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Interview with
Jim Earthman
August 17, 1971

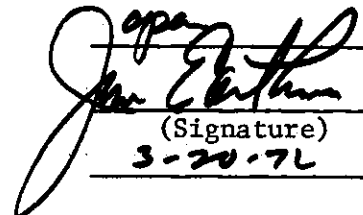
Place of Interview: Houston, Texas

Interviewer: Dr. Ron Marcello

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Oral History Collection

Jim Earthman

Interviewer: Dr. Ronald E. Marcello

Place of Interview: Houston, Texas Date: August 17, 1971

Dr. Marcello: This is Ron Marcello interviewing Representative Jim Earthman for the North Texas State University Oral History Collection. The interview is taking place on August 17, 1971, in Houston, Texas. I'm interviewing Representative Earthman in order to get his reminiscences and experiences and impressions while he was a member of the 62nd Texas State Legislature. Mr. Earthman, since this is the first time that you have been a participant in our program, could you very briefly give us a biographical sketch of yourself. In other words, would you tell us where you were born, when you were born, your education, things of this sort?

Mr. Earthman: Well, I'm thirty-six years old. I was born here in Houston. This is my second term in the State Legislature. I am a graduate of the University of Texas and received a degree in 1956 in banking and finance. And I'm presently still in school going to night law school here in Houston. I'm married. I have six children.

Dr. Marcello: Where would you place yourself on the political spectrum--

liberal, moderate, or conservative?

Earthman: Well, of course, I'm a Republican and would be naturally conservative. I would probably classify myself as perhaps a moderate-conservative.

Marcello: I see. Awhile ago you said that you're in the process of your second term in the Legislature.

Earthman: That's correct.

Marcello: What committees are you on in the Legislature?

Earthman: Well, as you know, being a Republican, the choice of committees we had were not the very best. Well, during my first term I was on the Conservation Committee and the Labor Committee and Aeronautics. This past term my committee assignments got even worse. I think I was put on (chuckle) the Livestock Committee. Anyway, the committees I had didn't meet with any great frequency. I might say that.

Marcello: I see. What are some of the problems that a Republican legislator encounters in a heavily Democratic Legislature?

Earthman: Well, of course, we're highly discriminated against because of our political views, to say the least. The leadership of the Texas Legislature and the state for that matter, of course, is the establishment Democratic Party. And the Republicans for the most part do at least in urban areas constitute a tremendous threat. As you know, in our legislative district in 1966--there's seven positions in

our legislative district--and back in 1966 all seven seats were won by Democrats. In '68, which is the first year I ran, we won four out of the seven. In this past election--1970--we captured six of the seven and only lost the one seat by 1,200 votes out of 180,000 votes cast or thereabout. So as you can see, we were a threat to the old line establishment Democratic Party, and as such, we were not really treated with any great favoritism, I might add.

Marcello: How do you explain the gradual switch which has been taking place in Houston voting patterns?

Earthman: Well, the district is the southwestern of the northwestern part of Harris County, and it's really primarily due to an influence or an ingrowth of people coming in from out of state. And these people are basically pretty conservative, and in the area that they come from the Democratic Party to them is a labor-oriented liberal party. And these people have normally pretty moderate to moderate-conservative viewpoints, and when they come here they just don't want to participate in the Democratic Party. And as such, they're Republicans. This really is the main reason. Another thing, too, there are a lot of Texans that have been disenchanted with the Democratic Party on the national scene, so they just don't want to participate in the Democratic Party and for that reason do vote Republican.

Marcello: Now as a representative, you do run at large throughout Houston. Isn't this correct?

Earthman: No, no, that's not the case in Houston.

Marcello: Oh, that's not the case in Houston.

Earthman: Now, it's the case in Dallas.

Marcello: Right.

Earthman: Here in Houston, they divided up Houston into three legislative districts. Ours is the largest. We have seven positions. And the others, of course, have six. The two others have six positions. And they are a congressional district. Right now we are running out of the congressional district presently held by Representative Archer, with whom I served in the Legislature two terms ago. And this district is the one that Congressman Bush served. So it's a highly Republican district.

Marcello: I hadn't realized that the Houston legislators do not run at large the way they do in Dallas.

Earthman: Well, we run at large but run in congressional districts, not county-wide.

Marcello: Let's move on then to the 62nd State Legislature and talk just a little bit about it. Now I'll probably be structuring this interview a little bit differently than some of the others that I've talked about because I think

what I want to do is mainly concentrate upon the "Dirty Thirty." Now I assume that during the past session of the Legislature you would have considered yourself a member of the "Dirty Thirty." Isn't this correct?

Earthman: Well, I would think that would be correct. I did oppose the House leadership on the matter of ethics. That's correct.

Marcello: I see. Let's talk just a little bit about the "Dirty Thirty." Tell us a little bit about the origins of it.

Earthman: Well, I don't know exactly how it really began, but it really boiled down to the members of the Legislature who voted their own conscience. They were independent voters, and for the most part, they did span political philosophy. They were liberals, moderates, and then, of course, conservative Republicans like myself. The only thing we really had in common was a desire to put some kind of reform into the State Legislature in regard to changing of House rules and in regard to ethics. And this, I think, coined the name "Dirty Thirty." On most votes that had any relationship to ethics or any relationship to changing the House rules to make it a little more democratic or where we asked for an investigation in regard to the stock scandal or the dealings of the Sharpstown State Bank, we almost invariably always got around thirty votes. The rest of the votes went to team

members or those that were loyal to the speaker, Gus Mutscher. And on different votes the members of the thirty would change, but for the most part we normally got from twenty-five to thirty-five or forty votes-- normally around thirty votes--and this is how the term originated.

Marcello: You say that obviously most of the people who joined this group or who were considered members of this group did so mainly because of the Sharpstown case, ethics legislation, and reform of some of the House rules.

Earthman: That's right.

Marcello: Do you think it's also true that perhaps some of the people who joined this did have some axes to grind, let's say, against the speaker? Especially some of the Democratic members perhaps more so than the Republicans. Because perhaps he didn't cooperate with some of their legislation or they didn't get the committee assignments to which they thought they were entitled. Do you think this perhaps was also a sort of motivation?

Earthman: Well, this could be true because some of the members of the so-called "Dirty Thirty" didn't jump aboard until late in the session. I'm specifically thinking about . . . well, perhaps Tom Bass and Bob Gammage, who tried at the beginning of the session to cooperate with the speaker. And Bass for that matter was a committee

chairman until he resigned. But for the most part the group was pretty well intact from the start, but we did have a few, like you said, that did come in toward the last who were disenchanted that they could not get their own legislative package through and perhaps came in, too, as a protest against the speaker.

Marcello: Let's go back just a minute then and talk a little bit about the Sharpstown case. What was your first reaction when you heard about it? As a Republican, what was your first reaction when you heard about it?

Earthman: Well, I didn't have any preconceived knowledge that this was going to happen, but I thought all along that some type of scandal at one time or another would emerge because they play a pretty tough game. And the Sharpstown incident, I don't believe, is just an isolated incident. This is one where a scandal did occur that was brought to the surface, but I'm sure there were other scandals that could have been brought to light, but the Sharpstown one was the first one that was brought to light. I felt particularly bad, especially with the bank, because it had about 27,000 accounts. And I had one of the accounts in the Sharpstown Bank. It's not very large--\$200 or \$300. But I know how this did hurt a lot of my neighbors. I live in the Sharpstown area and was familiar with the bank. And I know that many people had to go out and

borrow money. They had to call up relatives and try to borrow credit cards or some way to live until the F.D.I.C. did step in and pay them off. But it had a terrific impact on the economy. I really felt kind of dumbfounded as to why a man like Frank Sharp, who was obviously a multi-millionaire many times over, would have to resort to things like this because the Sharpstown Bank was a large suburban bank in Houston, I guess probably one of the largest state banks. And why a man obviously making so much money would have to resort to underhanded dealings like that to make more money was really a puzzlement to me at the time.

Marcello: Have you formed any opinions of your own with regard to the allegations and so on which have been put forward so far as to the guilt or innocence of the people involved?

Earthman: Well, I guess you're probably talking about the allegation that Frank Sharp payed off various politicians to get these two banking bills through.

Marcello: Essentially, yes.

Earthman: It seems plausible that this could happen. I mean, you look at the series of events. An ordinary citizen couldn't go down to any bank for that matter and get a 100 per cent loan and put up the stock you were going to buy as collateral without some favor being asked. And I remember those two banking bills. I voted against

them at the time, but I really didn't know why I voted against them. I just had a sneaking suspicion that there was something wrong with them, but there were only, I think, about a dozen votes against them. I didn't have any inside information then that they were what they turned out to be, but I did vote against them.

Marcello: I assume the next time that you run for office, you're going to make it quite clear to everybody that you did vote against those two bills.

Earthman: That's right. I surely am. (chuckle) That's right.

Marcello: On the same subject of those two banking bills, at the time that they were being--I shouldn't say debated, because they were through the Legislature with very little debate as I recall . . .

Earthman: That's right. That's correct.

Marcello: Did you ever receive any correspondence and so on from national banks or any other banks with regard to those bills, you know, either pro or con?

Earthman: No, because the banking bills went through so quickly. They were included in the call of the special session, and as I remember it, there was not even a committee hearing on the bills. I think the terminology to use is that they were "Jim Hogged out" where you have a committee meeting on the actual floor of the House in

front of the picture of Jim Hogg. And they were reported right out, and they sailed right through the House with little or no opposition and sailed right through Senate with, again, with little or no opposition. And it looked like the tracks were pretty well greased for them to go through. And this is very, very strange for bills like this, especially for those of this magnitude. But anyway, they got right through. And it was obvious the governor knew what they were because it being in a special session they had to be included in the call of the House, or we wouldn't even been able to even take the bill up. So it was obvious that the tracks were greased for them to come on through.

Marcello: I wonder why he vetoed those bills then?

Earthman: Well, I think it boiled down to--and there again, I don't want to pre-judge some one, but . . .

Marcello: Sure.

Earthman: . . . it boiled down to the fact that it would give the state banks just a tremendous advantage over the national banks, and I suspect that the national bank owners or presidents or lobby or what have you got together, and they pointed this out to the governor and put pressure on him to veto it.

Marcello: Allan Shivers was usually brought up in this regard, is he not?

Earthman: That's right. That's right. And the pressure then was brought to the governor, and I can imagine his dilemma since he'd evidently made a deal to get this banking bill passed. And then it was passed (chuckle) and the pressure from the . . . then the opponents mobilized their forces, and they prevailed upon him to veto the bill he'd opened up the call to. So I'm sure he was in a pretty precarious position.

Marcello: Well, now the news of this alleged scandal broke at the time of the inauguration, as I recall, in fact before the session actually got started. Now what sort of an effect did this Sharpstown case have over the day to day daily business of the Legislature?

Earthman: Well, it really put a pall over the Legislature because no one really knew who was involved. I think it broke the afternoon before Smith's inauguration. And everyone was running around speculating who was involved. There was some talk that as many as fifteen or twenty members of the Legislature were involved. As it turns out now, there were only, I think, one, two, three. Let's see, Mutscher, Heatly and . . .

Marcello: Shannon.

Earthman: . . . Tommy Shannon, as it turns out, were the only members of the Legislature that had borrowed money from Sharpstown State Bank to purchase the NBL stock, but

there was some talk that perhaps fifteen or twenty members were involved in the wholesale bribery of the Legislature. So it did put a pall over the Legislature. And if it wasn't for the fact that we were redistricting and holding the old club that they use, the appropriations bill, Mutscher might have lost control of the members, but he had these two very powerful clubs that he was able to hold over their heads and . . .

Marcello: Which he didn't do anything about until the very end of the session either.

Earthman: Oh, exactly right. He dragged it out until the last and made sure that the appropriations bill and the redistricting bill were essentially the last major items passed, and that way he was able to exercise really dictatorial control over the House.

Marcello: Well, it was within this background then that the "Dirty Thirty" was formed. Was it mainly as a result of Speaker Mutscher not perhaps at first doing anything about this alleged scandal? In other words, what I'm trying to get at here is, isn't it true that after nothing was done so far as investigating these activities that we really see the rise of the "Dirty Thirty?"

Earthman: Well, that's right. I think the first thing that happened, I remember--I've got the newspaper clippings

in my office--but I asked that Mutscher step down temporarily pending some kind of investigation and appoint some kind of a temporary speaker. And this, of course, was not done. And various other members then asked for some kind of investigation and nothing again was done. Now the speaker says he was under advice from his attorneys not to do anything, but it kept dragging him in deeper and deeper. And then it was obvious that nothing was going to be done, even to the fact that even to this day the speaker did appoint some kind of an investigating committee, but after it was stacked it'll be a white-wash committee, I'm sure. It was stacked with his own buddies. All his own old committee chairman were on this investigation committee to look into this Sharpstown scandal. But this is really how it grew out. The members were outraged. Maybe we were, I guess, really looking for an issue, and we were. We knew we were right with our opposition against the speaker, but this, I think, gave us a flag perhaps to rally around and to where we could really shoot the spotlight on everything that was rotten and corrupt about our government. And this issue did surface, and it surfaced, I guess, really at a good time where we could say, "Look, this is what we've been talking about all along, and here it's come to the surface."

Marcellb : Well, do you think that the speaker made his first great tactical error in not appointing a committee at the very breaking of this scandal? In other words, a lot of people have said that perhaps he could have saved himself quite a bit of difficulty had he appointed a committee, you know, at the very beginning rather than waiting, let's say, until mid-way through the session and after it appeared as though he only appointed a committee due to pressure and outside forces and what have you.

Earthman: Oh, I think that's right. I think he could have perhaps headed off some of the opposition if he had acted swiftly, but evidently Mutscher has poor advisors. I understand his number one advisor, of course, is Heatly. And Heatly supposedly is the one who told him not to do anything. It'll pass off. You know, this is just a minor thing, but the scandal kept growing and growing and it kept implicating more and more state officials, and Mutscher was caught in a position where he had waited too long and had done nothing until it was really too late. He was just up to his neck.

Marcello: Well, now as I recall one of the first resolutions which was put forward in response to these allegations was one by Representative Caldwell.

Earthman: Neil Caldwell. That's correct.

Marcello: And apparently what he wanted was to have those involved at least present their side of the story before the House. And this resolution was voted down, was it not?

Earthman: That's correct, as was every resolution that had to do with any type investigation at all.

Marcello: Well, then the Farenthold resolution, I suppose, was the next one which came up--the next one of any importance. There were several resolutions which were put forward, but as I recall, the one which was debated quite heavily was the Farenthold resolution calling for an investigating committee of some sort.

Earthman: That's right. And that, of course, was put down as well. It was obvious that the speaker and the leadership of the House did not want any kind of investigation. And there again, I'm sure they had been faced with uprisings and scandals beforehand, and they'd all blown away. But I don't think they realized the magnitude of this one. It was perhaps just an innocent purchase of stock with some loaned money, but it was of greater magnitude than they thought. And the issue just really refused to go away.

Marcello: Well, did the so-called team members or the Mutscher people try and do any sort of arm-twisting, or did they exert any sort of pressure among the individual members whenever these resolutions came up? In other words, for the purpose of voting them down or putting them aside or what have you?

Earthman: Well, of course, they passed the word out. It's very easy to pass the word out how to vote. The speaker's lieutenant would walk up and down the various aisles and say, "The speaker wants this defeated." And it was pretty obvious that you as a team member had to go along. And this is the thing, that you have to play ball with them or any programs that you have would, of course, be defeated. This is really one of the tragedies of the Legislature, that legislation is not passed on its merits but whether or not you play ball with the leadership. And this is a tragedy, because there was a lot of good legislation beaten last time.

Marcello: I would assume as a Republican that you really had very little to lose so far as opposing the speaker.

Earthman: Well, that's right. The people that elected me and the other Republicans, at least from Harris County, did not send us up there to see how much money we could bring back to Harris County or how many bills we could pass. We were sent up there--at least I feel this way--we were sent up there in order to maybe point the finger at some of the abuses that would come about. And this scandal was really just tailor-made for us because this is what we've been telling everyone for so long: "You know, this is what happens when you have a one-party

system, that the party in power--regardless of what party it is--always leads to corruption." And sure enough, it came out.

Marcello: Would you say that maybe--correct me if I'm wrong here-- but would you say that as far as the Republicans were concerned, this presented them with an ideal party issue perhaps, whereas on the other hand do you think it's true that the Democratic members of the "Dirty Thirty" were more or less presented with a personal issue? Obviously they probably had more of an axe to grind against Speaker Mutscher than what the Republicans did. Is this a safe assumption?

Earthman: Well, no, not necessarily because they had a party issue, too. Within the ranks of the Democratic Party the liberals are, of course, trying to remake the Democratic Party in Texas into the image of the national Democratic Party. So this gave them a golden opportunity to perhaps remake the party into the image of the McGovern's and McCarthys' and the liberal element of the national Democratic party. So it was a party issue for them as well as the Republicans.

Marcello: I see. Well, tell me then a little bit about the formation of the "Dirty Thirty." Here the scandal breaks, the leadership obviously isn't doing anything about the scandal so far as presenting their side. How did the "Dirty

Thirty" get organized, or was there such a thing as an organization?

Earthman: No, there was really as such no meetings. It just kind of evolved. We were perhaps thrown together, and we voted together on almost all the issues that affected ethics or some change in the House rules, but as far as having meetings and things like that, there were some meetings held, but they were very loose-knit and very few. I don't think there were half a dozen meetings as such. The so-called "Dirty Thirty" are having organizational meetings now every month in Austin, but this, of course, was after the Legislature was over with. As such, there was no real leadership in the "Dirty Thirty." Some got together and made a detailed analysis of the appropriations bill and the redistricting bill because that affected them directly. But as far as having a leader or spokesman, this was really never the case.

Marcello: Did you ever attend any of these meetings that were held in Austin?

Earthman: Yeah, oh, yeah. I attended one or two of the meetings. I did.

Marcello: What sort of things went on at these meetings?

Earthman: Well, they would go over supposedly a day ahead of time or a couple of days some important bill that would be

taken up--like the appropriations bill. They would assign various members the project of looking into a particular passage and maybe ferreting out some of the bad items in it, things perhaps specifically in the appropriations bill. But when you only had thirty members, it was obvious that you weren't going to change too much. Our primary responsibility would be to bring up these things to the news media, really, which could expose to the rest of the state exactly what was going on. And they, of course, tried to keep things quiet and pass things, you know, sweep them under the rug. But with this many members looking for things, I think we did, in that respect, do a great service to the state because we did point out a lot of these abuses and the things that were going on. That way I think the "Dirty Thirty" was successful even though we weren't successful in getting any legislation passed.

Marcello: And then also I think perhaps a by-product of the "Dirty Thirty" has been this movement to bring about certain reforms in the Legislature. Don't you think this is perhaps a by-product? What started out as a protest against this Sharpstown case and the way it was handled actually has turned into an attempt to reform some of the more abusive processes or whatever you wish to call them within the state government?

Earthman: I think so. I think there's a big movement now to reform the state--at least the State Legislature. One thing--although it was kind of weak--we did pass some kind of an ethics bill. Previously they had been talking about one every session, and nothing has become of it. And it did take a scandal like this to get some kind of an ethics bill passed even though it was extremely weak and probably ineffective. At least one was passed. And I think that any candidate for speaker in the future is almost pledged to try to institute some kind of reform. Now whether or not he carries it out is yet to be seen, but at least they are pledged to carry out some kind of ethical reform.

Marcello: What sort of reforms do you think are most needed in the Legislature, ethics aside. Now like I say, the "Dirty Thirty" started out perhaps as a movement to bring about some sort of ethics or to get to the bottom of this Sharpstown case, but then they put forward a platform of a whole group of reforms that they wanted. I'm speaking now of such things as reforms of the committee system.

Earthman: That's right. Well, some of the reforms that I had personally favored--they're not original with me--but one of the first things is for some disclosure on the speaker's race as to where he gets the money. You know,

the speaker is probably the . . . well, he is the third most powerful man in the state, and yet he doesn't have to report a dime of his contributions. Who puts the money up? Who gave Mutscher the money to run?

Marcello: I understand it takes quite a bit of money to run for speaker or to become speaker.

Earthman: That's right. Well, it costs money because the speaker literally buys votes. In other words, he would go around the state and contact prospective candidates for the Legislature, and in turn for their written pledge--they have to sign a pledge card--he would give them a substantial contribution--\$1,000 or so--to their campaign. In a sense, he was buying their votes. And this is real bad because that money doesn't come out of the speaker's pocket. Someone puts the money up, and I think the people of the state ought to know where the money comes from.

Marcello: What happens in the case of a Republican legislator? Does he come around and ask you to pledge to him or is this . . . obviously he's not going to contribute any money to your campaign.

Earthman: Well, no. But we were . . . if it's not money . . . I was approached the first time to pledge Mutscher. I didn't pledge him. I never pledged him, but the idea was, "Well, you play ball, you'll be put on very

prominant committees," you know, and this type of thing. But there again they can't keep their promises even if they could because they're certainly not going to put a Republican in any position of leadership because there . . .

Marcello: You think your chances of getting on the Appropriations Committee are pretty slim? (chuckle)

Earthman: Right. That's exactly right. They don't want anyone that would serve as a watchdog on there. You're put on these good committees for one reason--because you play ball with them, and you won't question them at all, and you'll go right down the line with them.

Marcello: What other changes do you think need to be instituted so far as the committee system is concerned? Do you think there should be some sort of a limited seniority system perhaps?

Earthman: I do. A limited seniority system would be real good because, as you know, right now the State Legislature is used more or less as a stepping stone to some higher political office. No one really thinks too highly of the State Legislature. And if a person were allowed to stay on a committee and develop some type of expertise, he would be more inclined to stay year after year rather than stay a couple of sessions and think about running for another office.

Marcello: Do you think the conference committees should more or less be limited to simply resolving differences between house bills?

Earthman: This is exactly right. This is another pet gripe of the so-called "Dirty Thirty" or anyone in regard to reform, that it's ridiculous for ten men to write an entirely different bill or include material in a bill that neither house has ever seen or even voted on. And they have the power now to do this.

Marcello: Also going back to the stock-fraud allegations, you mentioned a little bit earlier that eventually, as we all know, the speaker was forced or pressured into forming some sort of an investigating committee. And I think we all know that most of the members on that committee were ranking committee chairmen--chairmen that he himself appointed.

Earthman: That's correct.

Marcello: What sort of a committee do you think should have been set up in order to investigate these allegations?

Earthman: Well, I think it should have opened itself up to a wider spectrum of political philosophy. It's ridiculous to have the committee just stacked--unless it's obviously a white-wash committee--to have it stacked with your own committee chairmen. It should have members of both parties and both liberals and conservatives on the committee.

Marcello: Had you been speaker then, you were saying in effect that perhaps you would have probably put a member of the "Dirty Thirty" on that committee.

Earthman: Why, certainly. If as he said he had nothing to hide, why would you hesitate to put someone on there that was opposed to you? To me, the test of a great politician is one that can turn something adverse around to his gain, and Mutscher, to me, had a splendid opportunity if he was innocent to turn it around to a great political gain on his own part, and he didn't do it. He muffed it.

Marcello: Well, what is your opinion of the men that he did select for that committee. As I recall, Menton Murray was the chairman of this investigating committee. I think DeWitt Hale was on it, Jim Nugent, Jim Slider, and Clyde Haynes, I think, was the other member of that committee. Do you doubt that they perhaps will be able to render some sort of a fair or just verdict?

Earthman: No, they're all very loyal to the speaker--at least they were at the time they were appointed. I think that probably some of them have fallen out now because they want to be speaker themselves, perhaps. I know Nugent wants to be speaker. Haynes had a falling out with the speaker because the speaker supposedly didn't back him in his bid to get some kind of a favorable congressional

district. So now he's mad at him, but for the most part they're still loyal to the speaker.

Marcello: And this, I think, as you point out, is the biggest fault that you could find with that committee--the fact that he did pick all of his loyal people for it.

Earthman: That's correct. That's right.

Marcello: Well, also in the wake of the stock scandal there was this movement for some sort of ethics legislation. I suppose ethics legislation especially in the light of the scandal was something that nobody could be against. In other words, ethics legislation is something like apple pie and motherhood and the flag. You can't very well be against it, can you, if you're a legislator--especially not after the stock-fraud case?

Earthman: No, you can't but you can write an ethics bill where what you have to disclose is so minute that it won't really make any difference, and this is, I feel, what happened in this case. Everyone was for it, but what we got was a real weak bill.

Marcello: Some of the debates concerning the ethics legislation revolved around the disclosure of one's sources of income or also a financial statement of sorts and then also the filing of one's income tax return. Did you have any objections to doing either of these?

Earthman: No, I voluntarily filed a statement of assets with the secretary of state, and I think there were probably

twenty or thirty others that did likewise. I feel that when you offer yourself for public service you certainly should disclose what your assets are and also where you do receive your money. We weren't drafted for this job, and I think it's only right that the people know where you do receive your income.

Marcello: Another one of the difficulties that came up concerning the ethics legislation involved the practicing of law before state boards and agencies by lawyer-legislators. Did you have any objections to that? Now I know you're not a lawyer--not at this stage yet--so did you have any objections to that?

Earthman: Well, yes I do have an objection to that. I don't think that is right for an attorney who is a member of the Legislature to practice before these various boards. Another thing I could see that was wrong, although I don't really know how you would cure this particular abuse, but it's a matter of these continuancies--the legislative continuancies--where some members of the Legislature were hired and given a retainer fee to come into a case merely to postpone it or delay it while they were in the Legislature. They had nothing to do with the case whatsoever. They were only hired and given this money because they were legislators. And I think this is a terrible abuse, and something should be done about that.

Marcello: Was there anything that you would have included in the ethics legislation that was not included in the bill which finally passed. In other words, what sort of an ethics bill or what sort of ethics legislation would you like to have seen passed?

Earthman: Well, I would like to have really two things in the bill. I feel that to be meaningful, it had to have financial disclosure. This would take two parts: (1) you should have a list or statement of your assets and your liabilities and (2) it should have a statement of your income giving not only the amount but the sources of where you derived that income. Anytime you don't have these two things, I think any kind of an ethics bill is really meaningless.

Marcello: Let's move on to another topic then. Let's talk a little bit about revenue. Very early in the session the governor presented his first proposals for state revenue, and these involved the issuance of bonds, in other words, a form of deficit financing. What was your reaction to that initial proposal on the part of the governor?

Earthman: Well, I thought it was absolutely ridiculous. It really was deficit financing. The governor didn't have the courage to state how he wanted to raise this money, and

by going to some bond system, that's really just putting it off for someone else--some other Legislature--to pay for his particular program. I really don't have a high regard for our governor. And I think, there again, this absolutely showed how weak he was in that he just didn't have the courage to come out and say exactly how we could raise the money. The session before that he didn't say he would veto a one-year spending bill, and he left us in the dark again. His whole political career as far as governor is concerned has been one of very, very weak leadership.

Marcello: Well, on this same subject of the issuing of bonds, do you think perhaps the governor was playing a little bit of politics here? Do you think perhaps he was looking ahead to a future election when he could say, "Well, look. I didn't have to raise taxes during my last term as governor."

Earthman: That's exactly right. He didn't have the courage to stand up and say, "We need this amount of money, and this is the way we're going to raise it--through this type of tax." No one wants to raise taxes, and it's very unpopular regardless of what the need is. And he just didn't have the courage to take a stand, and he still doesn't.

Marcello: Who do you think was offering this sort of advice to him to propose this bond issue. Do you have any idea so far as individuals are concerned who perhaps may have been advising him?

Earthman: No, I really don't. I wasn't that close to the governor or know exactly who specifically thought of the idea. Whoever was giving him advice was always giving--at least I think--very poor advice. It perhaps might have been Dr. Daum. (chuckle) But I don't know. That's just a wild guess. Considering what's happened, I really don't know.

Marcello: Now apparently he sprung this deficit finance plan upon the Legislature without any prior warning. Is this correct?

Earthman: That's correct.

Marcello: Nobody seemed to know . . .

Earthman: No one knew that it was . . .

Marcello: . . . was expecting that.

Earthman: . . . no one knew it. I have the hunch that he wasn't really sincere about wanting it done. I think he wanted to put the monkey on the legislators' backs, and if we came up with a tax he could say, "Well, look. I had a nice plan that wouldn't have cost you any additional tax revenue, and you saw set to disregard it. And therefore, any additional taxes is a tax raised by the

Legislature, and my hands are clean now. I've done what I could to hold the line and you just wouldn't listen to me."

Marcello: Now if you had been a lobbyist, let us say, would deficit financing perhaps have been something that you could have favored? In other words, it would not have meant any new taxes, and, of course, one of the purposes of a lobbyist being there is to protect its particular concerns or interests and so on. In this respect, do you think this is something that a lobbyist perhaps could get along with?

Earthman: Probably could. The lobby doesn't like any taxes or at least no taxes on their particular industry, and the lobby does like to put things off until the day of reckoning.

Marcello: On the same subject--now we haven't talked about this at all, and this is the first time that we've interviewed you--what is your opinion of lobbies or lobbyists?

Earthman: Well, I feel they have entirely too much power. They supposedly have a good function in that they give the members of the Legislature a lot of facts and figures in regard to their own industry that we don't have available. But this, rather than being a good thing, I think is a bad thing. It points out a real basic weakness in our State Legislature, that we don't have enough money

to do any kind of independent research on our own where we can come up with and develop our own facts and figures. And we do have to go to the lobby if we want to know something about the steel industry or the railroads or any other industry or the insurance. We don't have our own research, and for that matter I guess they do serve a good function that they do provide us with these facts and figures and information. But they're by their very nature biased or slanted toward the industry that they serve, and you have to take some kind of recognition of this fact when you try to digest any industry-prepared figures or information. But the lobby does exert a tremendous influence. And in a sense I guess they really run the state. They do.

Marcello: Have you ever had any personal relationships with these lobbyists. In other words, what I'm trying to get at here is, have they ever approached you, let us say, or have they ever indicated either subtly or directly that they wanted you to pass any particular type of legislation or to vote against any particular type of legislation?

Earthman: Oh, yes, certainly. Their job is to contact members of the Legislature and make their feelings known. They come right out and say it.

Marcello: Let me go one step further. What I was really getting at here, were you ever threatened in any way, or were you ever pressured in any way by a lobbyist.

Earthman: No. I'm not pressured and I doubt very seriously if they would do this because they're, I think, a little bit smarter or a little more subtle than, you know, to pressure you. The strength of lobby comes in during election time when they put up money to elect the candidates. It's too late once you're elected to do too much about it because legislators are human and they naturally listen to their friends. And if a person put up a lot of money for them, naturally they've caught their ear. And this is where the lobby really gains their foothold--by taking part in the elections and making sure they know these members of the Legislature before they go up there and you're not coming up and talking to a perfect stranger.

Marcello: And if you don't play ball, as you say, they can in many cases put up a rival candidate when election time rolls around next time.

Earthman: Exactly right. If you don't vote the way they want you to, they won't say . . . well, you know, they're not going to threaten you. But what they'll do is they'll just draw back, leave you alone, then wait until the next election, and make sure that you have a pretty tough opponent.

Marcello: One who's well financed.

Earthman: Right. Or try to gerrymander you out of your district if you happen to be in session during a redistricting session.

Marcello: Well, getting back to revenue again then, which is where we started, the House very, very quickly rejected the proposals of the governor to finance the state through deficit spending. Then, of course, he came back with a second revenue proposal, which, among other things, would have raised the sales tax and would have raised the tax on the sale of automobiles and, also, I think, it called for an increase in the tuition at state-supported schools.

Earthman: That's right.

Marcello: Now how did you react to this second proposal on the part of the governor? Could you accept most of this, or did you have objections to this proposal, also?

Earthman: Well, I had, of course, a basic objection to any raise in taxes until the Legislature really comes to grips with the fact that they need to do something about the spending. I think this is kind of putting the horse before the cart so to speak. They had to do something about the state spending, and so far they haven't done anything. Primarily, the state is just absolutely wasting--I feel this very strongly--just an awful lot of money on education, especially in the field of higher education. It looks like we're trying to build a four

year state supported university in just about every city in our state, and this is . . .

Marcello: Wall to wall universities.

Earthman: That's right. And this is absolutely ridiculous. And it's done, of course, with political motivations in mind obviously. But we're just spending just millions and millions and millions of our dollars on supposedly increasing the quality of education, but all we're doing is building more brick buildings. And so far as the quality, I just don't believe it's there.

Marcello: We at North Texas, of course, have a direct interest in this, as you're quite aware, with our potential rival, which is being constructed at Dallas.

Earthman: In Dallas.

Marcello: The UTD.

Earthman: This is a point that really rears its head. It shows exactly what we're talking about. This University of Texas at Dallas was a complete fiasco, and the state really bailed out a bunch of Dallas millionaires that were caught with a white elephant. They offered the school to SMU and they turned it down, and too, I think, A & M, but they turned the thing down. Until finally, they said, "Well, we'll make it a part of the University of Texas system."

Marcello: You're speaking now of the Southwest Center for Advanced Studies.

Earthman: That's true.

Marcello: What are you referring to when you call it a white elephant? I've heard other legislators talk about it in these same terms. And, I guess, it was a certain amount of dereliction on my part that I never asked them exactly what they meant when they said it was a white elephant.

Earthman: Well, it's my understanding that they had the idea that they were going to create, I guess, the MIT of the South here in Dallas, but it just never got off the ground. And they were caught with a school that is terribly expensive to run, as you might know. And this was kind of a civic pride thing, and several of these Dallas millionaires were having to pick up the tab of the thing as was my understanding, and the thing was just a complete drain on them. There was no way that they could make the thing go, so that's why they had to unload the thing. And they prevailed upon the state leadership to incorporate it into the University of Texas system.

Marcello: Are there any other areas where you feel that perhaps there could be a sharp reduction in spending other than in the building of additional colleges and campuses and so on?

Earthman: Well, I think that you could be. What really needs to be done is to call in some kind of a committee of businessmen to make some kind of a survey--even if you hired some kind of efficiency experts, perhaps a company to come in and make a survey. As you know, all these state agencies are run pretty well independently, and I think you could utilize a tremendous saving by even having a central computing operation or perhaps a pooling of all motor vehicles. The pooling of airplanes is a big waste. This really is a tragedy because a lot of the legislators use state planes as their own private planes. And I just don't think we get the most out of our money.

Marcello: Well, how do you feel about the state sales tax? Now, like I say, one of the governor's proposals called for an increase in the tax. How much further do you feel we can raise the state sales tax? Or do you think that perhaps it has reached its limit?

Earthman: We probably have reached the limits. As you know, when you talk about spending as much money as we're talking about in the state, there's only really two taps that you can get this much money out of. One is sales tax, and the other is some type of state income tax. I think we probably have reached the end of the line as far as the sales tax is concerned, and the only other

method is some type of a state income tax--probably a corporate tax to start with--and then it'll be a tax on your income.

Marcello: Well, during the regular session of the Legislature and while the revenue bill was being debated, proposals were brought up for the passage of a corporate profits tax or a corporate income tax--whichever you wish to call it. And, as I recall, there were several members of the "Dirty Thirty" who advocated that corporate income tax. What was your stand on the corporate income tax?

Earthman: I was against it. All the Republicans that I know of were against it. There again, it shows the split even among the "Dirty Thirty" between your conservative Republicans and the liberal members of the Democratic Party, that the only issue that we were united behind was the issue of ethics. And as far as picking out some kind of tax, we were completely divided, but this had nothing to do with ethics. State spending and taxation really is not a matter of ethics; it's a matter of political philosophy as such. And we were divided on this issue.

Marcello: Obviously you do foresee the day, however, in the very, very near future when the state is going to be passing a corporate income tax.

Earthman: Without a doubt. The level of spending keeps spiraling

up and up, and there's no doubt that they will probably this next session come back with wanting some type of a state income tax--probably on a corporate level.

Marcello: How about the so-called "sin taxes?" Do you feel that they have perhaps been also raised to their limits? I'm referring now to the taxes on alcohol and tobacco and so on.

Earthman: Cigarettes and liquor, yes. I think so. I just don't think you could raise them too much higher. They're pretty high now.

Marcello: Well, now one of the things also which was included in the revenue bill that finally was passed was a two-cent per gallon increase in the sale of gasoline. How did you feel about it?

Earthman: I wasn't in favor of it. There again, it comes down to my own personal philosophy that they did not try to do anything in regard to cutting of the spending, and I just didn't have my mind attuned to think about any taxes until they tried to reduce some of their state expenditures.

Marcello: And all this time, of course, no appropriations bill had been passed. Isn't that correct?

Earthman: No, we passed the tax bill first, which to me was ridiculous.

Marcello: Which is highly unusual, is it not?

Earthman: It had never been done before.

Marcello: I didn't think this was the case. Well, getting back to this gasoline tax. And, of course, eventually, the Legislature did pass a revenue bill. And lo and behold the governor says that he's going to veto it if in fact the gasoline tax was not knocked out.

Earthman: That's right.

Marcello: Now, here again, I assume that as members of the Legislature you had received no prior warning or instructions from the governor with regard to that revenue bill. Is this correct?

Earthman: That's correct.

Marcello: In other words, here again is something that he pulled out of the clear blue.

Earthman: Well, he would allow the Legislature just to kind of float around. And when the Legislature would come up with some proposal he would either veto it or threaten the Legislature with some action and without giving an alternative program or at least one that he really meant. This one about the bonds I don't think he was really sincere on that.

Marcello: Well, here again some people have said that the governor was perhaps demagoguing a little bit here or was politicking in threatening to veto that revenue bill if the gasoline tax were included. Do you think this is a fair statement?

Earthman: I think that's true. I think the pattern the governor of late has been to try to bring up emotional issues, perhaps planning on his re-election campaign. I understand that he's thinking about including in the call of the next special session some type of a compulsory no-fault insurance program, you see. And there again, that's, to me, calculated to bring him a lot of publicity in his campaign for re-election.

Marcello: Again, in other words, he was more or less trying to put himself forward as a man of the people perhaps . . .

Earthman: That's right.

Marcello: . . . in vetoing this legislation.

Earthman: That's right. That's right. And he, of course, as you know, vetoed the second-year of the appropriations bill. And, again, I think trying to bring publicity on himself.

Marcello: Let's move on then to another topic involving finances. Let's talk just a little bit about the appropriations bill. Now you mentioned again--or we've mentioned it several times in the course of this interview--that it was quite obvious that the speaker and his team or his lieutenants were holding off on the passage of that appropriations bill, and it's your feeling that this was done primarily in order to hold it as a club over the heads of the legislators.

Earthman: That's right. The appropriations bill is always a good club because you can tell a member of the Legislature if he doesn't vote down the line with you that the money that was supposed to go to your district will be either completely eliminated or sharply curtailed.

Marcello: Was this ever intimated in your case?

Earthman: No. This is one of the advantages of being in our district, that we don't have one state institution in our district. And we don't need the money, and there's nothing that we have to go up there and try to get passed. So we're really in one sense lucky that we're able to vote our own convictions without fear of any economic reprisals back in our home district.

Marcello: That's very interesting. How about the University of Houston? That is not in your district?

Earthman: No, no.

Marcello: I was just wondering. I know it's not too far from here.

Earthman: Yes, that's right.

Marcello: But that is outside of your district.

Earthman: It is outside of the district. And my district roughly is everything north of the Southwest Freeway. And there's not to my knowledge a single state installation--maybe a driver's license building which is probably leased and a highway--but there's no state university, no hospital, no nothing, so we're in a pretty unique position in that we're not subject to any political blackmail.

Marcello: I think there's a good deal of what we could talk about concerning the appropriations bill that is already a part of the public record. Do you have any comments that you think ought to be a part of our Oral History record other than what we've talked about with regard to appropriations?

Earthman: Well, no, I think most of the bad features in the appropriations bill has been brought out in the newspapers, but I don't think I have anything to add to it.

Marcello: One question that just does come up here in my mind with regard to appropriations, and something which hits home, I guess, a little bit--but on the light of recent developments if probably wouldn't make a whole lot of difference--but one of the sore points apparently in the conference committee concerning appropriations was the pay raise for college professors or college personnel and so on. Just exactly how did you feel about this?

Earthman: Well, I look on any pay raise. I like a merit pay raise. I think if a person deserves it I certainly feel like you have to pay decent wages in order to keep good qualified personnel. I would never oppose any justified pay increase.

Marcello: What I was getting at here, how do you explain the fact that in the appropriations committee apparently a pay raise was more or less passed for just about all state

employees with the exception of college teachers?

Earthman: Anything to do with appropriations I always look to Mr. Heatly. And evidently he . . .

Marcello : Was out to get college professors. (Chuckle)

Earthman: That's exactly right. You know, the governors come and go, but Heatly's always there. And as long as we have that man in state government, we're all going to be the worse off without a doubt.

Marcello: Well, now suppose we get another speaker. According to the way the system is now established, that speaker could appoint anybody he wants to as head of the Appropriations Committee, let us say. Is this correct?

Earthman: That's right.

Marcello: Is it a very easy thing for a new speaker to come in and appoint new committee chairmen. Or isn't it quite that simple?

Earthman: Well, that's right. He could. But you have to look at who elects the speaker. In other words, Mutscher was really elected by Heatly. Heatly told the lobby who he wanted as speaker, and they went out, and it was part of the deal that Heatly always has to be retained as Chairman of the Appropriations Committee. And Heatly just has an awful lot of power. A lot of people don't realize that, but he's probably the most powerful man in the state.

Marcello: Did you ever have any personal dealings with Heatly?

Earthman: No. Heatly won't speak to me.

Marcello: Well, here again, like you point out, you apparently have none of these choice committee assignments anyhow. You wouldn't necessarily have too many contacts with him.

Earthman: Well, no, I really wouldn't. And he's a strange man. He doesn't speak to his enemies. I guess you might call me an enemy or an opponent perhaps. But I just didn't have any dealings with him, you know.

Marcello: Well, let's move on to another topic then if there's nothing else we can add concerning appropriations. And this involves redistricting, which was perhaps the last big issue which did come up during the regular session of the Legislature. Now, of course, the biggest bombshell was the speaker's attempt to--obviously it was the speaker's attempt--to purge the members of the "Dirty Thirty" who had opposed him during the previous session. What was your initial reaction when you saw the plan which came out of the committee so far as legislative redistricting was concerned?

Earthman: Well, of course, it was pretty obvious what he was trying to do. This is just the law or the rule in politics. The ones in power always try to get their opponents. And this was obvious that this was going to happen. I think what happened was though that they went for an

over-kill, and by that they violated the Texas Constitution, which has since been proven that they have. The judge in Austin has ruled that at least the House redistricting plan was unconstitutional, but they violated the constitution in regard to splitting of counties so many times trying to get various members of the "Dirty Thirty" that I think they really overdid themselves. In the case of Houston they tried to put the six Republicans into a three-man district, but this wasn't entirely successful because by doing that they also for some reason created a black district, and if you deny a block black vote to Democratic candidates they can't win. And this would probably mean that if they don't change the redistricting in the House as far as Harris County is concerned, we'll probably have eleven Republicans rather than the six we have right now. So I think again they kind of outsmarted themselves.

Marcello: I was going to ask you exactly how his redistricting plan would have affected the members of the Harris County delegation, and I think you've answered that question to a certain extent here.

Earthman: Well, the districts are obviously gerrymander, but I don't think they've really obtained the goal that they thought they were going to do.

Marcello: Well, I think it's at this point that you really see the mass defection taking place so far as the speaker's camp

was concerned, isn't this correct? I think here the redistricting was even too much for some of the people who had more or less gone down the line for Mutscher in the past.

Earthman: No, they still supported him. They had to. Even though they didn't like the redistricting, there again they were firmly committed to Mutscher, and we weren't able to muster very many votes. For instance, in Houston we had planned for single-member districts in Houston that we had the support of sixteen of the nineteen, and yet the House turned it down. It was obvious, you know, because the word got out that Mutscher didn't want this for Houston. So pretty well for the main part the team members of Mutscher stood with him until the last.

Marcello: However, since this time you have seen a great many defections taking place in the Mutscher camp now.

Earthman: Oh, yes.

Marcello: How do you explain this?

Earthman: Well, I think it was pretty obvious that they could see that Mutscher wasn't going to be back as speaker, and they were all flocking to get on someone else's bandwagon. And, there again, after the redistricting bill was over with and the appropriations bill was passed, the two clubs that the speaker had were gone, and the members deserted him. They knew that probably in the

next election the main campaign issue was going to be whether or not you supported Mutscher. And they were all hopping to make an anti-Mutscher record.

Marcello: Let's do a little bit of prognosticating here. Who do you see perhaps as being the likely successor to Mutscher? Well, let me ask you this first of all. Do you think that Mutscher can be re-elected as speaker?

Earthman: It's going to be very difficult because his hard-core support has already left him. He had a lot of support in Dallas, and they've already started to flake. And in San Antonio they're starting to defect. And others that were his hard-core supporters, a lot of them are thinking in terms of running themselves. I think it's going to be very difficult for Mutscher to get back in. I really believe he will not be back in, so it's perhaps right now a little early to say who will be his successor. Probably at this point today the leading candidate would be Rayford Price. But the people that back Mutscher are not really sold on Price yet, and I understand they are trying to push right now Dean Cobb of Dumas as his successor. So it'll be very interesting to see how things turn out.

Marcello: What are the liabilities that Price has? You mentioned that the people who back Mutscher aren't quite sold on Mr. Price.

Earthman: Well, he, of course, deserted Mutscher at the last, you know, so those who felt kindly toward Mutscher kind of are still mad at Rayford because he did bail out on Gus. And those that never liked Gus are never going to like Rayford. So, Rayford probably at this point maybe has thirty or forty, between thirty and forty pledges. But there again, it's subject to the new lines. And I don't know if his strength will grow any more than that. I think what's happening now is the-- I think I mentioned this--the people who put Mutscher in office are trying to zero in on a candidate of their own. And I've heard that Dean Cobb is the one that's going to be tapped. He makes a nice appearance and he's pretty well non-controversial, so he will be the Mutscher successor.

Marcello: Also on the question of redistricting, the Legislature also had to tangle with the problem involving congressional redistricting. And I think it's a known fact, is it not, that there were several members of the Legislature who were very interested in having districts carved out for themselves, congressional districts in which they could perhaps run rather well.

Earthman: Well, this is true. The main one that comes to mind was the controversy on . . . well, it was really Dowdy's old seat. Dowdy, of course, was indicted for taking a

bribe, and it boiled down to a power play with the Senate candidate Charlie Wilson against the House candidate Clyde Haynes of Vidor. And this is why Haynes broke with Mutscher--because he felt that Mutscher didn't give him enough support. And the district was drawn much more favorably to Charlie Wilson, so Haynes was kind of left holding the bag.

Marcello: Well, now here again, all the redistricting was done by one of Mr. Mutscher's hand-picked people, Delwin Jones. Wasn't he the one?

Earthman: That's right. He was the Chairman of the Redistricting Committee, and they had a series of hearings all over the state, but it was just a farce. The committee had meetings, but they never really drew the map. It was just a farce and a window dressing. And Delwin Jones and Mutscher really drew the maps in all the redistricting.

Marcello: Essentially, from what I gather, Mr. Jones, of course, is very interested in having Representative Mahon's district preserved. Apparently he wanted to start from there, and then redistrict the others.

Earthman: Well, that's right. That was his own congressman. He was out to save him.

Marcello: Right.

Earthman: This was the guiding factor, I think--was to try to save the incumbents. In regard to this House redistricting, by the way, I don't know if I mentioned that the Harris

County lines were drawn by former state Representative Russell Cummings, who was defeated. He had served three terms and then lost this last time. And he was put on the payroll of State Representative Ray Lemmon, and he drew the lines--Cummings did--and made sure that he was in supposedly a safe district for which he can launch his political come-back next election.

Marcello: That's very interesting. Generally speaking, how did Harris County fare so far as redistricting was concerned? Did the rural areas reach into Harris County to flesh out their districts or did you come out pretty well in redistricting?

Earthman: Well, Harris County came out pretty well. A lot of the others in regard to congressional redistricting . . . Dallas really came out real poorly.

Marcello: Right.

Earthman: They were pretty well fragmented and so was San Antonio. But for the main part, the redistricting in Harris County turned out real well.

Marcello: Well, we're almost on the verge of summing up here. You mentioned something earlier, however, that I think we should talk about. Time to time we've talked about Preston Smith. Exactly how would you evaluate him as a governor. Now here is a Republican evaluating a Democratic governor. Exactly how would you evaluate him?

Earthman: Well, as you know, of course, the powers of our governor are very, very weak because we do operate under an antiquated constitution, the constitution of 1876, I believe it is. And the powers of the governor are really limited. And in order to be a strong governor you have to be a strong individual, and you have to use really your own magnetism. And for that way, you could say that John Connally, who's now the Secretary of the Treasury under Nixon, was a strong governor. And by the same token, you'd say a man like Preston Smith, who is a--personally, this is my opinion and it is somewhat biased--is a very weak individual. He had not exerted any type of leadership over the state and especially has fallen down in his duties to direct the Legislature. And as such, I find his entire tenure as governor a very weak type of leadership, in fact, really almost non-existent.