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Interview with

A. R. SCHWARTZ

May 6, 1970

Place of Interview: Dallas, Texas

Interviewer: Dr. Ronald Marcello

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Approved:

A. R. Schwartz

Date:

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Oral History Collection

Senator A. R. Schwartz

Interviewer: Dr. Ronald E. Marcello

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Dr. Marcello: This is Ron Marcello interviewing Senator A. R. (Babe) Schwartz for the North Texas State University Oral History Collection. I'm interviewing Senator Schwartz in order to get his impressions and reminiscences of the regular and special sessions of the Sixty-first Texas State Legislature. The interview is taking place on May 6, 1970, in Dallas, Texas. Senator Schwartz, one of the first problems which arose during the regular session of the legislature was the controversy over the one-year versus the two-year budget. First of all, which particular aspect did you favor, the one-year or the two-year budget?

Senator Schwartz: Oh, I favor the one-year budget and, more importantly, I favor annual sessions of the legislature so that this problem would be moot. I think we need this to go to annual sessions. And I've said it year in and year out. It's been one of my real important issues, I think, from time to time in legislative reforms or in constitutional amendments. We just can't adequately budget for two years.

Dr. Marcello: How do you think the controversy over the one-year versus the

two-year budget came about? Was there some politics involved here, let's say between Preston Smith and Ben Barnes, for example?

Schwartz: Well, it started between Governor Connally and Preston Smith when Preston Smith was lieutenant governor. The last Connally budget was a one-year budget. Preston Smith was opposed to this. And this session I was a member of the finance sub-committee which wrote the appropriation bill and a member of the conference committee which ironed out the differences (between the two Houses) and wrote the bill. And we just simply recognized what was the truth. And that was that a one-year bill makes sense and a two-year bill is a guess. You can appropriate intelligently for one year. You can only guess about two years by applying some formulas that are not always true. My judgment, because I was on that side, is that the intelligent view of appropriations is that you do what you can do intelligently which is a one-year proposal.

Marcello: Did you see any political motivations involved in this one-year and two-year budget controversy? That is, between Ben Barnes and Preston Smith?

Schwartz: Well, I think that Preston was continuing to kick that old dog around that he kicked around with John Connally. It was a Connally-Smith issue, and Preston wouldn't let it die. It may have been a Barnes-Smith issue because Barnes was related

to the Connally movement of two years before that. But it's unimportant to me about their political bickering on the subject. I'm disappointed that the public is so unconcerned about its legislative affairs that it's willing to let the governor take such a position, and willing at the poles to defeat annual sessions in a constitutional amendment. And that . . . you know, you have to blame Texans about things like that. They just don't want good government.

Marcello: This brings up a very interesting point. I think it was during one of the recent elections that a constitutional amendment to that effect, that is the defeat of a proposal calling for annual sessions of the legislature, was defeated. What do you think was the reasoning of the public behind this decision? Do you think it was due to the fact that they were disenchanted with the conduct of the legislature during the past session?

Schwartz: Well, I think number one, the public, because of our constitution and its necessity to be amended all the time, the public pays less and less attention to the amendments that are being offered and the benefits they might bring about . . . that the changes might bring about. I think yes, the public's disappointed with the legislature. I think they're disappointed with politics generally, and they don't participate. We don't get numbers out to the polls on constitutional amendments, and the people who come out are

apparently not the people who want to bring about any change. The people who come out are the people who want to resist change, and that's the problem. Maybe the people that come . . . well, Preston Smith got elected governor, and I guess the same people who elected him governor voted against the constitutional amendment because it supported his views.

Marcello: Going back to the regular session again, what did you think of Governor Smith's original budget proposal, that is, so far as the raising of a revenue? Did you think the means of gathering revenue were equally divided among the business community and consumer?

Schwartz: Well, I never believed that Preston Smith had any intention of dividing any tax burden equally, except equally between the poor. I think the Smith philosophy of government has been that "no use taxing the rich, the poor are used to it, and so just strap it on them." And every time he's got a message, why, he just straps it on them again. Each time he says, "Well, the consumer ultimately may have to pay all the taxes," and he very skillfully avoids the fact that the consumables that are manufactured in Texas . . . if a tax were included in the process of that manufacturing or that production . . . that those consumers who live outside of Texas . . . that 80 per cent of our oil and gas consumers live outside of Texas . . . that maybe 90 per cent of our chemical product consumption is outside of Texas . . . that

many of these products manufactured in Texas are consumed outside. So if the consumer has to pay the tax burden anyhow, then let's share 80 per cent with our brethren across these states, and maybe across the world. Whereas in his proposals, which are usually sales taxes at the point of sale, a 100 per cent of that tax is paid by Texas consumers. But that's the good old solid conservative philosophy that nobody ever takes time to examine.

Marcello: One of his proposals during the regular session called for a tax on the chemical industry. Now many people thought that this was politically motivated. Apparently, so the record shows, Smith can on occasion be rather vindictive toward those who fail to support him. What do you think about this?

Schwartz: Well, I think it's a classic illustration of his personality, and I can't criticize too much, because most of us sort of wait for our enemies to come around a second time, if we get a chance. Very few of us are pure enough to forgive our enemies. And I don't think he was ever serious about the chemical tax, and I don't think the chemical industry ever thought he was serious about the chemical tax. It was a bad smoke screen in my judgment. Anyhow, one of the interesting things about the chemical tax is that I'm not sure that Preston . . . I don't have any high regards for his intellect to begin with . . . but I'm not sure that

he had any idea that chemicals meant oil and gas. He just woke up one day and found out that chemicals were manufactured from oil and gas. I think he thought chemicals might grow like spaghetti. You know, there were people who thought spaghetti was a crop in the old Roosevelt days with brain trusters. You know, somebody said, "What are we doing for the spaghetti growers." This is one of the historic comments out of the brain trusters.

Marcello: This statement was attributed to Rexford Tugwell.

Schwartz: Yeah . . . out of the brain trusters' discussions in the Roosevelt era. And I think it is the Roosevelt era that I'm talking about. I'm not sure that Preston Smith, like the fellows concerned with the spaghetti growers, didn't believe that the chemicals were chemicals. But when he was suddenly enlightened that chemicals were oil and gas products, then that became an overwhelmingly difficult thing for him to do, because all his friends were going to have to share the burden. And it was no longer a question of just enemies.

Marcello: I would assume also that a tax of this sort, would affect your particular area of representation. Is that correct? Is there quite a bit of chemical industry down at Galveston?

Schwartz: Oh yes, the chemical industry is virtually dominant in our area as an industry. Dow Chemical Company, Monsanto, and several smaller chemical companies. I can't even pronounce

some of them, AMF, the film company, I'm not sure what the designation is even, and I think Sulphur, Chemicals, and oh, several. But they're no pals of mine in the sense that they deserve my protection, simply because they are located in my area. I have many problems with them because they're the polluters, both air and water, and they're the Chamber of Commerce, and they're the establishment, and they're the non-taxpayers. Except you give them credit where credit is due, they do pay a share of the property taxes because they can't escape them. But they don't pay any state tax, it's pure and simple. The state of Texas is letting them run wild and free because our franchise tax doesn't get to them and they successfully defeat a corporate income tax.

Marcello: Therefore, how does a senator react to this type of legislation? I mean the senator whose area contains quite a few of these chemical companies? How do you decide?

Schwartz: Oh, I demagogue . . . I demagogue. If I know the governor is not sincere in the first place and he doesn't intend to effectively levy the tax, then I don't support his tax. Although if he purported to have a tax program that taxed manufactured products--chemicals and other manufactured products--it's consistent with my political philosophy to support such a tax. Because the end product consumed is by somebody who pays the taxes somewhere else, just like I pay the taxes on my automobile manufactured in Michigan. I know

when I'm supporting the Michigan economy. But there ain't nobody in Michigan supporting the Texas economy, because the companies that manufacture the products consumed in Michigan are not taxed in Texas. Yes, I was against the chemical tax because it was a selective singling out of one industry, although I support the theory that they all ought to be included.

Marcello: Let me go on to another area. There was some social legislation passed during the regular session of the legislature. One of the pieces of such legislation regarded increased welfare benefits. What was your position on the increase in welfare benefits in the state of Texas?

Schwartz: Well, I voted first not to have any constitutional limitations on welfare benefits because I believe it's unconscionable to try to determine in a legislative body in advance of the need how much we want to spend. See, the whole theory of determining what you can afford in welfare as opposed to what the need is in welfare, you know, is, in my view, not just negligence, but criminal. We can't sit down and say, "All we can afford to spend in Texas on welfare is \$80 million. Therefore, we're going to have a constitutional limitation." The legislative function is simply to try to pump as much money as we can when it is needed and provide for the future needs as they may occur. And when they came back with the limitation I didn't vote for the constitutional amendment. I

think Senator Mauzy and I are the only two people who would not vote for the constitutional amendment with the ceiling when it came back from the conference committee. We sent it to a conference committee first in the Senate as I recall. And then when it came back with the conference committee report, we still wouldn't vote for it. And the House imposed a ceiling, and I said again, "I think it's criminal since they have imposed such a ceiling," and we are living with that criminality now, where the governor had to run out . . . and we didn't appropriate enough money either . . . and so we've taken money now since the session from the University of Texas Medical Branch of Houston and at Lubbock to put into the welfare coffers that we didn't have because we didn't appropriate it. And we're going to have to go back and amend the ceiling or repeal it. It's a foolish act.

Marcello: Who were some of the more vociferous opponents of the increase of the welfare benefits?

Schwartz: Oh, unfortunately, we're further down the line perhaps than we should be in trying to recall the legislature, but basically the House conservatives brought about that limitation. The House members would be better able to specifically point out who the culprits were.

Marcello: During the past year, and I assume during the past several years, the House has traditionally been more conservative than the Senate. Is this a fair statement?

Schwartz: It's a fair statement, but the Senate then knuckles under on these issues because of the delicate conservative-liberal-moderate balance and lets the House have its way. I mean, we could have just stood there and said, "We will not buy a ceiling on this constitutional amendment." And, you know, I'm a very practical kind of a politician or impractical, depending on what side you take. I believe when you come to an impasse on something that is that important that you just shut her down. And what you do is say, "Well, you know, we're not only not going to meet on this constitutional amendment until you all decide to come around . . . we're not going to meet on these others." You use the legislative aims of the leadership to make them knuckle under on principle. I don't think that's fair game on some things, but when you're talking about welfare and talking about what you know must be right, and when you're talking about knowing that it's costing you a half a million dollars every time you amend the constitution, it's ridiculous to knuckle under to the House, when all you've got to do in the Senate is say, you know, "When you fellows are ready to talk, why, call us on the phone, and then we'll talk about all these House bills that you fellows have got over here." We're just not playing it mean enough.

Marcello: From what you've said then, I gather, among other things, you are in favor of a drastic revision of the state constitution. Is this correct?

Schwartz: Yeah, I have enunciated that since I was a freshman House member and co-authored with Truitt Lattimer the very first legislative council study for constitutional revision, which is still gathering dust . . . which has been brought out a couple of times and dusted off but which cannot be brought into being because the legislature just hasn't come that far. Our governor doesn't favor constitutional revision. When we had a governor that favored constitutional revision and when Ben Barnes was Speaker of the House, who favored constitutional revision, Preston Smith was lieutenant governor and wouldn't let it pass in the Senate. I carried the bill to establish the commission. And he killed it . . . contributed to its killing. And now he's governor, and we had a commission, and it reported back, but there was no impetus given that report. My personal opinion is they did a bad job drafting the proposed constitution anyhow, so it didn't make any difference to me. I would not have advocated its passage because it was not really a reform. It was a conservatively oriented constitution.

Marcello: What basic . . .

Schwartz: To preserve the evils and do none of the good.

Marcello: What basic changes would you like to see made in the constitution without getting too far into specifics?

Schwartz: No, I don't want to. I think, one, the legislative section the constitution could be very much improved in the processes

that are now restricted by legislation by constitutional provisions. Without going into detail, I'm going to make some of those changes as chairman of the rules committee. I can bring about some rules changes but I'm hide-bound by the constitution in other ways. I think, of course, annual sessions ought to be the constitutional rule rather than the present setup. I think legislative salaries . . . I think the framework within the legislative office . . . all that has to be investigated in terms of the conditions of the '70's and the '80's rather than the 1770's and '80's, and you see . . . or the 1870's and 1880's. So that's one.

Two, we could vastly improve the court system without providing for appointed judges. But we could break that court system down so that there are a couple of constitutional courts and the rest are legislative. And there's some differences that I won't have to go into, but the legislature ought to be more able to act upon the court system to make it fit the needs of the times. We've got a system that's constitutionally rooted, and I don't think it fits our needs today. I think that in terms of the executive branch there's much to be improved upon there. I think perhaps even some elective offices ought not to be elective. I think some offices are housekeeping functions today. One of my best friends is state treasurer, and I'd be willing to put it on the basis that after the terms, or the life of an

individual who then holds an office, that that office reverts to some kind of a ministerial function. You don't need an elected comptroller. You don't need an elected treasurer. You don't need these kind of elected officers. You need an elected governor, lieutenant governor, and attorney general, and some judges of some courts. But from that point you can devise better systems. These are the kind of things that I think ought to occur. I think maybe some of them are far out, but I haven't expressed any of the far out ones. I've got lots of far out ideas, which will never come to pass, and one is that the legislature ought to be redistricted every ten years by commission. And the legislature ought not to have the joy of redistricting itself. I'm already figuring out ways to take care of myself, you know, in that redistricting. I must. Every other legislator is figuring out the same thing. So these are the things that we need to tell about.

Marcello: Who do you think should determine the redistricting?

Schwartz: Oh, I think a commission ought to be established, part by appointment of the supreme court, by appointment of the executive, by appointment of the speaker of the House and the lieutenant governor. I believe in the system, but I believe the system ought to include appointments by the areas of the government--executive, legislative, and judicial--rather than letting the legislature determine all of its own fate, only subject to executive veto or court

determination of unconstitutionality.

Marcello: Some people have said of the Warren court that perhaps the one-man, one-vote ruling was much more profound and would have much more far lasting effects than the Brown v. The Board of Education case. Do you feel that this is the case also?

Schwartz: Oh, yes. I think that the country was headed for law-making disaster . . . legislative disaster in the absence of one-man, one-vote rule. Unfortunately none of us realized how definitely we were headed for disaster anyhow in terms of dissent in minorities and deprivation. But without even a hope of solving some of these problems because of the locked-in state legislature, I think we'd be in terribly worse shape, because these legislatures that have been freed of the bond of rural domination have at least tackled the problem. There has been too short a time to solve them. If the Warren Court had hit the problem earlier, and we had had in our legislatures the ability to meet these demands of an urban society, then we might not have the violence and dissent we have today. Because we might have coped with the cause of dissent, and we might have met the issue of poverty on an urban level. And we might have met the issue of better schools. We might have met all these issues. We might even have . . . oh, I don't know how . . . we might even have had a better representation nationally, which would have further

served to avoid the Viet Nam confrontation and disaster that has occurred. Because again, the Hawks are rural by-and-large, although there are some exceptions to the rule. But in the cities where the war is being fought by the society that's represented in the Congress, those people are the Doves. The representatives that have the minorities, the kids, and the folks that are dying in this war are Doves. The Hawks are all out here in the South and the rural areas where it's popular to be warlike or to be western or to be whatever it is that . . .

Marcello: To be for the flag, apple pie . . .

Schwartz: To be for the flag and apple pie. And so if we had brought about that change earlier there would be less of those representatives, you see. And of course the United States Senate will always be the same. And I would not change the United States Senate, because that concept I agree with on a national level. Because the Congress is too powered, and the House does have much strength in the national government. So the philosophy of each state being adequately represented is a necessity, and they ought to have two senators. And if there are states with 20,000 people I'd still want them to have two senators, if they're admitted to this union. Because the House can take care of that kind of problem. But if the House members were not properly elected because of the apportionment in the state, then the very Congress which was

supposed to be responsive to the people was as inadequately representative of the people as was the United States Senate . . . and that's why I think many of these problems have come to pass. You know, in New York State, New York City had its congressmen and upstate New York had its congressmen. And upstate New York ran the state, and here's New York with ten million people. In Texas, before redistricting, we had a rural dominated Senate, and how're you going to have congressional districts that are fair, if the Senate which is rural dominated redistricts the congressional districts and protects the rural congressman? The court declared that we had to provide adequate congressional representation, and I think that will bear fruit in the change. But we haven't seen the real fruit of change yet, because the real fruits of change come about with the '70 census. And the tragedy of the '60's has been the failure to have representation in Washington on a one-man, one-vote basis, and nobody really understands that.

Marcello: Whenever you read in the newspaper, you usually see the liberal versus conservative conflict, but Senator Oscar Mauzy, one of your colleagues, has said that really rather than urban versus liberal, a better definition or terminology would be rural versus urban. Do you agree with this so far as Texas is concerned?

Schwartz: Yeah.

Marcello: . . . so far as Texas is concerned?

Schwartz: Oh yeah, Texas is really no longer a liberal-conservative split, although it's a part of the split. The split really is urban and rural. More importantly, the problem is that urban representation by-and-large is still rural in its philosophy. An urban senator or a House member who has a rural background, as do his constituents who don't live in the ghetto but who came to the city from the country, are still rural in their philosophies and attitudes are rural. And that makes them conservative in terms of urban problems, and so they need to be changed. They need to grow up and understand their problems.

Marcello: Do you see certain rectifications coming about as a result of the 1970 census? In other words, do you think that the urban element will be much better represented in the future legislature?

Schwartz: Well, I think the urban will be better represented, and maybe even the rural will be better represented. I'm not much on this big brother, but I think good solid urban representation that's knowledgeable about the problems of the '70's, elected from urban areas, will be better for the rural areas than picking a guy who can't make a living and has nothing better to do and sending him to the legislature from fifteen rural counties. The guy in the city who's concerned with how people are going to live in Texas, and how they are going to produce in our society, is doing a better job of representing

those fifteen rural counties. He's going to be worried about water, he's going to be worried about pollution, he's going to be worried about schools, he's going to be worried about our environment, and he's going to be tackling these problems. That fellow that comes from the country--he thinks the only problem in life is whether that crop comes in; that's traditionally what he does in the legislature. He worries about brush control, and boll weevils, and screw worms, and he ought to, but he doesn't worry about the rest of the problems because they're not his problems. He doesn't care anything about urban transportation, or city schools, or higher education. He doesn't think any of his kids will ever go to college. And it's a tragic commentary on our society, but rural representation has not been effective.

Marcello: Do you feel that . . .

Schwartz: There are exceptions.

Marcello: Do you feel that you are sympathetic, or that you, yourself understand rural problems?

Schwartz: I think I understand rural problems. I have some rural districts in my senatorial district. I have a definite problem in rural areas of my district. I don't understand the difference between maize and soy beans and corn and things like that. I don't know where we produce vegetables and rice and . . . I know my district, and I know what a rice field looks like, and I know what truck farming is, but I

don't know what end of a heifer to put my hand on when I go to the fair. I mean I don't know whether to pat them on the nose or on the rear end. And I can't tell you anything about the fryers at the stock shows. I don't know what a mess of sows are. I can't talk their language. But I know that rural people need consideration of their problems. And I know they need decent schools. And I know they need decent roads. And I know that they need clean air and clean water. And I know that they're interested in all the same problems that I'm interested in. They want to live. They want to live a little better, because they're really able to live a little better. So I feel like I'm not going to prejudice their rights. As a matter of fact, when we have totally urban legislature, it's people like me who are always fighting minority battles, who are going to wind up fighting for the rural people. Because they'll be the minority, and they will be just disenfranchised in an urban society, because legislators are humans and they're therefore notoriously selfish. And they're by God going to take care of themselves first. You know, number one is going to be the guys that live next door to them, and number five is going to be the fellow that lives 150 miles from him in a rural area. And there is going to be ten times the representation in the urban society in legislature from cities as there is from counties.

Marcello: What proportion of your district would you estimate is rural?

Schwartz: Oh, 35 per cent of the people. If you ask them, you'd have 50 per cent of them who claim to be rural . . . if you ask them. Because they think they're rural if they don't live in Houston, Texas . . . they don't live in downtown Houston or downtown Galveston, or downtown Texas City. That's a funny thing--the Alvin community thinks they're rural. They are, they're oriented to an agricultural society. But Monsanto Chemical Company is two miles down the road, and that makes them different. Freeport people think they live in a rural area, but Dow Chemical Company dominates the area. They all work for an industrial plant. They're all subject to all the industrial evils and the industrial benefits that accrue therefrom.

Marcello: There was some other social legislation passed during the regular session of the legislature including an increase in the state minimum wage. Were you satisfied with what was passed, or would you like to have seen a much better law?

Schwartz: Well, I was for the broader coverage in the minimum wage law that you could encompass. I started with farm workers and their march into the Valley. I marched in Austin on the Labor Day when they marched in from Saint Edwards to the capitol grounds, when John Connally wouldn't meet them at the capitol. I, you know, have been involved in the minimum wage legislative maneuvering since the beginning. And I was

disappointed that we didn't get a better act. But everything has to have its beginning. And I say that this is a beginning and we'll prevail. I just don't think in our society you can justify working people for a wage that's less than they can survive on economically. And, therefore, they either have to be unemployed and in some way provided for if they can't justify the wage to which normal people would be entitled. They either have to be provided for or they have to be paid if they are entitled to it. I don't know if that's somebody else's guaranteed annual wage philosophy, or Nixon's work or go on welfare philosophy. I don't care who's philosophy it is. We're going to wind up with a class of people who are unemployable at a level which will sustain them. And so we're going to have to provide for them because we're a humane society and we can't eliminate them. But everybody else that's subject to being employed and those people who desire to sustain themselves, they're entitled to earn enough money for their labor to sustain themselves.

Marcello: Just a little while ago you mentioned something that I don't believe is part of our record at any place. And that is the march down in the Valley which took place several years ago during the Connally administration. Would you care to relate anything about the events of that march?

Schwartz: Well, yes. Cesar Chavez, who has since become well known nationally including a cover story on Time and Newsweek and

much publicity, and who, incidentally, was there, and since that time in the Valley in Texas he started the grape boycott in California. And he has really become sort of a religious figure in the Mexican-American areas, and in this era of their existence in their militancy. When I met Cesar Chavez it was in the Valley. I went to the Valley to see what was happening in the farm workers' strike, and I went there to see whether or not they were being abused by the Texas Rangers, and whether or not they were being protected in their legal rights, or whether or not they were being oppressed. There were a hundred criminal cases filed against the farm workers down there that were never tried. They haven't been tried yet. A hundred criminal cases with \$25 and \$50 bonds on each case. People who were just simply striking for their rights. We found out that the farms were all California owned and Nebraska owned. They were corporate farms. In a way we're working people for 60¢ an hour so that somebody in New York can buy watermelon for 50¢ a pound. It doesn't make sense to me. You know, you may not have to eat watermelon in this world. I mean, you know, we may be able to get along without watermelon if you have to have people pick it for starvation wages. You know, we may have to pay more money for lettuce and give up avocados. I don't know . . . give up cantalope. But what I'm saying is what I found out down there was . . . and it was enlightening to me. I just

realized how stupid I was. We had a 300,000 population of people of this state who are Americans; who are Texans; who are illiterate; who are oppressed; who are starving, literally and physically; who are economically disadvantaged; who are cheated, lied to, stolen from; placated by the church with the church admission. The reason some of those preachers down there got out of the Valley--were removed from their pulpit--was because they admitted that church was contributing to the complacency of the Mexican-Americans. Since that time those folks walked from the Valley to the capitol building and . . .

Marcello: What year was that?

Schwartz: This had to be '65, at least four years ago. Governor Connally and Waggoner Carr and Ben Barnes, both of the latter being induced by Governor Connally, met them in San Marcos on the highway. And some very disastrous political pictures were taken at that time of them talking, trying to confront them there and say, you know, "We're going to talk to you here. We're not going to talk to you at the capitol because what you're doing might bring about strife and dissension, and it could cause difficulty or trouble." And the Mexican-Americans never forgot that, and they took it out on Waggoner Carr, and they haven't yet hurt Ben Barnes. It apparently hasn't hurt John Connally based upon the election of Saturday, a couple of days ago, with the primary victory

of Lloyd Bentsen, who is from the Valley.

The miracle to me of our society is that the people in it don't seem to stay mad about their grievances. You really can abuse the people. And it's evidenced by the Mexican-Americans who've been abused, and done absolutely nothing about it as a group. The Chicanos are now active, and they've surfaced, and you can see them. They are in a rebellious mood, and, I think, a dangerous mood. The MAYO group has gone to the extent of occupying a church in Houston. These things are not good, but they come about for the same reason you have militant blacks. The "go along and get along" philosophy that these people have been preached to for so long by their own leadership brings out a radical group who appeal to a radical part of that group. And they say, you know, "The only way to do it is to do it the violent way." And I'm afraid that that's what's going to happen in the Mexican society just as it's happened in the Negro society. I'm afraid the militants are going to have the following because the status people are not obtaining the results. They're not fighting the causes, and that's what they call it. They call it La Causa, and they call it La Raza. I can't speak Spanish, and I don't know, but you know Viva La Huelga was the cry in the march. And, you know, they're going these slogans, and the sloganeers are going to have a following if the status people within those minority groups

don't do something for their fellow followers. I think the church has got a tremendous responsibility, which it has abdicated in that area. The church could be very influential.

Marcello: When you speak of the church, you're speaking of the Catholic Church because most of these people are Mexicans and therefore Catholic?

Schwartz: Well, no, in the march there was a Mexican-American Baptist preacher as well as a priest, and then other denominations entered into the cause of the march. There was a rabbi or two involved. Of course, there's virtually no Mexican Jews. I'm a Jew, and I understand that situation, but in the Protestant-Catholic faiths they're all represented in the congregations. But in the Valley, yes, the Catholic Church is predominate. The Catholic Church is responding to those people's needs, but, here again, the church could be militant, and it's not.

Marcello: Is there any other social welfare legislation which was or was not acted upon in the regular session of the legislature that you would like to comment upon?

Schwartz: Well, back in '65, and I'm not sure I'll comment on it, because in '65 George Parkhouse, who was my deadly enemy from Dallas, Texas, introduced the abortion bill. And in '67 nobody in the Senate even introduced the abortion bill. The bill was introduced and not acted upon in either House,

but it was introduced in the House of Representatives. Since that time we see Hawaii, New York, Alaska, Maryland, Virginia, Colorado, these states to name a few, who have adopted a liberalized abortion law. The only reason Texas didn't pass the law in '65 in my judgment is because there was much opposition from the Catholic Church and no support from the masses because the masses were not yet made aware of the fact that it might be brought about. See, most people just didn't believe you could liberalize the abortion law. Now that they believe it, there'll be some people who will accomplish it.

Marcello: You haven't mentioned it, but I assume that you were in favor of a liberalized abortion law.

Schwartz: I was one of seven on a committee of fifteen members. I was one of the eight, I believe, that voted to pass the bill out of committee, but it died on the Senate floor. It was never brought up, and as I said, my enemy, Senator Parkhouse, my philosophical enemy, may he rest in peace, handled the bill. He's probably the only man in the legislature with "guts" enough to handle it including me, I might add. I like to be brave on issues in which there's great principle involved. And I'll go down swinging, but the abortion bill was not one of those things that I felt that I would go down swinging about during the last session or I would have introduced it.

Marcello: What was done during the past session with regard to education

that you were particularly pleased with? Let me be a little more specific. Were you in favor of most of the new colleges which were provided for by the legislative session?

Schwartz:

Yes. I voted for all the colleges with some reservations about the Chamber of Commerce philosophy that went with them. They were not created, unfortunately, by demanding people who wanted education dispensed to the masses. They were created by businessmen and Chamber of Commerce types that wanted to bring new business to their community. You know, a new college is just like a new smokestack except that the kids are easier to take advantage of. They'll have more franchise hotdog stands and hamburger stands, and they'll sell more snappy cars and get a little of that money into their community instead of it all going to Austin and Houston and all that kind of nonsense. But, for whatever reasons it has occurred. And that's good because it's necessary. We're way behind.

The big issue in the coming legislative session is whether or not that advance in public education will be stymied because of the demand for state aid to private education. The private sector is now coming into the education budget and saying, "We want to be paid for educating people." And when you say, "Well, you wanted to be a private school, just stay private." Or, "You wanted to be a church school, stay church school." They say, "Oh, no, we're entitled to our

share of the tax dollar." And you ask them why and they say, "Well, because we're educating Texas citizens." And we say, "Okay, those Texas citizens can go to public schools and we'll educate them and pay for them and you can close up now. If there's no longer a need for your facility, why just close it up. Or if there's a need for it, why then either you fund it or sell it to the state of Texas, and we'll buy it and operate it as a public school." Oh, no. They want to keep on discriminating on a religious basis, on a color basis, on a social basis, on a society basis. You see, they want all the rights to discriminate they now have, including on a salary basis. They want to still be able to pay their best professor \$50,000 a year, but they want state money to subsidize their school so that they can discriminate and be discriminating, is the way they would put it. And then they would like to pirate all the better people from the public sector into the private sector, and the public schools are going to be left for us poor white folks (poor white trash if you'll pardon the expression) and the Negro and the black and brown minority or however they might be styled. If they need a token, they're going to admit a few of everybody just to show that they're broad-minded. But they want to be private, and that's why they remain private. If they wanted to be public we'd take them over today. It's very easy to become a public facility. Now, that's higher education.

In the area of secondary and elementary education, I handled Senate Bill 2 in which became the vehicle, or was the vehicle to implement the John Connally Governor's Study Committee, which was headed by Leon Jaworski of Houston, Texas, that was called "the challenge and the change" or "the change and the challenge." And this was to be our twenty or twenty-five year program to revitalize education in Texas up to the high school level. But, what happened to that was that the Texas State Teachers Association lobbied for the pay facilities involved in the report. And we did pass House Bill 240, which is the ten year pay raise program for teachers on a graduated guaranteed increment basis. So the teachers are provided for and I think that's proper.

We didn't, however, tackle the issue of consolidation of these rural schools which must be consolidated from the standpoint of pure economics and need and the benefit of the children because the rural school district is still designed in many instances to be a tax haven for a particular oil field or a particular industry. You know, 400 students have gone through twelve years of educational process in a hick-town school with a principal and two or three teachers. The only reason it is not consolidated with the school district which surrounds it is because that school district encompasses an oil field or an industry in that rural community. And the tax rate on that particular facility is nickels and

dimes compared to the dollars it might have to pay. In Danbury, Texas, in Angleton, outside of the Angleton Independent School District, in my district of Brazoria County, the Danbury school district has 800 scholastics in it, I think, in a twelve year system. And it sits on an oil field. And the very first letters against consolidation in my bill all came from Danbury . . . the first letters I received. Everybody in Danbury wrote me a letter because the principal, through an oil company representative, I think, made sure that they all told me how much they disliked my idea that they might be incorporated into that big city school district which was Angleton. Now Angleton was about as much of a big city, you know, as . . . well, I can't even compare it to anything in the Dallas-Fort Worth area. It's so much smaller than Denton that I won't even mention it. But they just by God weren't going to be put into one of them big city school districts like Angleton or Alvin where folks carried switch blade knives and smoked pot and ran up and down the halls fighting each other. And, of course, Angleton is a rural school district in my judgment, a very fine district, as is Alvin. They're both excellent school districts. And I might also add they're all white upper middle class school districts, you know, because they're all rural and they are not in a metropolitan area. But you just have to read the mail from Danbury to see what effect it had

all over the state.

The other great issue was that we did not change the foundation formula. And what we were able to do is amend House Bill 240, the pay raise bill, to require an interim committee (and I am a member of that interim committee) to study a revised formula for the dispensation of the state fund--state money--to the school districts. There are three lawsuits pending now which this Oral History Collection ought to reflect and, perhaps, petitions ought to go in the file somewhere to show that Dallas and Fort Worth and San Antonio have had to file lawsuits against the state of Texas to attempt to gain their fair share of the state money that goes to educate our children. And the formula is just all wrong. The present formula has little or nothing to do with an urban economy. It's based on a rural economy. And it even has forgotten the fact that we went rural to industrial to urban. But I'm on that committee. And I might say I'm a minority of one on the committee which is not unusual to my political philosophy. But the committee consists of Senator Aikin, chairman, Representative Hinson who was the vice-chairman but has since died, and has not been replaced on the committee, I don't think--three senators, three house members for a total of eighteen people, the rest being lay people. And that report ought to be included at some time within this discussion also.

Marcello: How much impact do you think that report will have?

Schwartz: That report will be adopted by the next legislative session because this is the excuse of the TSTA, that's Texas State Teachers Association and the teacher lobby, for not having supported some necessary changes in the last session. They'd just be "gung ho" to get this done and cleanse their conscience. But it won't be enough because it will still be inadequate to the cities in my judgment. But I don't know how I can cope with the change. There's a committee meeting tomorrow at which we will decide on some preliminary things that have been found.

Marcello: I suppose my next question also has to do with education in a sense. And that is . . .

Schwartz: Let me throw one other thing in here.

Marcello: Surely.

Schwartz: The issue before this committee will be whether or not the county tax assessors and collectors in this state are going to all have to accurately and honestly carry on their tax roll for the county the true 100 per cent market value of the real estate in those 254 counties. And this is what the rural members are opposed to because if we ever obtain the true tax value of all the real estate in every county in Texas, then we can use that as a proper part of the formula to determine the amount of money that ought to be allocated out of Austin to the various schools. And by keeping the land

values out of the formula except to the extent of about 20 per cent of the consideration, the rural areas get a better break in the distribution because the present distribution talks about income, industry, and all those other things, so that the cities are weighted more heavily in their ability to meet their needs. Therefore, they get less state money. So this is the reverse of the formula where all the value of land is not considered to its proper proportion. My bill would have had it on a 50-50 basis in the formula. So I wanted to get that in, too.

Marcello: Surely. What I was going to mention is that also during the past legislative session there was some legislation passed with regard to campus unrest and campus disturbances. What was your opinion of this legislation? Did you support it?

Schwartz: Yes, I thought they were demagoging, and I made several speeches on the floor of the Senate against the specific legislation for the reason that, you know, everybody said, "Well, we've got to have this legislation because these kids are burning down buildings." Well, it's a felony to commit arson and this legislation just simply made it a misdemeanor to protest. So what they were doing was trying to destroy the constitutional right of protest. If you want to get to a fellow who's burning down a building, charge him with arson and send him to the penitentiary which I believe is proper remedy. If you want to get to a fellow that's throwing rocks,

charge him with assault to murder which is a proper charge 'cause it is a deadly weapon, or bricks. If you want to get to a fellow who's carrying a knife and trying to stick you with it, why get to him. But don't make it a felony to peacefully assemble and don't try to destroy that right by demagoging the protest.

But let me tell you something. The liberals have lost the battle. We're destroyed in terms of our individual freedoms because the kids have carried it too far and when we defend them we lose. And I still defend them. I defended them today at lunch. And I'm somewhat concerned about the reports that might come out tomorrow, because four boys and girls were shot . . . well, ten were shot at Kent State University in Ohio. It's a deplorable thing. It should have never occurred. The National Guard doesn't have a right to determine the crime and assess the punishment as capital punishment and kill them on the spot no matter what they were doing unless they were seriously threatening or taking a life. And yet, it occurred and occurred in the United States of America. And this morning over coffee at seven o'clock waiting in the airport I had a lawyer friend say, "That's fine. Kill them." And what he doesn't understand is that he doesn't really want that rule of law to be imposed upon our society. But the silent majority has taken the position that every kid that's in a demonstration is going to burn down a

building. They had burned a building at Kent. They burned an armory. But everyone of those kids didn't burn that armory and to decide that they all could be shot and killed indiscriminately or any of them could be shot and killed indiscriminately is a tragic commentary on our times.

And it starts with people like Joe Shannon, who pass these kind of bills through the legislature and say, you know, "You've got to get them all. You've got to destroy this right to assemble in order to prevent violence." Well, if that's true then we ought to repeal the Constitution of the United States. And there was little or no violence in Mussolini and Hitler's time and they even made the trains run on time, as they explained it to me. A very orderly government, except that nobody had any rights. And I suspect there's a lot of people in our land today who, at least if you listen to them talk as I do, would rather live under Hitler and Mussolini than live under a democratic process in which you had to confront yourself with a dissatisfied minority.

Marcello: In your own opinion, what do you feel are the roots of the student unrest or the unrest of the young in general?

Schwartz: Oh, I think they've been lied to about Viet Nam. They're coerced into fighting a war that they're against and don't have a voice in, to prevent or to change. They have no faith whatsoever in the democratic system because it hasn't protected them--they don't think. I think it has. I think

it's rapidly approaching a point where it won't, but it's protected them a good deal more than they're willing to admit. They're not well enough exposed, I guess, educated, to how well they have been protected and provided for by the democratic processes, because they only see the inequities in the process. They only see the things that stand out, the glaring deficiencies. They see the very worst in our society and see none of the best. And I talk to them all the time, at speeches and any place I can get a group assembled that'll invite me, and try to point that they can attack the causes of this unrest themselves. They can help solve some of the problems of our society. What I do is an attempt to solve some of those problems. By working in the system I brought about change and I've gotten my scars for it. And I've been abused and I've been in a minority, and I've been attacked, and I've had all the hate thrust upon me that have upon them, but I haven't left the system. And I'm not standing outside the capitol throwing rocks at it. I'm trying to get elected inside the capitol to bring about change where I can be listened to. And I point out that they're out there throwing rocks to call attention to a problem, but they can't bring about a solution to that problem in the streets. But I want to protect their rights to be in the streets if they're there peacefully. They say we've lied to them. They've been told, you know, "Eat your lunch. There's children starving

all over the world," and all their life. And they found out they weren't starving all over the world; they were starving in Detroit, Philadelphia, and Houston and South Texas. And that the politicians are lying to them, that these conditions exist and they can be treated. And the status establishment is not treating the problems. They've been cheated on their educational values. They've gone to lousy schools and they know it. The Negro who gets to college and is a militant, the bright boy who gets to college and finds out what a sorry education he had in high school, is bound to be militant about it. He's bound to be a radical in our time at least, where so many things make him radical. It's no surprise to me that Berkeley which represents the highest intellect in the state of California, maybe in the nation, is the most radical, because they at least know how sorry their beginnings were, how they were cheated out of the kind of opportunity they should have had. Even though they are bright, they still haven't been educated, a lot of them. I don't know what the answer is, but I know that the war, and the poverty, and deprivation, and continuing imposition on the minority is downright criminal neglect of their needs, and it brings about a demand for something that these youngsters want that society ought to provide. What the youngsters don't know or don't think about is that the revolutionaries that they admire so much wouldn't provide those remedies they seek either.

And if they'd understand that our government's got a better chance at solving the problems than their kind of revolution, we might make a little more progress.

Marcello: Moving on to another area, what legislation did you personally sponsor during the regular session?

Schwartz: Oh, besides the educational program which was a complete package of this reform of (secondary and elementary) education, I sponsored a package of bills which were called the "Beach Bills." There were nine of them.

The most significant bill in the program, individually, was the Senate Concurrent Resolution 38 which provided for the coastal resources study and inventory under the governor's council, Interagency Council on Natural Resources. Bill Stall is the executive director of that council. This study is to assess the total environment of our coastal areas and determine its needs and its future and its preservation from the standpoint of its estuarine benefits as well as its ecology and then, also, to inventory in terms of acres the land that's public owned in the coastal zone and the beaches. I passed all these bills in the Senate and then they were passed in the House. Then we said that we've got to protect the beaches. That is, number one, we've got to keep them clean and let people use them for recreational purposes. So I appropriated \$400,000 in a matching fund for state parks and wildlife to dispense to certain cities to participate on

a 50-50 matching fund basis to clean beaches which is brand-new in Texas. It's a first. So we're going to move out in an area of joint responsibility on the beaches.

And then we dealt with the problem of people who are trying to close the beaches, the developers who don't want the public. And we made it a misdemeanor to put up a sign that says "Private Beach" because there ain't no private beaches in Texas. And so, rather than have to get an injunction to get on somebody's beach, somebody that puts up a sign that says "Private Beach," a citizen's got a right to go down in a J. P. court and file a charge against the owner of that beach. You know, so you won't ever see the signs. It's just very practical. It won't happen if there's an easy criminal penalty.

In Galveston, there's a serious problem of excavation on the beach. We've provided a bill that said that you had to go to the County Commissioner's Court, to get a permit to excavate on any island or peninsula, that free excavation, unlimited excavation, of dirt for fill purposes was limited and prohibited and that nobody could give you a permit to take sand from a public beach. So we've stopped that. And that was about to destroy several islands including Galveston Island where I live, which is, you know it's another commentary on human beings. They'll sit by and watch their own boat sink. I sometimes wonder if human beings on a raft made out

of chocolate bars wouldn't eat the chocolate bars and drown-- which is about what we've done on Galveston Island. In spite of that, the city of Galveston today has recently permitted people within the city limits to do the very thing we've prohibited by state law, just callous to the public's rights. Completely indifferent because they're a city council and they've said, "Well, if the legislature wants to take over this responsibility, let them pass a law about it." And they just disregarded it. The big future problem that we're going to deal with again is the right of the public to an unrestricted use of the beaches. And we'll deal with that in future legislation.

Some of the other bills were more or less minor in nature. But each one dealt with a problem. We provided a system where you can have county parks . . . a County Beach Park Board, a way to develop your beach front. We provided for mobile licensing . . . establishment of a licensing and regulatory authority in parks and wildlife for mobile business establishments, selling popcicles and hamburgers and hotdogs. You see, what I was trying to do was to remove the fixed establishment from the public area so that nobody figures they have a right to create a business on a public easement. It is unthinkable for me that somebody would go down here in the middle of a highway and the esplanade and set up a hotdog stand on public right of way. But that's what's been

happening on the beaches of this state. That's public easement. And a man goes down and gets himself a shack and throws it up in the middle of an easement that belongs to me and you and starts selling hotdogs. And when you come round to tell him to get out of your way, he would say to you, "This is my property. I was here before you." That's just not so. Now, nobody can have a permanent business establishment on the public easement. He can go behind the vegetation line and get a lease from a landowner. But, we must have services up and down the beach, and so mobile establishments are now licensed by Parks and Wildlife. And now we have an identification of the individual. We can check his character. We can check the way he does his business. We can control what he does and when he does it. And the public is protected.

I think again, here, I'd like to furnish a package of these bills for the record, because I think that these bills will be the bench mark in preservation of the public's rights on 624 miles of public beaches. This is where it begins. Open Beaches Act may be the place of origin that some people will say it began. But the Open Beaches Act just set forth in the law what was already the law. It simply brought to the public's attention that these were their rights. What we do with this bill is to protect those rights of the public and advance the public's rights.

Marcello: Is there anything else that you would like to bring out with regard to the regular session of the legislature before we go on to the special session?

Schwartz: No, I really talked about both. And I might add that these beach bills were vetoed in the regular session because they arrived on the governor's desk too late. That was a controversy between the governor and the lieutenant governor and the speaker. The speaker didn't sign them for several days or a week or so after the legislature adjourned. And the governor vetoed the bills. So they were then passed in the special session and became law as a result of that second passage.

Marcello: Let us move on then to the special sessions of the legislature. And, naturally, the paramount problem of that special session--special sessions--was the problem of raising revenue. Now one of the first solutions which was proposed for raising additional revenue was that of increasing the state sales tax. Obviously, as a liberal, you were opposed to the raising the state sales tax. Would you care to comment on this?

Schwartz: Yes, I had a responsibility, I might add, for I was on the Appropriations Committee and as a result of the finance subcommittee work and my conference committee work, we passed a substantial appropriations bill, and I felt I had a duty to help pass a tax bill. But that duty didn't include the addition of a sales tax again as a regressive form of

taxation. I opposed it. I opposed it bitterly. I opposed it as a fourth of a cent, a half a cent, three-quarters of a cent, or a penny because any variation of a penny sales tax still amounts to a penny to the poor guy at . . . and I'm still being charged a penny tax, on a bag of popcorn in Galveston and I don't think it's legitimate. But every time I tell a lady that sells me that bag of popcorn . . . I take my kids to the park, and every time I tell that lady there that you're not supposed to tax popcorn, she says, "You don't want the popcorn, don't buy it." A penny's not hurting me, but it hurts my conscience to pay a penny on a bag of popcorn that I know is non-taxable.

Now, anyhow, (chuckle) just to follow that theory that the sales tax is always opposed for the same reason, one, it is regressive in spite of what anyone says. Two, we're imposing these sales taxes because the people are stupid enough to accept it without protest because the people don't know that the major corporations in this state just sit back laughing at them from the tops of these tall buildings drinking that gin and soda, because they're not paying as much taxes as the average citizen, I guarantee you. My sales taxes probably exceed, because of my standard of living in the amount of things I buy and my purchasing dollar . . . my sales tax probably exceeds the total franchise tax paid in Texas of ten or eleven major corporations, not collectively,

but individually. Because they are not taxed on their business that's not done in Texas. The percentage of their sales that takes place outside of Texas . . . in other words, their franchise taxes pays only on the percentage of their business transacted in Texas.

Marcello: I'm glad you made that point clear. I think that's a good one to have in the record.

Schwartz: And, again, this record ought to reflect that here in 1970 in Texas that a fellow that has a sawmill, for instance, in East Texas that has \$200,000 capital structure subject to franchise tax, who sells all his lumber in Lufkin, pays 100 per cent of the franchise tax that's taxable on that capitalization. His competitor with the same plant and the same total capitalization subject to franchise tax, who sells his lumber in Louisiana twenty-five miles or fifty miles away . . . who does business in Marshall, for instance, and sells all his lumber in Louisiana, doesn't pay any franchise tax, except the minimum. So Monsanto who produces all its chemicals in Texas City and sells them all in New Jersey and New York, doesn't pay any franchise tax on that percentage of its business that's not done in Texas. So maybe they do 10 per cent in Texas and 90 per cent outside. Dow Chemical Company . . . you name it . . . Gulf Oil Refinery . . . you know, the franchise tax has to be determined . . . Houston . . . El Paso Natural Gas, I understand pays a minimum franchise

tax because they sell their gas . . . they produce it, pipe it, they sell it in Los Angeles. These are the things that need investigating. Those are the opposites. And that's why I voted for a corporate income tax and resisted and filibustered the sales tax.

Marcello: I was just going to ask you what your alternative was to an increase in the sales tax. And, obviously, you were referring to a corporate income tax.

Schwartz: A corporate income tax that balances this franchise tax . . . reduces the franchise tax because, again, the franchise tax is collected whether you have a profit or . . . or not, you see.

Marcello: Now one of the special issues which came up in the special session had to do with the inclusion of beer and other alcoholic beverages under the state sales tax. Obviously, there was quite a bit of opposition to this by the beer and liquor or brewing industry. Homer Leonard, I gather, was rather active in this particular session. Would you care to comment on the activities of Homer Leonard?

Schwartz: Yeah. Well, I think Homer represented his industry as he felt it was necessary to represent them. Beer carries a substantial tax without the sales tax. Maybe the public doesn't think it makes any difference, but they do. Liquor carries a substantial tax in the absence of the sales tax. Again, their inclusion doesn't offend me, specifically, but

it's a little unfair. I cast a political vote. I've got a brewery in my district, and I selfishly cast a political vote because I know that they're paying their fair share of taxes as a product, you see.

Marcello: This is under the . . .

Schwartz: The chemical industry's not paying the same share that the beer industry is.

Marcello: The beer industry tax would be under an excise tax. Right?

Schwartz: An excise tax. It's a per barrel tax. And, of course, beer was already taxed as . . . if you drink it with meals, as food, and it's simply . . . if you drink it with meals, it's part of the check. I mean, it wasn't taxed at the grocery store, and it wasn't taxed at the taverns. It didn't violate any principle I have one way or the other, but I think Homer Leonard was unjustly accused in many respects because Gus Mutscher was more protective of the industry as Speaker of the House than some people thought he should be. But I think there again he's just as entitled to that position as Preston Smith was to his. Preston's from a dry area, and it's very popular for Preston Smith to be for beer taxes and liquor taxes.

Marcello: I assume that Preston was in favor of the tax on beer and liquor.

Schwartz: I guess he was. I would say so. All the drys thought it was a great idea, and none of the wets were really offended by it.

But we get tired of being abused just because it's such a good vote for them, you see. They don't support . . . you can't tax their natural gas up in those dry counties because, you know, they've got some philosophy that it's bad for their folks, which is absurd because their natural gas is 80 per cent sold outside of Texas, too, with that tax passed on the consumer somewhere. And that which is not sold outside of Texas is sold to the chemical industry in Texas and to the light and power companies who generate electricity and to all other industries. So when you take the industrial consumption plus the out of state sales and grind that into what a tax increase would mean, you haven't hurt anybody in Texas substantially. But they've just got a better lobby than the folks have . . .

Marcello: You . . .

Schwartz: . . . and a better lobby than the beer people have, too.

Marcello: Do you believe that it's true, as the rumors have it, that perhaps Gus Mutscher will succeed Homer Leonard as the lobbyist for the brewing interest? Is there any credibility at all . . .

Schwartz: Well, I don't know. I think Gus'd make a good lobbyist no matter where he went to work. That's not a problem with me. I wouldn't care where he went to work if that's where he wound up. But I don't think you could attribute that to his position.

Let me say that how tough the lobbies are, let's talk about the beer and oil for a minute on a barrel basis. Beer pays a stiffer tax than oil does. And all I tried to do was increase the tax on oil by about 15¢ a barrel on a \$3.00 barrel, and that's part of my program that's still lying buried in the House Journal and the Senate Journal, too. I'm the guy that passed the gas tax increase and wanted it to be increased from 7 to 9 per cent of value at the well head and wound up with a lousy compromise, you know, because the lobby's got more force than the people have. But I haven't got that oil tax increased yet. But I'll tell you what I did do. I killed that foolish business about telling the Congress by resolution that we didn't want the depletion allowance reduced in any way. That's nonsense. You know, the depletion allowance is as unjustified to the oil industry in 1970 as it would be to contribute gold to Croesus family of ancient history. You know, they got theirs made. If they can't hold onto it, that's their problem. But to give them this largess and to provide them with a bonus for taking advantage of our environment is criminal, again.

Marcello: Well, obviously when the beer tax came to a vote, the Senate did pass it. It got to the House, and the House rejected it. Is that correct?

Schwartz: Yeah. The Senate pretty well . . .

Marcello: Of course, it had to go to conference committee . . .

Schwartz: It went into conference committee a couple of times.

Marcello: Right.

Schwartz: And it came out of conference committee a couple of times. And I had a very strict position on the thing. I would vote for it if it had to be a part of a package, but I wasn't going to vote for the sales tax anyhow. So I got myself into that kind of a trap. I never believed that the sales tax had to be part of any tax package, and I did afford some alternatives. I offered a pretty good package of alternatives, but they're not acceptable, you see, because they include oil and gas, and they include corporate income, and they include some of these factors that the lobby is too well-represented on.

Marcello: Another alternative, of course, was the inclusion of food under the sales tax. And I'm sure this caused quite a bit of heated discussion and debating in the legislature.

Schwartz: Well, the food thing . . . the food thing was an absurdity, and I . . .

Marcello: Who suggested it to begin with? Who suggested it?

Schwartz: Tom Creighton. Tom Creighton and others. There were others . . .

Marcello: Of Mineral Wells?

Schwartz: Yeah. There were people equally as foolish as Tom. He got re-elected so it couldn't have been the worst thing in the world. His people are foolish enough to believe that they

want that kind of philosophy, why, that's their privilege. Everybody's got a right to elect their own people. But tax on food is just abominable in a state that doesn't tax oil and gas to the extent that its neighbors do even or that won't tax corporations in a state where poverty . . . well, we've got the Number 1 and 2 cities in poverty in the nation--I think, El Paso and San Antonio. And when we've got poverty in the ghettos, and we've got malnutrition provable by studies across this whole state, for us to espouse a doctrine that says include food under the sales tax is unthinkable. And yet, sixteen members of the Senate voted for it. Two members of the Senate took a walk on moving the previous question so that they could bring it to a vote. And I took my filibuster. My part of the filibuster was from four in the morning until ten o'clock in the morning. I stayed on the floor all that day on Saturday, and I worked on the conference committee on the appropriation bill right up to the final hour. And we filibustered through midnight on Saturday night into Sunday morning for the very purpose of letting the people of Texas know that this abomination was being considered and passed by the Senate so that they could get word to the House to kill it because the members of the Senate who were voting for it were being told by conservative House members that, you know, "We'll pass it." But we brought the heat to them on the floor of the Senate. And the

people got to the House, and the House then jumped up and killed it 147-0 on Monday.

Marcello: Let me ask you this. Why do you think, first of all, Ben Barnes supported it? Obviously, he did support it, though, I think later on he denied that he supported it.

Schwartz: Well, I was in the conferences. To his detriment or credit, Ben's position was that . . . and this is true. And he said it time and time again. And I heard him say it to the group because I sat back there in the conference committee on the tax bill. We were not restricted. Any senator could come in and out, and I went back and listened to the Senate conferees, and he said, "Any one of you fellows that comes up with a plan that can get sixteen votes, I'll give you a run with it."

Marcello: Was he getting kind of desperate by this time?

Schwartz: Well, everybody was desperate to get a tax bill, and this is always the pressure that brings about bad legislation. And I would say, "You can't mean that. You mean just because sixteen of these people are going to get a bad tax bill that you're going to let them run with it?" And if there was no admission on Barnes' part, he was not influencing them against that inclusion. But I won't charge him with any commission of any act because I was there, and I know that it was a matter of saying, "Schwartz, if you've got a program you can get sixteen votes for, why, you run it on out there,

and the Senate'll pass it, and I'll help you pass it. I'll help you get the filibuster out of the way. I'll help you overcome the obstacles. But we got to pass a tax bill, and we need a tax bill that'll raise \$330 million." And he said, "Don Kennard, you got a tax bill? Run with it. Charlie Wilson, you got a tax bill? Run with it. Schwartz, got a tax bill? Run with it." That's the way it went.

Marcello: In other words . . .

Schwartz: Charlie tried. I tried. You know, we all tried.

Marcello: In other words with regard to the sales tax, Barnes might not have personally been in favor of it, but at that stage, like you say, he was willing to go along with anything which might possibly pass.

Schwartz: That's precisely what happened. "Get a tax bill out of the Senate." And my position was, "Ben, you can't get that kind of a tax bill out of the Senate because it's wrong, and your responsibility is to be against it like me." Well, that's not necessarily the right view. That was my view, and only time will tell whether it was right or wrong.

Marcello: I would assume, like you say, given the lateness of the session . . .

Schwartz: Yeah.

Marcello: . . . a lot of bad legislation was apt to be passed.

Schwartz: Yeah. That's what occurred.

Marcello: Oscar Mauzy, I assume, was one of the leaders in this Senate

fight against the inclusion of food under the sales tax.

Schwartz: Right.

Marcello: What were his tactics in this particular struggle? I think you've mentioned some of them already.

Schwartz: Well, our whole tactic was the filibuster and public information--simply to get to the public the facts so that they could respond with their House members where they're more influential.

Marcello: I assume then that you knew about his plan to fly across the border into Nuevo Laredo when it came to a vote.

Schwartz: Oh, we thought about the plan of breaking a quorum because we had done it two years ago, and we managed to do it effectively at that time. But it never quite jelled on this occasion just again because we couldn't put the numbers together. And too many people have an idea that that's irresponsible in its operation.

Marcello: I assume Mutscher also helped the anti-food tax forces when he adjourned the House over the week-end. Isn't that correct? Didn't he adjourn the House before it came to a vote there?

Schwartz: Yeah. They couldn't pressure it on through because they were adjourned. Yeah.

Marcello: In other words, this gave public opinion time to muster.

Schwartz: Gave the public a chance to react.

Marcello: Let me ask you this question also in connection with the food tax. Do you think that it will hurt any senators who voted

in favor of that food tax, or do you think it has hurt anybody on the basis of recent elections?

Schwartz: Well, Tom Creighton survived, but none of the others had a contest. Whether it'll hurt two years from now on some of them remains to be seen. It didn't hurt any of my liberal friends to vote against it because they all got re-elected,
. . .

Marcello: Right.

Schwartz: . . . except Don Kennard, who is not re-elected yet. He's in a run-off.

Marcello: Okay. And finally I guess it was Senator Ralph Hall of Rockwall who introduced or at least who offered a compromise package bill to solve this particular impasse which had occurred. Would you care to comment on his compromise package. I think among other things it called for a destination tax. I think that was the heart of the package.

Schwartz: Yeah. Again, I had managed to get the franchise tax increase in a tax bill and the natural gas tax increase included in the tax bill. The destination tax was an alternative of what we called a "two factor" formula on the franchise tax, a way to try to get at some of the tax escapes and loopholes in the franchise tax. Ralph did a credible job, and he worked hard. Ralph, like all of us, has his moments of demagoguery including the tax on "X" rated movies, which was part of his program. And only time will

tell about what the destination tax brings in in the form of a change; should note that it has been entirely unsuccessful. I wouldn't condemn it, except that it still included a sales tax increase which I think was unnecessary. And if people like Ralph Hall would recognize Texas' need for a corporate income tax as do 42 other states or 43 states, then we wouldn't have to Mickey Mouse around with taxes on "X" rated movies and taxes on food and destination taxes, and things of that nature.

Marcello: Let me ask you a couple of general questions next.

Schwartz: All right.

Marcello: In ending this interview, how would you assess the first term of Preston Smith as governor?

Schwartz: Oh, I think Preston Smith is just, you know, part of the era of conservative, benign neglect. Monihan has given that statement to President Nixon for the minority problem as his recommendation. I think Preston was born with an attitude of benign neglect towards political problems and he's carried it out in twenty years of public service. But I can't knock it because it's been successful for him. That's apparently what our great silent majority wants. They want to be neglected. They even want to be forgotten about because they've made it, you see. And they're all right. They've got a car and a boat and a house and a job, and they don't want to hear about anybody who doesn't, and that's the present conservative

philosophy in this state--do what you have to do. And that ain't all bad. We have got good educational facilities. We have got a lot of progress being made because that's the thrust of human beings--to make progress. But that's happened in spite of the Preston Smiths in our society, not because of them.

Marcello: How would you assess Ben Barnes' term as lieutenant governor?

Schwartz: Ben is one of the flexible, new people who, originally with very conservative rural leanings, has come to recognition of urban problems. And he's educable and trainable to use two words that are mostly applied to education, and we'll make progress with Ben. He'll be a good leader for the '70's.