

NORTH TEXAS STATE UNIVERSITY
ORAL HISTORY COLLECTION
NUMBER 31

Interview with
L. DeWitt Hale
August 29, 1968

Place of Interview: Corpus Christi, Texas

Interviewer: Dr. E. Dale Odom

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Approved:

E. Dale Odom

Date:

January 31, 1970

Oral History Collection

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Dr. Odom: This is E. Dale Odom on August 29, 1968, interviewing Representative L. DeWitt Hale in his office in the Wilson Building in Corpus Christi, Texas, on his reflections on the recent special session of the 60th Legislature of the State of Texas.

Mr. Hale, I want to ask you a few general questions about the special session. First, did you personally do any particular preparation before the special session?

Mr. Hale: The only preparation that was done was of a very general nature. We were all informed well in advance that the Governor was not going to open the special session to a great variety of legislation. Each member was thereby advised that taxes and appropriations, plus possible reforms in the Texas Liquor Control Act, would probably be the only matters submitted for consideration. That enabled us to do some background work on taxes and possible sources of revenue. Also some of us--I did, and I'm sure others did--studied last year's appropriation bill with the idea of determining if we wanted to make any changes.

There's really not a great deal of preparatory work that can

be done by the individual, as most of the preparatory work is done by committees. The Budget Board did a tremendous amount of work in interviewing all the state agencies, in reviewing their budgets, and in preparing a recommended appropriation bill. And the tax angle is given careful study by interim committees. We have a committee on State and Local Tax Policy, which makes a continuing study of tax sources and revenue estimates. We had an interim committee that was specifically created for the purpose of studying the Texas Liquor Control Act and making recommendations thereon.

So each of the three areas of legislation that the Governor elected to submit to the special session had interim committee work done on it. As far as the individual member was concerned, there was not a great deal of preparation he could do other than general background study.

Odom: Would you comment not necessarily just on this one, unless it does have any peculiar character of its own, but comment on the difference between a general session of the Legislature and a special session. It has a different character, doesn't it?

Hale: Yes, there are substantial differences between a general session and a special session. A general session or, as we call it, a regular session is unlimited in what it can do. I say unlimited in the sense that the only control on it is the constitution and the statutory law. Subject to whatever limits are contained in the constitution and in the statutes, it can do anything in the field of legislation that it elects to do.

A special session is limited by the constitution to a

consideration of those subjects specifically submitted by the Governor. This gives the Governor a fairly close control over the subject matter that a special session can consider. The courts have held that such control is limited to the subject matter area. For example, when Connally submitted the matter of revision of the Texas liquor laws, he opened up the whole Pandora's box of liquor regulation. It would not have been legally possible for him to have isolated one certain area and say, "Now I'm going to limit you to this matter." Once he opens up the general area of liquor regulation, he opens the entire area. And when he opened up the field of taxation, he opened up a pretty broad field, and the same with appropriations.

So the Governor has a definite control over a special session. As a result in this recent special session only five bills were passed--one appropriation bill, one tax bill, one liquor bill, and two bills which did nothing but transfer funds between accounts, bookkeeping type of bills. Only five bills were passed during the entire special session. In a regular session you may have 700 to 800 bills enacted into law.

Odom: Is there a more leisurely pace in a special session, or do you feel more pressured? What about a comparison there as far as the individual legislator is concerned?

Hale: As far as the individual legislator is concerned, I would say that most legislators have inadequate jobs to do during the special session. The recent special session is a good example because we were only considering legislation in three fields. That meant that

only three committees were occupied. The rest of the committees had very little to do, and members who were not on one or the other of those three committees were forced to mark time during a great deal of this session of the Legislature.

Members who are on the working committees tend to be under more pressure during a special session than in a regular session. Because so little is going on, they are in the spotlight and subject to more attention than they would receive doing the same thing in a regular session when many other controversial matters would be under consideration.

Odom: Do you feel like you're pressured sometimes by the limit of time in a special session?

Hale: I would say there's no difference. We have a time limit on the regular session, too, which in my opinion is bad. I think the time limit on these sessions should be removed, on the regular session at least.

Odom: What about this special session? Did there seem to be any difference in the relationship between the House and the Speaker due to the fact that Speaker Barnes was really a lame duck speaker and the fact that he was lieutenant governor-elect? Would you comment on that?

Hale: I didn't see too much difference in the way the House operated during the special session. I think Mr. Barnes had just as much prestige and influence in the House during the special session as he did during the regular session. Certainly he had more prestige and influence in the Senate than he did during the regular session

since he's going to be the new presiding officer in the Senate. You could go into his office in the back of the House chamber, and you'd rarely fail to see one or two senators in the waiting room. They were keeping a vigil in his office about as much as House members during the special session.

Odom: So he seemed to have just as much influence as ever in running the House?

Hale: I would say that his influence was not diminished during the special session.

Odom: What about Governor Connally? Due to the fact that he was going out as Governor, was there a difference in his relationship with the legislature?

Hale: I didn't see a great deal of difference. His relationship with the Legislature, as I explained in a previous interview, has been distant and cold ever since he's been Governor. That certainly wasn't changed. He wouldn't win a popularity contest in the Legislature.

Odom: Did you go to the session expecting to raise the sales tax?

Hale: I voted "no" on raising the sales tax to 3 per cent, as I had voted "no" on the original passage of the sales tax in 1961. I voted "no" on the passage of the city sales tax, the bill where we authorized cities to levy a one cent sales tax. Therefore, I have a 100 per cent "no" voting record on the general sales tax at all levels of government.

Odom: What did you have in mind?

Hale: To answer your previous question, the members recognized that a

large amount of money was needed and that pressure of time and of politics would take its toll. I believe about seventy or eighty members of the House had Republican opponents, as did a number of members of the Senate. I had the feeling that the bulk of the revenue would be raised during the special session from sales taxes in one form or another. I went to Austin for the special session convinced in my own mind that the debate, if any, would be over the approach to the sales tax and not the question of should it be a sales tax or should it be something else.

Odom: You did hope, perhaps, for a balanced program? Perhaps additional taxes on business? Or what?

Hale: I felt like that there should be some balance. There are a number of areas in Texas where we could raise money more equitably than by a general sales tax. There are members who disagree--and that's what makes for conflict on taxes in the Legislature.

Odom: Let me see what I wanted to ask you. Of course, Governor Connally recommended a tax plan to repeal the city sales tax, raise the state tax, and rebate a portion to the cities. Apparently the Legislature did not pay much attention to that plan. Could you explain why?

Hale: Well, the Legislature has never followed Connally's recommendations in the field of taxation--and that relationship didn't materially change during the special session. I would have come nearer voting for Connally's package tax plan than I would have for the tax bill that finally emerged, because it was entirely sales taxes, whereas Connally did have some spread of the tax burden among some areas

of the economy other than the ultimate consumer.

Odom: Is there any explanation of why it was not considered very much, other than the fact, as you said, that the Legislature hadn't followed his recommendations very much anyway? Did it have anything to do with making the city sales tax universal?

Hale: I think it goes beyond that. I don't think that any member of the Legislature just simply said, "This is Connally's proposal; therefore, I'm against it." I think the action taken by the Legislature does indicate that there were not many members of the Legislature whom Connally could lead into a specific tax program, independent of their own decision that such program would be the most desirable solution. I think there were many members of the Legislature who felt that less political damage would be done to them and to other members of the Legislature of their political philosophy by simply raising the sales tax rate than would be done if we tried to spread the tax burden among other areas of the economy. It was demonstrated both in 1961, when the general sales tax was passed, and in 1967, when the city sales was authorized, that members who voted for those proposals felt no political reprisals at the polls. The apathy of the general public was such that it apparently made no difference. On the other hand, if a member votes for an increase in a business tax like oil and gas, he'll sure get the wrath of the oil and gas industry on him at the next election. If he votes for a corporate income tax, he will have all the business corporations and the leadership of the business community fighting him at the next election. They are not apathetic where their pocketbook

is concerned; whereas, the poor, ignorant, teeming masses seem to be oblivious to the fact that they are footing the bill under a general sales tax--and they look on the people who vote these taxes as their friends. It's really an ironic situation here in Texas--and perhaps other states, too. But in the past in many states, when first a general sales tax is adopted, the members of the Legislature seeking re-election who had voted "for" the tax had a very high mortality rate, indicating that the voters were punishing them for voting this tax on the backs of the people. But that wasn't true in Texas either in 1961 or in 1967.

Odom: This hasn't caused you to change your mind about supporting a sales tax, has it?

Hale: No, I haven't changed my mind; however, I will say--and I may have commented on this in our previous interview--that I think the justification for voting a sales tax is much broader today than it was, for example, in 1939 when we were fighting the O'Daniel transactions tax. There are a number of reasons why this is so: first, we have a more affluent society now than we had then; and second, a tremendous amount of the tax now goes directly into programs of welfare and education that benefit everybody. There is some justification for contending that business generally ought not to have to carry the whole burden; the people themselves ought to have to pay part of the tax load. This creates a justification for a general sales tax that you did not have back in the days when a large percentage of the state dollar was not going into direct benefits to the masses.

Odom: As we get down to focusing on the issues before the special session, what order would you prefer to discuss the thing in? The tax bill first, since we were talking about it? Or do you prefer to talk about the liquor bill?

Hale: I don't know much more that we could say about the tax bill than what we've already said.

Odom: Did you have any influence on the final one that came out?

Hale: Tax bill?

Odom: Tax bill.

Hale: No.

Odom: You had none.

Hale: I was against it, and I voted against it, and that was it.

Odom: That was it. Okay.

Hale: The dye was pretty well cast by the time the tax bill came out of committee. They had the votes to pass it before they ever brought it out of committee. When I say they had the votes to pass it, I mean that the proponents had verbal commitments from enough members of the House, if brought out in that form, that they knew at the time it was reported from committee that it would pass the House.

Odom: How did you react when the Senate came up with their tax bill and said it was going to stand fast and not accept any changes in its bill in the conference committee?

Hale: There was a mixed reaction in the House, of course, as you well know. We ended up and took the Senate bill. The Senate is a small enough body that you get more cohesion than you do in the

House. As a result you can have more unity of purpose and objective than is possible in the House. When the Senate takes an adamant stand on something, they're in a position to enforce their decision. We in the House are not. We can take an adamant stand in a conference committee, but when you put it to a vote in the House, the conferees themselves may be undercut by the House vote. That rarely happens in the Senate.

Odom: Did you think the Senate bill was a better tax bill than the House bill.

Hale: I would have preferred almost any type of tax bill that had some spread on the incidence of the tax. The Senate at different stages during its proceeding had some pretty good tax bills. They'd start out with a good bill; but by time they'd get through amending it, everything would be taken out except the general sales tax.

Odom: Okay. There's not too much more we can say about the tax bill, I suppose, than what we have said, since you didn't have a great deal to do with writing it. What about the liquor bills that were introduced? Would you comment on those for a bit? There is one particular question I wanted to ask you. Was there any vote in the House that could perhaps be called a clear-cut wet-dry vote on the liquor bill?

Hale: Yes, I think you would have to call the vote on the mini-bottle bill a wet-dry vote. It would certainly be so considered by the drys and probably by the leadership of the alcoholic beverage industry, too.

Odom: However, some of the wets didn't like that bill, though, did they?

Hale: There were some surprise votes on that bill. Some really dedicated wets opposed the bill because they didn't like the compromise. They wanted wide open liquor-by-the-drink with no strings attached. They felt that if the mini-bottle bill became law, it would postpone indefinitely the day when we could have unlimited liquor-by-the-drink. So there was a small, hard-core of dedicated wets in the House who took a position of all or nothing and who voted against the mini-bottle bill.

Odom: How did that vote go? I should know, but I don't remember.

Hale: I don't recall the actual vote if that's what you're referring to.

Odom: I have it somewhere here.

Hale: I may have it in my notes.

Odom: I wanted to ask you about this point. Are you one of those who maintains that the Legislature can define an open saloon under the constitution or do you believe that it takes a constitutional amendment to get a liquor-by-the-drink bill?

Hale: I think it can be done under the constitution. The constitutional provision is worded in very broad language and I would think the courts would uphold, within reason, any statutory construction that the Legislature wants to put on it.

Odom: Do you foresee the passage of a liquor-by-the-drink bill?

Hale: Not in the foreseeable future.

Odom: Not in the foreseeable future?

Hale: I think we lost a golden opportunity at this special session,

because you had a governor who was pushing it and you had a time of change in the liquor regulation field. These two conditions, dovetailed together, created a climate favorable to liquor-by-the-drink. I thought we'd come out of the session with a liquor-by-the-drink bill in some form. Many others thought so, too.

Odom: Do you think there will be a less chance of getting liquor-by-the-drink in the next session?

Hale: Well, next session, assuming Preston Smith wins the governorship, you're going to have a man as governor who's already committed to vetoing any liquor-by-the-drink bill passed by the Legislature. As long as Preston is governor and takes that position, you're not going to have any broadening of the liquor laws.

Odom: What do you think about the Liquor Control Board scandal? Was it a scandal or was it just publicity?

Hale: I think there was more smoke than fire. At the same time I think we have some real antiquated liquor statutes that, hopefully, we were going to rewrite at the last special session. I think it was obvious from the start that this so-called scandal was going to be whitewashed. And it was whitewashed. They covered up as best they could. I think that was obvious when the committee to study the liquor laws was first appointed. The members named by Speaker Barnes to the committee were of a political complexion that could come out of the committee that hadn't been pretty carefully screened by the establishment to be sure it didn't rock the boat. Neither Barnes nor Connally

wanted any major scandal. The character of the inquiry was set when Dick Cory was named chairman of that committee; that was the tip-off that there was going to be a whitewash job as far as any scandal was concerned.

Odom: Do you think there was more than we learned?

Hale: I think that the scandal aspects of it were probably overly dramatized. I think there is a large area in our state liquor administration where improvements could be made and where the relationship between the government and the industry needs to be, shall we say, clarified with responsibility more clearly delineated and standards of conduct more clearly established. Such was not done by this special five man committee headed by Representative Cory. As a result, the recommendations they made simply scratched the surface. Instead of taking the Texas Liquor Control Act and completely re-writing it into a reasonable, enforceable liquor control act, they simply came forth with a report recommending a hodgepodge of miscellaneous changes in the act that really added very little new substance to the law, had their bill passed.

Odom: Do you think that Mr. Stevenson did about as well as he could under the circumstances, of not enforcing the law too diligently because he'd get screams, yet enforcing it at least some in order to prevent the dries from nailing his hide to the wall? What's your opinion on that?

Hale: I have a high regard for Coke Stevenson, Jr., and I think he has done a good job as administrator over the years. If he is

subject to criticism, I would say that his biggest fault lies in his desire to please everybody--and he did run the agency with the idea of trying to please everybody and making everybody happy. That's a difficult objective in the job he had, yet he did a fairly good job of keeping everybody happy for many years. I think he was sort of a scapegoat in this so-called scandal.

Odom: Then you think that there's nothing in this so-called scandal that's comparable to the insurance scandal or the veteran's scandal?

Hale: Nothing of that magnitude. But there may be more there than we know about. I don't know and nobody will ever know, because there's never been a real investigation. The request was originally made, I believe, by the Dallas district attorney's office. The request first went to the Senate General Investigating Committee headed by Senator Hardeman. He was quoted as saying that he wasn't about to call the Senate General Investigating Committee together for such an investigation. Senator Hardeman is from West Texas, an area where one man controls practically the whole liquor industry. I presume he's pretty potent politically in West Texas. Whether that had any influence on Senator Hardeman's attitude, I don't know.

Then the request was made to Speaker Barnes. He was asked to appoint a House General Investigating Committee, which he has authority to do. In the three and a half years that he's been speaker, we've never had a House General Investigating

Committee, although he's had authority all that time to appoint one. He was requested to name one and let it investigate the liquor situation. Instead, he has Dick Cory name a five-man subcommittee of the House State Affairs Committee, with Cory himself as chairman. Four trusted lieutenants are named to work with Cory. This way Barnes secured a five man subcommittee without subpoena power. The members of the subcommittee were of a type and a political philosophy that did not instill confidence in those who wanted a complete investigation. So you knew from the start, from the composition of the sub-committee and from the manner of its creation, that you were not going to have a real investigation. And you didn't have a real investigation.

Odom: Were you in favor of the bill to prohibit members of the legislature from representing clients before the Liquor Control Board for pay?

Hale: No, sir. I think that members of the legislature should have the same right as others to represent people before any state agency, if they are otherwise qualified. I sponsored a bill that's on the statute books now to provide that when a member of the legislature represents anybody before a state agency, he must sign a public register to that effect, showing who he represents and whether or not he is being paid for his services. I think that's as far as we should go. I think that if I represent somebody before the Liquor Control Board, the public is entitled to know the facts of such representation. To prohibit me from appearing before state agencies is not the answer to any evil,

real or imaginary, now extant in state government.

Odom: How did you react to the various proposals or amendments, in both House and Senate, I suppose, to prohibit private clubs in dry areas?

Hale: It never came to a vote in the House, as I recall.

Odom: I don't think it did either. It did in the Senate, but I don't think it came to a vote in the House. What's your reaction to the bill?

Hale: I would probably have voted against the bill had it come to a vote in the House. However, I will say this: although I would be classified as a wet on the basis of my legislative record, it is an inconsistency to permit the clubs in dry areas. If the people in an area vote dry, there shouldn't be any intoxicating beverages permitted in that area. Although the bill was facetiously introduced and argued, there is a lot of good country logic behind it.

Odom: It always seemed to me, each time the bill came up, it was handled more or less facetiously, although there was some logic, as you say, to support it. Did you have anything to do with appropriations this time?

Hale: I am not on the budget board or the Appropriations Committee, have never been, and hope I never am. But all of us are interested in appropriations. Everybody in the legislature to some extent will work on the appropriations bill. To answer your question--yes, I was involved in the appropriations bill. Of course, I'm vitally concerned every year with the budget of

Texas A & I University--in my district. During the special session we had one peculiar problem: the damage done by Hurricane Beulah. Believe it or not, a year has passed since the hurricane and the roof damage on some of the permanent buildings at Texas A & I University has still not been repaired. Every time it rains they put buckets in the rooms to catch the water. The roofs haven't been repaired, because there was no money available for such purpose. Well, we took care of that during the special session. I would hope by now, today, which is August 29, 1968, that the roofs have been repaired, but as early as June of this year, they had not been repaired.

There are many other areas of the appropriations bill in which I'm interested and on which I did some work. I was very much interested in the appropriation to provide treatment to handicapped children. We increased that appropriation by about \$1,600,000 over what it was last year, state-wide. Each member has specific areas in which he's interested. The cumulative total of all individual interests adds up to a complete appropriations bill.

Odom: In your opinion does Frank Erwin's attack on the UT law school, plus the fact that no money was appropriated for salary raises, indicate a general legislative attack on higher education?

Hale: Well, Mr. Erwin obviously wanted to put the law school under his thumb. He attempted to treat the University of Texas Law School different from any other school in the entire state. He was not successful, for, as you know, that proposal was changed.

Odom: Yes.

Hale: Mr. Bill Heatly, chairman of the Appropriations Committee, I am sure, was aiding and abetting Mr. Erwin. Frankly, Mr. Erwin would win few popularity contests in the legislature. When we were fighting his law school limitation, he was sitting in the balcony. And I am sure he doesn't have any love for me because I was giving him the devil over that attempt to crucify the law school.

Odom: There was an angry reaction in the legislature, from the House rather than the Senate?

Hale: There really was. Erwin is a little man, although he has a reputation for being an able lawyer. As a politician, however, he has what I would characterize as a small mind. He doesn't have the generosity or compassion of a big thinker. He's inclined to be too petty in his approach and the law school is a beautiful example. He didn't like the way they were running the law school, so he attempted to use these petty means to impose his will.

Odom: The House did pass a bill to increase tuition for out of state and foreign students, didn't it? And it never passed the Senate?

Hale: Yes, I think that's correct.

Odom: Do you think you'll have such a bill again next session?

Hale: I suspect that it will at least be introduced. I have no idea whether it will pass or not. There are good arguments both ways. I voted for the bill, as I recall, to increase out-of-state tuition.

Odom: Now, was there a proposal this time to increase in-state tuition? I mean, was a bill introduced to do that? Do you recall?

Hale: I don't recall. If such a bill was introduced, it never came out of committee.

Odom: I don't think it ever came out of committee.

Hale: No serious effort was made to pass such a bill during this session.

I strongly suspect there will be an effort made during the next regular session, probably to double the tuition in all state supported institutions. The cost of education is going up so rapidly that I'm sure efforts will be made to get at least part of that increased cost from the students themselves.

Odom: Would you compare the general tenor of this special session with other special sessions in which you have served? Can you recall?

Hale: Well, that's hard to do.

Odom: It would be hard, I know.

Hale: I would say this one compares favorably with the 1954 special session that Allan Shivers called on teacher pay. It was similar in this respect: there was a big area of agreement before the session started on what had to be achieved. That was true this time, too. However, this session was completely different from any other called session that Texas has ever had. This is the first and only called session where an annual appropriation bill had to be passed. We had called sessions in '59 and also in '61, immediately following regular sessions, simply because we had not been able to agree on tax bills. During each of those sessions we had the problem of passing a biennial appropriation bill, but in each case it had been pretty well worked out during the regular session, and the controversy really came over the tax bills and not over the appropriation bills. This session is similar to those; yet, it is unique in the fact that it's the only annual session

type of appropriation we've ever had here in Texas.

Odom: What do you think about annual sessions and annual appropriations?

Hale: I think it's excellent. I think we should have annual sessions but we need to have them in January and not in June. I think it worked out badly by having it in June. I believe in January you'd have less politics in the session.

Odom: Well, now, the session wasn't called until June, probably because of the desire to postpone it until after the primaries?

Hale: That's true. If Texas were still a one-party state, that would be all right, but we're no longer a one-party state.

Odom: You see chances of some legislators being beaten by Republicans in the general election?

Hale: I think there are a lot of districts in Texas where it will be real close. In some areas in Harris County, all of Dallas County, some areas in East Texas, Midland-Odessa, and a few other West Texas areas, you're going to have real strong challenges by Republicans.

Odom: So there would be less politics, then, by having the sessions in January rather than after the primaries?

Hale: I would think so.

Odom: Is there a chance that in a new constitution you might have a regular session of the legislature and then a special session just for appropriations?

Hale: Many states with annual sessions have the even-year session restricted to budgetary matters.

Odom: It would seem to me to be a feasible plan.

Hale: Some states have unlimited general sessions both years, like

Congress. There are arguments both ways.

Odom: Perhaps we ought to get around to the question of Rules of Procedure in this special session. You operated under new rules, and I know you said you had some comments you wanted to make.

Hale: As you know from our previous interview, I am really proud of our work on the new House rules. However, I am disappointed in the approach Speaker Barnes has taken on one or two aspects of the rules. One of the things that we attempted to do in the new rules was to give a certain amount of permanence and continuity to all of the standing committees. By authorizing standing committees to function during the interim, we planned to eliminate the necessity for a multitude of interim study committees. Each of these interim committees is an isolated entity in itself with no background to build on and no future after the next session convenes. We thought that the same work these interim committees have been doing in the past could best be performed by the appropriate standing committees. This would give some stability and continuity and permanence to the committee work.

But Speaker Barnes, in implementing the new rules, and he has pretty much complete control over the implementation, has handled the interim work in such a way as to raise serious questions about the wisdom of the rule itself. For example, he has taken one or two members of the House and given practically every honor and every responsibility to them. Representative Dick Cory is a classic example. Mr. Cory is one of the most able members of the House. He is an able lawyer and a good friend of mine. I certainly am not

criticizing him in any way. I'm criticizing the Speaker for the way he has handled the new rule.

While probably 75 per cent of the members of the House have had no interim work of any kind to do, the Speaker has seen fit to give Mr. Cory four or five choice plums. Number one, he appointed him on the Constitutional Revision Commission, so Mr. Cory is re-writing the Texas Constitution. Well, I'll say this, with all his ability, if Mr. Cory does that during this interim and does it successfully, he will have done a full-time job. Yet in addition to that, the Speaker named him to the Texas Legislative Council, which is the research arm of the legislature. It conducts many of the interim studies that are now in process. On the Legislative Council, Mr. Cory is the chairman of the subcommittee that's writing a new administrative code for the State of Texas, pursuant to a resolution which I introduced and passed last session. That would be a full-time job, if done right. Then the Speaker named him to the Texas Commission on Law Enforcement, Administration and Justice, which was created for the purpose of conducting a comprehensive study of our court system and its relation to crime and law enforcement. That, too, would be a full-time job, if properly done. When the so-called liquor scandal came along, the Speaker made Cory chairman of the subcommittee to "investigate" the Texas liquor laws and come up with recommendations. Well, rewriting the Texas liquor laws would be a full-time job for anybody. Then not too long ago, just a few days ago, I noticed in the paper where the Speaker had named Mr. Cory as chairman of a subcommittee

to investigate financial involvement between establishments selling alcoholic beverages and vending machine owners. This originated in North Texas. Some Dallas representatives claim that vending machine operators are dominating the liquor outlets. They introduced and passed a resolution to investigate this situation. So what happens? The Speaker turned the investigation over to Mr. Cory.

Ben Atwell of Dallas--Representative Ben Atwell--is another good example. I have served with Representative Atwell for almost sixteen years. He's a good personal friend--and a very capable man. Yet, like Cory, he has been favored by the Speaker to an alarming extent. The Speaker appointed him on the Budget Board. That's a full-time job. A member of the Budget Board should not be given any other assignments involving interim work. So the Speaker also named Atwell chairman of the State and Local Tax Policy Committee. That, too, is a full-time job. No man should be on that and on the Budget Board at the same time. Then recently I noticed that the Speaker appointed a committee to study recreational water safety, and Mr. Atwell was named chairman of that study group.

So there are two examples, Cory and Atwell. I could name one or two others--Bill Heatly for one, Ralph Wayne for another, and Bill Clayton for a third. You can thus name about a dozen or so members of the House in whom Speaker Barnes has, in effect, concentrated nearly all interim committee work, exactly the situation that the new rules were designed to avoid. The new rules planned to spread interim work among the appropriate standing

committees. So, I would say this, as far as that phase of our new rules is concerned: if every speaker is going to handle the interim work the way Speaker Barnes has done in this interim, then I am forced to admit that our rule change on that aspect of House operations has gone backwards rather than forward.

Odom: Why has he done this, do you suppose?

Hale: I do not know. I do not know.

Odom: Have you asked him about it?

Hale: I have been reluctant to talk to him about it because there is always the fear that he will say, "Well, you're just angry because you're not the one who's doing all these things." Quite the contrary, I really could care less about all this interim work, because I've got about all I can do to take care of my law practice and my local politics. I have done a lot of interim work at different times in the past and certainly would do it again if called upon, but I do not seek it. So what I am saying is not sour grapes. There's no member of the legislature, however capable, who could do a good job on all the chores that have been assigned to Dick Cory during this interim: (1) to rewrite the Texas Constitution, (2) to develop an administrative code of procedure for all state administrative agencies, (3) to revise law enforcement administration and revamp the judiciary of the state in the handling of crime, (4) to rewrite the Texas Liquor Control Act, and (5) to investigate vending machine operations in liquor establishments.

Odom: You have no idea why Speaker Barnes is handling it this way?

Hale: No, unless he just doesn't have any confidence in anybody else in

the legislature. One other possibility is that he doesn't want results to come from any of these projects and he knows Cory will do what he wants.

Odom: It seems to me that those are the only conclusions you could draw.

Hale: I'm really disappointed in Speaker Barnes in this regard. As you know from my previous interview, I spoke very highly of the Speaker with respect to the rule changes. He was 100 per cent behind our effort to modernize the House. Without his help, we could never have passed these forward-looking rules. So it comes as a real disappointment to me, as the author of all those rule changes, that the Speaker has gone backward in this particular area of the rules.

Odom: What are your feelings at the moment about the man who will be the next Speaker of the House? Do you have any idea how he's going to handle that aspect of it?

Hale: No, I do not know how he will handle that aspect of it. I do know that Representative Gus Mutscher, who will be the next speaker of the House, has a lot of misgivings about the entire body of the new rules. He has indicated to me that there will probably be some changes he wants to make at the start of the next session. He has not indicated the specific parts that he is interested in changing. He did promise me that he would undertake no changes without at least conferring with me, as the author of those rules, in advance of any contemplated action. I do know one area he's concerned about. Under the new rules we'll have only 25 standing committees instead of 41. That gives him only 25 committee chairmanships to hand out.

He's concerned about not having enough chairmanships with which to reward a lot of his loyal lieutenants. I know that he's thinking in terms of going back to 41 committees rather than 25, which will certainly be a backward step. I have suggested alternative programs to him. We could go to a standing subcommittee system, for instance. He would then have possibly a hundred chairmanships to hand out. So there are areas where Mutscher will probably be making changes in the rules. I would hope that most of them will be minor in scope, because I feel that the major changes we have made in the rules are very forward-looking.

Odom: Who are his closest friends and lieutenants that he's likely to rely on? Are there going to be any major changes from the ones Speaker Barnes has relied on a great deal?

Hale: Yes, sir, I believe there'll be some changes. I read an article in the paper not too long ago in which one columnist said that the men closest to Mutscher would be Heatly, who is also close to Barnes, and Atwell, who is also close to Barnes. But from that point, he departed from Barnes' men. He said that Charlie Jungmichel from La Grange, Tommy Shannon from Fort Worth, and one other, whose name slips me for the moment, as the three who would be probably the closest to Gus Mutscher during the next couple of years.

Odom: Not Mr. Cory?

Hale: Mr. Cory was not among the chosen few, according to this writer.

Odom: Any other aspects of the new rules that you want to comment on at this time?

Hale: I might say one other thing. It's along the same line, and again,

I suppose, it's critical of Ben Barnes. He has not activated the limited seniority system that we created in the new rules. Under the rules he was charged with the duty of making the original appointments under the limited seniority system. He was supposed to have done that no later than June 1, 1968. Well, he didn't do it, and the special session changed the resolution to authorize him to do it at any time, removing the time limit. The last time I talked with Ben he indicated that he might never do it. That will be another real disappointment to me, because I have the feeling that if he does not activate the system now, there is a good possibility it may be thrown out next session and never activated. If it is activated now, there will be many members who will have reason to want to keep it, since they will benefit by their seniority at the start of the next session.

Odom: You think because of the new regime coming in that . . .

Hale: They may not want to do it.

Odom: . . . they may not want to do it?

Hale: Particularly with Gus Mutscher's skepticism on it. Gus is a little surprising. He's talked to me two or three times about the new rules. His attitude is a simple and rather petty one: the new rules adopted last session are the Barnes rules; I want to operate under the Mutscher rules; so I'll write my own rules. Well, that's ridiculous to my way of thinking. Actually they are not the Barnes rules anyway. If they're anybody's rules, they're mine. But they're not anybody's rules; they're the cumulative development of many people's thinking over a period of many years. Barnes just

took enough interest to get them adopted. That was the only role he played. Of course, the newspapers and other informational media gave him a lot of credit. Well, that's normal. The top man always gets a lot of credit for constructive things that are done during his administration even though he may not have had a thing in the world to do with the details. So Mutscher is taking a rather petty attitude. I can't understand people who think that way. The rules are either good or bad--by the way they cause the House to operate--and they should not be judged by the personalities involved.

Odom: Who are you going to miss the most in the next legislature, or do you particularly not want to be there?

Hale: Well, I personally will probably miss Representative Travis Peeler more than anyone, because he's been my colleague from Nueces County for so long.

Odom: Was he beaten?

Hale: No, he just did not run again. He voluntarily stepped aside. I'll miss Trav. He's a fine young man, a very able member of the House, and a very close friend of mine.

Odom: You don't foresee any significant changes in the general character or make-up of the House in the next session, do you?

Hale: I have the feeling that the House next time will become the stronghold of conservatism in Texas. The Senate is going to be a liberal spawning ground, just the reverse of what has been the situation in past sessions. So I doubt there is going to be any substantial change in the overall philosophy and posture of the House from what it's been during the last four years.

Odom: There should be some redistricting on the basis of the 1970 census, shouldn't there?

Hale: There should be some change, but probably not of the magnitude that many expect.

Odom: Some of the senators say they are going to hold the Houses's feet to the fire, though, and make them pass some of the legislation, (chuckle) liberal legislation, that they are going to pass . . .

Hale: That's possible.

Odom: (Chuckle) . . . on the prediction that Preston Smith will be a rather bland governor who will not affect legislation very much and therefore the Senate will become the ramrod.

Let's see, perhaps you have some other matters you'd like to bring up now with respect to the recent session. I've about exhausted the questions I have.

Hale: I think we've pretty well covered the session. I know of very little else we could say about it. I might--at the risk of being really borish on the rules--make one or two other comments on the rules, really not on the rules but on legislative reform in general. You may or may not have seen a report that was made by the Texas Assembly of 1967 . . .

Odom: I have heard about it. I have not seen the report.

Hale: . . . which was a meeting held at Texas A & M College in the fall of 1967, October 26-29, 1967. This meeting was sponsored by the American Assembly, which was established at Columbia University by General Dwight Eisenhower when he was president of Columbia University. The American Assembly has as its purpose the bringing into

the field of government on a discussion and a participation basis of the leadership of the community, primarily business and industrial leadership, to get a viewpoint on government different from that of the politicians who actually operate the government. The Texas Assembly was created on the same basis. This meeting was attended by some seventy-odd leaders of Texas in various business areas who were invited to participate in the Texas Assembly. We met for several days. I was one of about five or six members of the legislature who were invited to participate. I presume that the Speaker of the House selected the House members. This was a very enlightening meeting. A substantial portion of the membership was made up of people whom you would normally consider to be staunch conservatives in the political spectrum, yet they made recommendations on the Texas Legislature as a result of this meeting that are very forward looking. They endorsed the rules changes that we made in the House, for instance, and recommended that a similar plan be considered in the Senate. They endorsed the limitations that we had recommended, but were not able to pass in the Senate, on the conference committees between the two houses. They recommended we authorize pre-filing of bills. They recommended that we eliminate the out-dated constitutional limitations on legislative procedures and powers, that the number of interim committees be substantially reduced, and that interim work be assigned to standing committees according to subject matter. They felt that state government should be strengthened and that the state should exercise more initiative in solving local problems. Many of the forward looking recommendations

that came out of the Assembly are surprising when you consider the background and attitude of the men participating in it.

I would say that the Texas Assembly was part and parcel of a nationwide change in thinking that's going on today with respect to state government. I happen to have a little publication put out by the United States Chamber of Commerce. It's a 1967 publication, and the title is "Modernizing State Government." It recommends similar changes in state government. There's no group in the United States more reactionary than the U. S. Chamber of Commerce. When it comes out with a policy statement recommending some of these unique changes that we've been working for in state government, then you can see that the conservative establishment is getting behind such changes. A very comprehensive study by the same title, "Modernizing State Government," was published in July, 1967, by an organization known as the Committee for Economic Development. I had never heard of the Committee for Economic Development, but in the back of the publication are listed the membership of its Board of Trustees. It looks like about a couple of hundred names are listed, and it's a "Who's Who" of the financial aristocracy of America--everybody from the President of General Motors and the President of General Electric to the Chairman of the Board of U. S. Steel. It's really top level. In all areas of state government changes are recommended which if I had recommended or urged as recently as seven or eight years ago, I'd have been labelled a wild-eyed radical and would have been run out of the country. Yet here the leading business and industrial people of America are

recommending these changes. You wonder why? The reason, I think, is that the conservative establishment, the business leaders of America, have come to believe that the only answer to continually increasing federal encroachments is a strengthening and revitalization of state government. The approach they have adopted is that changes which little peons like me have been advocating for years have suddenly become very desirable. If the changes strengthen state government and give it a stronger voice in our federal system and if the state governments move into areas of need and do an effective job, the federal government will not move into those areas. This is their answer to a continually growing federal bureaucracy.

Whatever the motivation, I welcome their changing attitude. I think it's helpful. I think it's going to continue, and I think it's going to result in more effective state government in years to come, not only in Texas but in all states. This is a nationwide movement.

Odom: Do you think that the urbanization of Texas is contributing to some more progressive state government?

Hale: Yes, I think that would be true, although this movement is nationwide. In fact, Texas is behind the times in following up on this movement. Some states have moved much faster than we have in reacting to this changing climate, especially with respect to state government.

Odom: You think the fact that we're not a two-party state has something to do with it?

Hale: I think definitely that has slowed our response, and also the fact

that the establishment, the conservative establishment, here in Texas that has dominated state government so long is still dragging its feet. Even though they may agree in theory as they did at the Texas Assembly in 1967, when you get to the specifics in implementing changes, they still drag their feet, many of the business leaders.

Odom: But so far you haven't had many Republicans, the opposition party, in the state government who have urged any changes, have you? In other words because we have not had a two party state, perhaps we've dragged our feet some in modernizing state government. Yet Republicans who have been in the state legislature have not been notable in favoring such changes, have they?

Hale: The two party system is not going to bring change through the Republican Party. What the two party system will do is to pull these status quo advocates out of the Democratic Party and into the Republican Party. Then those who remain in the Democratic Party will be able to take the lead in making the changes that are necessary.

Odom: I believe that exhausts my questions. Unless you have something further to add to the discussion, Mr. Hale, we'll look forward to the next one.

Hale: It's been very interesting and I hope enlightening.

Odom: Okay, thank you.

*See Appendix

APPENDIX

TEXAS ASSEMBLY 1967

Texas A&M University

October 26 - 29

TENTATIVE DRAFT OF FINAL REPORT

At the close of their discussions the participants in the 1967 Texas Assembly on State Legislatures in American Politics reviewed as a group the following statement. The statement represents general agreement; however, no one was asked to sign it, and it should not be assumed that every participant necessarily subscribes to every recommendation.

It is the consensus of the members of the Texas Assembly that the Texas Legislature has over the years achieved a quality of membership and a level of performance which are not generally recognized throughout the state. The Assembly is impressed by the fact that the increasing demands of a dynamic society in Texas establish the need for a continuum of progress in the organization of the Legislature and in the performance of its membership. The Assembly feels that the key factor in achieving this continuum of prestige and effectiveness for the Texas Legislature resides in the ability and disposition of Texans to understand the legislative function and to evaluate the capabilities and performance of individual legislators.

The Assembly accordingly recommends that an effective program of public education be undertaken in this state to increase understanding of and interest in legislators and the legislative product among citizens generally. While the Assembly did not attempt to detail the specific techniques through which an effective public education program might be implemented, the three devices listed below seem constructive approaches to the problem:

1. Systematic use of mass media in disseminating information regarding legislators, the legislative process, and the legislative product.
2. Increased presentation of panels of competing candidates before voter groups for questioning and discussion.

3. Enriched orientation sessions for new legislators.

The Assembly feels that no substantial increase in current qualifications for legislators should be made. It takes this view for several reasons, one of which relates to its respect for the right of the people to elect the legislators of their choice.

As a means of attracting and retaining a greater number of qualified persons in the State Legislature, the Assembly recommends that legislative salaries in Texas be substantially increased. In this regard, the Assembly also strongly suggests adequate pay levels for the presiding officers of both Houses of the Texas Legislature.

The Assembly recognizes the conflict of interest principle as a persistent problem before all law-making bodies, and urges strengthening of the present disclosure and conflict of interest law. The Assembly recommends that legislators be prohibited from appearing before state agencies in adversary proceedings for compensation. This should be made to apply in any case where the legislator might in any manner stand to gain financially from the action of the state agency. Also, safeguards should be established to prevent abuses of the law providing for legislative continuances.

The Assembly endorses the current Texas policy against the acceptance of contingent fees by lobbyists and urges a continuing enforcement of this policy.

It is the consensus of the Assembly that a balanced increase in the allotment of funds for research and office expenses of both houses should be attained.

The Texas Assembly maintains strong consensus that the present bicameral structure of the Texas Legislature should be perpetuated. With reference to

the size of the membership, there was general agreement that the present size of both Houses is now unwieldy, although some expression was made to support a House of 100 members and a larger Senate than at present. The prevailing feeling is that the present size should be maintained as an upper limit.

The Assembly proposes that annual sessions of the Legislature be held, with consideration in even-numbered years given only to budgetary, fiscal, and revenue matters, and such other emergency matters as presented by the Governor. The sessions in odd-numbered years should be both for budgetary matters and all other legislation. Consensus prevails that existing rules governing special sessions of the Legislature should be retained.

The Texas Assembly endorses the recent reduction in the number of standing committees in the Texas lower house and supports an appropriate reduction in the number of standing committees in the Texas Senate.

The Assembly further endorses the limited seniority system governing membership on most committees in the Texas House of Representatives, and recommends the consideration of such a plan in the Texas Senate.

Strong agreement prevails that the power of conference committees should be modified to insure that all members of both houses are properly aware of the substance and content of conference committee action. The consensus is that conference committees should deal only with matters resolving differences between the two houses and that no new material should be introduced at this stage except by the passage of a concurrent resolution by both houses.

Also, in its consideration of the committee structure of the Texas Legislature, the Assembly believes that . . .

the number of interim committees should be substantially reduced, with the work now done by interim committees being assigned to the Texas

Legislative Council or to standing committees dealing with such subject matter.

- .. standing committees of the Legislature should exercise more responsibility for the screening of legislation.
- ... provision should be made in both Houses for some effective recourse on the part of the membership when the powers of the committee chairman are abused.

The members of the Assembly are impressed by the fact that one of the pressing procedural problems is the large number of local bills which must be handled. To cope with the situation of remedying this problem, the Assembly recommends that legislative proposals or bills should be presented to the membership before the formal beginning of a legislative session, by mail or by establishment of a procedure for pre-filing of any bill, and that immediately after the organization of the two Houses a period of time should be set aside for the disposal of local bills, thus freeing the time of the Legislature to deal with matters of more general importance.

Consensus prevails that the Constitution should be amended to eliminate unnecessary and outdated limitations on legislative procedures and powers. Agreement also prevails that an effective constitutional amendment should be proposed to achieve county home rule with clear provisions for local option. One prime reason for this is the desirability that local units of government should regulate the salaries of public officials where budget support comes from local sources. Such action would effectively decrease the pressure upon the State Legislature from local and regional entanglements and allow more time and energy for deliberation of basic state policy.

The Texas Assembly maintains a strong consensus that state government,

with particular reference to the Legislature, must engage with an increasing effectiveness in the arena of intergovernmental relations. State governments should be strengthened in such a way as to focus responsibility at the state level for implementing a more workable relationship between state and national governments. The consensus was that the groundwork for such an approach had been laid with the opening of a state liaison office in Washington and with the formation of a planning agency council in Austin for the purpose of better coordination and communication among various agencies dealing with federal programs.

The Assembly also endorses the proposition that state governments should exercise more initiative with respect to many local problems and should play a more effective cooperative role with the federal government in dealing with local problems.

The general rule should be that whenever the State Legislature is in a position to occupy the field and to deal properly with the problems therein, it should do so. When federal action is taken, every effort should be made to channel it through proper state and/or local agencies.

With respect to the basic function of the Legislature and its interaction with the executive and judicial branches, the Assembly concludes that the proper delimitation of the respective traditional functions can best be accomplished as a part of the general process of state constitutional revision.

In this regard, the Assembly restates its opinion that the elimination of outmoded and unnecessary constitutional restrictions of legislative powers is necessary and desirable.