Barnes. I wrote him a new set of rules. I did the same thing for Price Daniel. I spent months in the fall of 1972 working with Bob Johnson, with Daniel and with one or two others in re-writing all House rules to conform to Daniel's ideas of what the rules should be.

So since 1965, I personally reqrote the House rules three times. I say this in all modesty and simply as a statement of fact. Barnes called on me, I

headed an interim committee, and we rewrote the House rules to Barnes' specifications. I did the same thing for Mutscher, and I did the same thing for Price Daniel. I would like to see us get the rules on a more stable basis so that we don't make dramatic changes every session of the Legislature.

Marcello: There's just one other piece of the reform legislation I want to talk about very briefly, and I think it's closely akin to the open meetings bill. This is, of course, the open records bill. What were your feelings about the open records bill?

Hale: I felt that it was probably one of the least objectionable of the reform bills. Again, I think it is a question of degree. How far do you want to go in opening up the public records? I think there are certain public records which should not be made public, but all others obviously should be. While it's not within the range of this particular bill, there's an obvious example where you get fairly uniform agreement that a record should not be public, and that's personal income tax returns filed with the federal government. Tax returns have historically been secret records. I can't go to Internal Revenue and demand to see your income tax return. I think you'd agree that secrecy here is a good



thing. Even these people who are so gung-ho for openness admit that there are some areas where secrecy is desirable.

Marcello: I would think of something like adoption procedures and things of that nature, perhaps.

Hale: So-called criminal proceedings against juveniles have historically been secret, with sealed records, and I think this should continue. Adoption proceedings are also secret. There are areas where I think that governmental records should not necessarily be public. It's a question in the bill of where you draw the line. This bill moves in the direction of making all governmental records open to the public. Again, I don't recall the details of the bill, but my recollection is that there were some areas where, again, I felt that maybe we'd gone a little too far.

Marcello: Who do you think would take advantage of this open records bill? Would it be mainly the press, the news media?

Hale: I think mostly the news media, yes. Some reporter takes a dislike for DeWitt Hale, so he decides to go and see what he can dig up on DeWitt Hale. Contrary to public impression, that's the way most of your scandals originate. Some reporter gets mad at somebody, so he just

decides to make a personal crusade and starts digging up dirt.

Marcello: Let's get away from ethics and talk about another piece of legislation. Very briefly, I want to ask your comments on the appropriations bill that was passed during this session. Now correct me if I'm wrong, but comparatively speaking, it didn't seem to me as though the appropriations bill was nearly so controversial this time as it had been in past sessions. The House spent a lot of time on it. Everybody had their say. Everybody had a chance to speak. But I don't think it was nearly so controversial as it had been in the past, mainly because Governor Briscoe had said, "Look, you know, we're not going to raise any new taxes. There won't be any new taxes, so consequently I'll veto any bill that would call for raising of taxes." Therefore, the appropriations bill more or less had to stay within those guidelines, did it not?

Hale: That's true.

Marcello: In other words, there simply wasn't a whole lot of controversy about this appropriations bill.

- Hale: I don't know that I'd agree with that or not. There's always controversy in the appropriations bill. I think that this time, probably more so than in the past, controversies were worked out without surfacing in the press or on the floor.
- Marcello: Neil Caldwell was the chairman of the Appropriations Committee. How did his conduct in that position differ from Representative Heatly's in the past from what you could see? You were not a member of the Appropriations Committee?
- Hale: I'm not on the Appropriations Committee. I think Neil was certainly more democratic in running the committee than Heatly and probably gave the individual members of the committee a little bigger voice in making some of the decisions. But basically the committee operated the same way. I like Neil Caldwell, and I think he did a good job on the appropriations bill. I'm not one of those who thinks he's the greatest appropriations chairman the House ever had. I think Neil did a good job.
- Marcello: I think he surprised a lot of people, perhaps, in the moderate stance that he took. Generally speaking, I think he was more moderate than a lot of people expected

him to be as chairman of Appropriations. Maybe this was in the light of his past record in the House of Representatives.

Hale: Possibly so. I think he tended to rise to the responsibilities of the office, and that's to his credit.

Marcello: Well, let's talk about some of your own personal legislation. What personal legislation did you have in this session that you think we need to talk about and get as part of the record?

Hale: As far as legislation that passed that I was personally interested, most of it has very little value to you and the record we're making here.

I think the legislation on which I worked this session, which would be of any historical interest, was in areas where my bills didn't pass. For example, I sponsored a bill which in its inception was backed by the Texas State Teachers' Association and many other school groups who had been working together to get a bill to meet the demands of the U. S. Supreme Court in the case of Edgewood Independent School District vs. Rodriguez. As you know, a three-judge district court ruled that our method of financing public schools at the local level was unconstitutional. The U. S. Supreme Court reversed and said that the method of raising the

money was not per se unconstitutional, but there obviously was great inequity in the distribution of funds among individual school districts.

In a rather surprising statement for the U. S. Supreme Court, or for any federal court, and a pleasant surprise to me, they said, "This is an area that should be solved by the legislatures of the states and not by the court system." I'd about reached a point in my thinking where I felt I'd never find a federal judge admit there was any problem area that the court couldn't solve. We have many judges now in the federal judiciary who think they they are God's chosen leaders to determine not only judicial policy but also legislative and executive policy. It was very healthy to find the U. S. Supreme Court saying that here is an area for legislative activity.

So I introduced a bill to change the whole system of financing public school education. It became one of the real controversial bills of this session, House Bill 946. It would have abolished the economic index in the calculation and distribution of funds to local school districts and would have set up a complete new formula by which all funds would be channeled into

Austin and then fed back into the local school districts. The ultimate objective was to meet the court criticism in Rodriguez and to provide for each child in every school district in Texas approximately the same educational opportunities, irrespective of the wealth of the individual district.

The House passed the bill basically as introduced with some refinements, after a hard-fought debate on the floor of the House. The Senate rejected the new concept in its entirety and followed the lead of Governor Briscoe in stating that we didn't need to attack this problem at all during this session of the Legislature. We should have another two-year study and then attempt to do it at the next session. We should confine our efforts this session to simply adding a little bit more money--what was available--to our present appropriation. The Senate passed the bill in that form, the House promptly rejected the Senate amendments and put it in conference committee.

For several days we worked in conference committee. The only thing we could ever get out of conference committee was this very narrow and limited approach of

adding more money. The conference committee report was adopted in the Senate. It came to a vote in the House on the last day of the session and lost on a tie vote, with Speaker Price Daniel electing not to cast the deciding vote. He could have broken the tie by voting either way. He chose not to vote, and he allowed the tie vote to stand. In that way, he killed the whole school financing legislation for this session.

Marcello: Was this his whole motive in refusing to vote? Did he feel that more time was needed to study it, also?

Hale: I suspect that he wasn't satisfied with the conference committee report. He wanted more far-reaching changes, and so did I, obviously. Yet, I felt that we should do what we could. If we couldn't get the whole loaf, even one slice of bread was better than nothing. So I pushed the conference report after it became obvious that we could get no more out of this session. I pushed the conference report in the House and tried to get the House to adopt it, but we failed on a tie vote. I think the speaker felt that the pressure would increase if we didn't pass anything, pressure for long-term reform and major reform in the whole school financing area.

Marcello: I want to ask you some general questions about the Legislature. These are more or less opinion type questions. On balance, how would you rate this Sixty-third Legislature in terms of its accomplishments or in terms of what it didn't accomplish?

Hale: I think the Sixty-third was conspicuous by its failure to meet some of the very critical problems of this decade. We've mentioned school finance as one of the significant failures of this session. I think another crying need--again an area in which I was personally involved--was the area of judicial reform. We failed miserably to attack this problem. I think you would have to rate this Legislature, if breaking it into groups for rating purposes, in the middle 20 per cent, possibly above the 50 per cent mark. I think it was probably a little better and a little more productive than the average Legislature. It certainly fell far, far short of its expectations. I think the reason for that was the undue emphasis that was given to this package of reform bills, to the sacrifice of all other critical problems that confronted Texas.



Marcello: How do you explain Daniel giving so much emphasis to this reform legislation? Is he doing a little bit of politicking here? Does he have some future political ambitions? Would you care to comment or speculate on that?

Hale: Price Daniel, Jr., is a very capable young man, and he probably has a future in politics. But his election as speaker was a political accident. It was made possible only because of the reform movement. In order to get elected speaker, he made many promises publicly about reform. He felt that he would not be keeping faith with all of these campaign commitments if he didn't push the reform program. As a result, I think he felt a personal compulsion to concentrate his activities in the area of reform. He was willing to make whatever sacrifice in any other area that was necessary in order to enact the reform package. Conceivably, he was looking to the future. If he could push all or the bulk of these reform programs through to law, he would become known in the history books as the great reform speaker. Somewhere down the line that might assist him in being elected lieutenant governor or attorney general or possibly even governor.

Marcello: Up to this point, we haven't talked about Governor Briscoe. How would you assess him in his first term in office up to this point?

Hale: I would rate Governor Briscoe above average, even though he started in a very weak manner. I have had the pleasure of knowing Governor Briscoe personally for many years. I served with him in the Legislature when he was in the House of Representatives in the 1950's. We became good friends at that time and have on a very casual basis maintained an acquaintanceship through the years. Consequently, I had a feeling of affinity for him from the time he started. I felt that he was weak in his approach to government during the early months of his governorship. I thought he evidenced a timid approach that was going to be bad. I felt that he was capable, because of his previous government experience, of providing a stronger leadership than he demonstrated in the early days of the session.

Marcello: Can you cite any examples of this?

Hale: Let me go one step farther. As the session wore on, he became more and more aggressive in his approach to problems and in his relationship with the Legislature. By the time

the Legislature finally adjourned, I thought he had emerged from his shell and was really making an effective leader for state government.

You asked for specific examples. No, I don't know of any that come to mind offhand. In the latter days of the session, he took a very positive stance and a very active role of leadership in the school finance fight. He didn't want any new taxes during this session of the Legislature. A reform in school financing was going to result inevitably in some increased taxation. For that reason, he made it dramatically clear to everybody, almost to the point of making threats that he was not going to approve a major school finance reform bill if it meant any increased taxes. So that is one example where he was emerging from his seclusion and his timid role and adopting an aggressive role of leadership as the titular head of the Democratic Party and as the elected leader of the state.

There were areas earlier in the session where leadership could have been provided but where it wasn't. As I say, that was all a part of his rather timid and hesitant approach toward the problems of government.

Perhaps in his own mind, he felt that he had to move slowly and feel his way and get his feet on the ground before he could really afford to stick his neck out with a posture of leadership.

Marcello: As time went on then, as you point out, do you feel that he did exert some degree of legislative leadership or that at least the Legislature knew where he stood on particular issues?

Hale: I think that's true.

Marcello: This wasn't always true in the case of his predecessor, isn't that correct?

Hale: That's true. I think he was too hesitant in making known where he stood on matters. I think he's emerging as a real leader. He's taking a positive position now in many areas of state problems, working during the interim and trying to develop answers and solutions and legislative programs that will meet these needs. That's a positive role of leadership that the governor's office should exercise and which he did not exercise to any great degree during the last session of the Legislature.

Marcello: What sort of a staff did he put together?

- Hale: Well, he had a fairly good staff. At times I felt that they weren't coordinated very well, but he had some very capable people working on his staff.
- Marcello: Just one last question with regard to Governor Briscoe. How accessible was he? Did you have any trouble getting to see him?
- Hale: I never did have any trouble getting in personally to see him. Well, I didn't impose on him a great deal. But the few times when I felt that I needed to talk with him, he was always available within a reasonable time.
- Marcello: Usually, whatever other faults Preston Smith had, I gather this was usually true with him also, was it not--that it was fairly easy to see him?
- Hale: Yes, that's true. Of course, Preston and I never did get along very well. So I guess I'm really not one to evaluate his relationship in that regard. Preston never did refuse to see me, but our meetings were never very productive. He would usually just listen to whatever comments I wanted to make, but rarely did he ever comment or take any positive stand on the problems that I discussed with him. I think that dates from the fact

that I ran for the State Senate against Senator Bruce Reagan in 1962. Bruce Reagan was one of Preston Smith's real buddies in the Senate, and I don't think Preston ever forgave me for making that race against Reagan.

Marcello: I'm going to just throw out some various topics to you at this stage, and I want to get your comments on them. These again would be with regard to some things that were passed by the State Legislature. Teenage rights, the bill lowering the legal age to eighteen?

Hale: I voted for it but with some misgivings. My recollection is I voted for an amendment to change the age limit from eighteen to nineteen, I believe. But when the amendment failed and the bill went to a final vote at the eighteen level, I ended up voting for it.

Marcello: Easing of drug penalties?

Hale: I voted for the massive drug control bill that was passed. It provided a lessening of penalties on possession of marijuana in small quantities and a strengthening of the provisions in certain other areas. I think we've gone

about as far as we can go in the penalty provisions. You must face the law of diminishing returns when you increase these penalties too much. On the possession of marijuana in small quantities, for instance, I felt we should not put the label of felon on everybody that was caught with a marijuana cigarette. So I was generally sympathetic with the program.

Marcello: Restoration of the death penalty in certain instances?

Hale: I voted against it.

Marcello: As a lawyer, I'm sure. I mean maybe out of conviction, also, but aren't there some constitutional questions involved in this, also?

Hale: Yes, there are some constitutional questions involved. But my feeling really goes beyond that. I seriously doubt that we should have a death penalty under any circumstances. The reason is the fact that our court system and our method of adjudication is just not that infallible. There's such a degree of finality to a death sentence. Once it's carried out, it can never be corrected if it's wrong. I never shall forget reading in Time magazine many years ago about Thomas E. Dewey. Thomas E. Dewey was district attorney in

New York City before he became governor of New York. During the time he was district attorney, he prosecuted seventy-three major criminal cases and obtained convictions in seventy-two. Later, as governor of New York, on two or three different occasions, he issued pardons to people he had convicted because it later became evident that they had been convicted unjustly. This simply demonstrates: (1) what an overzealous prosecutor can do, and (2) the fact that the courts are not infallible in their decisions. Frequently, with the passage of time, evidence comes to light to show that people who were convicted were not guilty. If that happens in a death penalty case and the man's already been electrocuted, it's small consolation to his family that his name is ultimately vindicated.