

California State Archives  
State Government Oral History Program

Oral History Interview

with

PETER H. BEHR

Environmentalist and California State Senator, 1971-1978

November 18, December 2, 14, 1988, January 11, 19, 1989  
Inverness, California

By Ann Lage  
Regional Oral History Office  
University of California, Berkeley

## RESTRICTIONS ON THIS INTERVIEW

None.

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## PREFACE

On September 25, 1985, Governor George Deukmejian signed into law A.B. 2104 (Chapter 965 of the Statutes of 1985). This legislation established, under the administration of the California State Archives, a State Government Oral History Program "to provide through the use of oral history a continuing documentation of state policy development as reflected in California's legislative and executive history."

The following interview is one of a series of oral histories undertaken for inclusion in the state program. These interviews offer insights into the actual workings of both the legislative and executive processes and policy mechanisms. They also offer an increased understanding of the men and women who create legislation and implement state policy. Further, they provide an overview of issue development in California state government and of how both the legislative and executive branches of government deal with issues and problems facing the state.

Interviewees are chosen primarily on the basis of their contributions to and influence on the policy issues of the state of California. They include members of the legislative and executive branches of state government as well as legislative staff, advocates, members of the media, and other people who played significant roles in specific issue areas of major and continuing importance to California.

By authorizing the California State Archives to work cooperatively with oral history units at California colleges and universities to conduct interviews, this program is structured to take advantage of the resources and expertise in oral history available through California's several institutionally based programs.

Participating as cooperating institutions in the State Government Oral History Program are:

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The establishment of the California State Archives State Government Oral History Program marks one of the most significant commitments made by any state toward the preservation and documentation of its governmental history. It supplements the often fragmentary historical written record by adding an organized primary source, enriching the historical information available on given topics and allowing for more thorough historical analysis. As such, the program, through the preservation and publication of interviews such as the one which follows, will be of lasting value to current and future generations of scholars, citizens, and leaders.

John F. Burns  
State Archivist

July 27, 1988

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## INTERVIEW HISTORY

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### Interview Time and Place:

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Peter Behr's home, Inverness, California

Session of two hours

December 2, 1988

Peter Behr's home, Inverness, California

Session of two and one-half hours

December 14, 1988

Peter Behr's home, Inverness, California

Session of two hours

January 11, 1989

Peter Behr's home, Inverness, California

Session of two and one-half hours

January 19, 1989

Peter Behr's home, Inverness, California

Session of two hours

## Editing

The interviewer/editor checked the verbatim manuscript of the interview against the original tape recordings; edited for punctuation, paragraphing, and spelling; verified proper names and prepared footnotes. The interviewer also prepared the introductory materials.

On May 5, 1989, Mr. Behr was sent the edited transcript for his approval. He returned it with minor corrections on May 16, 1989.

## Papers

Mr. Behr has a well-organized collection of papers relating to his legislative service at his home in Inverness.

## Tapes and Interview Records

The original tape recordings of the interviews are in The Bancroft Library, Microfilm Division, University of California at Berkeley. Records relating to the interview are at the Regional Oral History Office. Master tapes are deposited in the California State Archives.

## BIOGRAPHICAL SUMMARY

Peter H. Behr was born May 24, 1915, in New York City and attended primary and secondary schools in New York City and Lawrenceville, New Jersey. He graduated from Yale University in 1937 and received his law degree from Yale in 1940, followed by five years of active duty in the United States Navy during World War II.

Mr. Behr moved to the Bay Area in 1946 and was in private law practice in San Francisco until 1968. He began his career in public service as a member of the Planning Commission in Mill Valley (1953-1956). He was city councilman for Mill Valley from 1956-1960 and a member of the Board of Supervisors for Marin County from 1962-1968.

In 1970 Mr. Behr was elected to the California State Senate representing Marin, Solano and Napa Counties. In 1974, following reapportionment, he was reelected to represent Marin, western Sonoma, Lake, Mendocino, Humboldt, and Del Norte counties. During his eight years in the Senate he authored a wide variety of legislation in the areas of environmental protection, legislative reform, health, welfare, and education issues, insurance, property tax reform, and others. He was named California Conservation Legislator of the Year in 1972.

Since his retirement from Senate in 1978, Mr. Behr has been active in environmental and community issues. He is a past president of the Marin Conservation League, member of the Board of Trustees of the San Francisco Foundation, and a past director of numerous community and environmental organizations.

[Session 1, November 18, 1988]

[Begin Tape 1, Side A]

## I. PERSONAL BACKGROUND

### Family Life in New York City

LAGE: We're going to start with some background on your family, where you came from, particularly thinking ahead to how you may have developed the interests that you have pursued as a legislator.

BEHR: I was born in New York City on May 24, 1915, the second of four children. My father was at that time an attorney, but he was in various fields during his life. He wound up for the last twenty-six years as partner in Dillon, Read, and Company, a large investment firm in New York.

We were never poorly off, and never rich. So I guess we'd be called upper middle class. His father, my grandfather, had started a sandpaper company in Brooklyn, which had become very successful, so there was some money in the family from that. My father went to Yale [University] and then went to Columbia Law School, but he

never practiced, or at least only briefly, as an attorney. He was really very much interested in public affairs, a very fine tennis player (he was on the Davis Cup team). He and my mother were on the Titanic; they escaped on a lifeboat.

LAGE: Oh! That must have been a source of good stories for the rest of their lives.

BEHR: Well, it really was. They had an exceptionally happy marriage, somewhat Victorian. I'll never forget my father asking my mother every day how much she needed for the day. Whereupon she would tell him, and he would reach into his wallet and give her a five-dollar bill, or ten-dollar bill. Never any suggestion of a dispute. I don't think until much later in life Mother ever had a checking account. And of course, credit cards were unknown.

I remember the ice wagons pulled by horses, and the delivery of milk by horses in New York. We lived between East 69th Street and 72nd Street for the thirty-odd years I spent in New York City.

LAGE: In one home, the whole time?

BEHR: No, actually we rented until a long time later, at least until just before the Depression, when my father broke down and bought a house. My mother had always wanted to own a house, but he felt it was a poor investment. He had no interest in personal possessions at

all, so he never quite could understand this. He had a group of very, very close friends, and everything took precedence in the household to my father's activities.

There was my elder brother, Karl, and I, and then there was a younger brother, [James] Jim, and finally along came my sister, Sally, who was much younger. We had spent most of our summers--all of our summers--outside of New York, no air conditioning at the time, and maybe eighteen or nineteen of them in a little place called Locust, New Jersey, which was near Red Bank and Sea Bright and Atlantic Highlands. And we did nothing during the summer in those days, even when we went to college.

LAGE: In the way of work?

BEHR: In the way of work. So I grew up as a do-nothing. [Laughter] And it was simply delightful.

LAGE: Was it an outdoor experience in the summer?

BEHR: Well, it was. We played a lot of tennis, a lot of golf, did a lot of swimming. We went up to my grandmother's place, on my mother's side, in New Hampshire many, many summers when I was much younger. She was on Squam Lake, which was the setting for On Golden Pond [a recent film], and had a very large place up there at the end of the lake. We fished and canoed and rowed, and generally

saw no one else during the entire summer, except my elder brother and myself, at least of our age. We played furious games of croquet.

LAGE: Was this unusual at the time in your social setting, or was this just the way families operated then?

BEHR: I think families were a little more modern than ours. My father came from a very Germanic background. He was one of six children. It seemed to be much more typical than at present, but even more so in our family.

My mother and father had a very warm and affectionate marriage, which lasted for a long, long time until my father died of cancer. Anyway, we went to a small private school in New York City. I was about thirteen, and at that point, I had never passed a single course in the school. I guess I was not motivated, or something.

So, in 1928, my grandmother and grandfather told my family that I should be taken out of school and be with them for a trip, which turned out to be a great turning point in my life. We took a Mediterranean cruise and were gone all winter long.

#### Prep School, Yale University, and Law School

LAGE: And this is age thirteen?

BEHR: At age thirteen. The only promise my father made me make was

that I'd better buckle down when I got home. When I came back, we went to Lawrenceville, which was the old family school Father went to, Lawrenceville School in Lawrenceville, New Jersey. Right near Princeton.

LAGE: This was a boarding school?

BEHR: A boarding school. A large one, about five hundred in size. I'm not sure it was the oldest boarding school in the country, but it certainly was one of them, and it was around during the time of the Revolution. It was a very wealthy boarding school, as it turns out, but this was 1929, and nothing was working very well. [Laughter]

LAGE: So you were there right at the time of the crash.

BEHR: Right at the time of the crash, and spent four years there, and was on the dean's list from the beginning to the end. I made a complete turnabout.

LAGE: Do you recall what changed you at that point?

BEHR: My feeling that I owed him, and my feeling that it became interesting then, which it hadn't been to me before. I was an indifferent athlete, a very active scholar, and involved in all sorts of extracurricular activities in the school. So I wound up the class poet and graduated in 1933.

My elder brother, Karl, was never an academic, and we went

through Lawrenceville together. He was about a year and a half older. He barely crept past and got his diploma. Then we went to Yale together.

LAGE: You could barely creep past, and still go to Yale?

BEHR: At that time, if you had the tuition, you certainly could. [Laughter] Yale was bleeding internally and from every pore financially. And of course, we had a long legacy at Yale: my father had gone to Yale, both his brothers went to Yale, and two uncles who married into our family also were Yale men.

LAGE: And that helped at that time? Maybe it still does, I don't know.

BEHR: And my stepgrandfather had gone to Yale. They say today that other things being equal, legacies will still be favored.

In any event, my elder brother went through Yale with me, or I with him. Some miserable professor gave him a 59 on his final examination so he couldn't graduate with the rest of the class, and had to come and take a make-up, and get his diploma in the fall. But we went through, and I was just . . .

LAGE: So you were in the same class together.

BEHR: All the time. And I was on the dean's list, or actually, almost got Phi Beta Kappa, not quite. I was on the Yale Daily News; I helped found the Yale Political Union. I founded a rather unusual organization

called the Roosevelt for King Club. [Laughter] During that time, [President Franklin D.] Roosevelt was attempting to pack the Supreme Court; the thought being he owned Congress, he owned the executive, now that he was about to own the Supreme Court, let's make him king.

LAGE: Was the feeling at Yale fairly anti-Roosevelt?

BEHR: Not so far as my father was concerned, and he was very upset about this, particularly when it metastasized through all the universities around the country. [Laughter] So when it was time for Easter, he said he thought I really had earned a vacation to Bermuda.

[Laughter] So I got a free vacation out of it.

And then we had to close it down; it was getting out of hand. A small little footnote in my career.

LAGE: What kind of things went on in the Roosevelt for King Club?

BEHR: Proclamations and general hoopla. And a great deal of publicity; we made the front pages of most of the major newspapers in the country at the time. Because it was meant to be a satire, and humorous. Which it was, I guess, for the time. But it went too far. They had Eleanor for Queen clubs also at all the women's colleges. So that was a funny little time.

Then, when I got out of Yale, I went to law school.

LAGE: Yale Law School?

BEHR: Yale Law School. And so I don't know whether you are inbred or incestuous when you stay in New Haven seven years, perhaps something in between. My poor elder brother, who was no scholar, started as a salesman in International Printing Ink Company; father served on its board of directors. He became a wonderful salesman, but it wasn't very glamorous.

Then we both had gotten our commissions in the naval reserve through naval ROTC [Reserve Officers Training Corps]. We took two cruises of about four weeks each when college wasn't in session, down to the Caribbean on old World War I destroyers. The first time I ever flew was over the Panama Canal in 1935.

LAGE: That seems early on.

BEHR: Which was early on, so we could see the canal from the air, which was very exciting.

LAGE: Did war seem far off at that point?

BEHR: Completely far off. In fact, we had to particularly remember the fact that we were being commissioned, it was such a small little undertaking compared to getting a diploma from Yale. [Laughter] But we remembered it later.

Marriage and Naval Service, World War II

BEHR: After graduating from law school in 1940, I passed the New York bar in six months after taking a refresher course from Harold Medina, who later became a district judge and was involved with the very famous communist trial. I joined a law firm called Wright, Gordon, Zachry, and Parlin, which later became Cahill, Gordon, Zachry, and Reindel.

It was customary then for young associates to work six days a week, but since we couldn't get ahead by doing that, most of us worked seven.

LAGE: I hear they do similar things today.

BEHR: For better salaries, I'm sure. But it was very competitive, and mostly research work. Although I was involved in one or two trials.

LAGE: Did you find that you were happy with what you had chosen as a career?

BEHR: Well, that's very perspicacious of you. I didn't know, but I wasn't enthralled. I was called to the colors, as they say in those days, "Greetings . . . ," in March of 1941.

LAGE: Called up to serve in the navy?

BEHR: To serve on active duty, as was my brother. I was assigned to the Pensacola Naval Air Station, and he was assigned to the Jacksonville

Naval Air Station. Although we both were allegedly trained for shipboard duty, there weren't many ships at that time.

Then, I stayed there until July of 1942, and gradually increased in rank during that time, which was simply an indication of shortage of naval officers. [Laughter] I was in charge of half the aviation cadets at Pensacola, when they were on the ground. We drilled them, and persecuted them, and gave them marks if their rooms weren't clean, and took care of disciplinary matters. I had five officers under me at the end.

I got in some real hot water with several USNs [United States Navy, in contrast to naval reserve officers], who insisted I never explain an order. All of these young men in training at the time were either college graduates or they had postgraduate degrees. I mean, they were the pick of the litter. Marvelous young men, just a few years younger than I, some of them my age. I thought that was wrong and stupid, and that they were intelligent enough to recognize that if they had a question to ask, it should be answered.

So I was harassed for a while by them.

LAGE: Now, who harassed you?

BEHR: Well, several U.S. naval officers, Annapolis graduates, who were senior to me. One of them was a two-striper, which at that time was

a very high rank, a full lieutenant, and an aviator. They took me in and gave me a two-hour tongue-lashing, and kept . . .

LAGE: For answering questions?

BEHR: For answering questions. I listened, and didn't respond at all, but didn't change my attitude. That's where I met my wife. Sally [Sara Clarkson] was going to Smith College. She was a junior at the time, and she came down [to Pensacola] because her father was one of the earliest persons who ever received wings in the naval service. He went up with Jim Forrestal and others to Canada, because there was no training for aviation in this country, at least not for naval aviation.

So he got very early wings, and he was called back and was a full lieutenant commander, and he was number two in the Assembly and Repair Department, which was terribly important because these students were banging up planes right and left. We had to keep enough planes flying.

So when she came back for the summer vacations, I met her and fell in love at once, asked her to marry me certainly within a week, if not two weeks.

LAGE: You're a man who makes up his mind quickly.

BEHR: Well, it wasn't a hard choice. She was very stand-offish, because at

the time she was engaged to another Yale man.

LAGE: [Laughter] Did you know him?

BEHR: No. His name was Putnam Lee. He lived in Connecticut, came from a fine family, and was an apparently fine fellow. He was in Jacksonville Naval Air Station, so he didn't have what we attorneys call access. [Laughter] Over time I beat her down, but it took quite a while. Once she came back for the second year and had graduated, I continued the pursuit. She finally said yes.

I was sent down in the middle of June of '42 to the Miami submarine training center, antiwarfare. Sonar center, it really was, although we had no sonar at the time. It was a six-week course in tracking submarines and attempting to bomb or to depth charge them. And while we were down there, we had new equipment, which turned out to be sonar equipment. Everything was done at the time with stopwatches. I won't go into the details, but none of the officers wanted to do away with their proficiency in handling stopwatches in pursuing submarines. So that was kind of amusing.

LAGE: The new equipment displaced the stopwatch?

BEHR: Yes. It was left in the basement. Things became a little tense, because Sally had set August 20 [1942] as the date for our marriage, and the captain of the Pensacola Naval Air Base, [ ] Putty Reed,

BEHR: was involved. Everybody on the base was involved; it was going to be a big wedding. She got bridesmaids from all over the country. I wasn't that sure at all that when I got finished with this course, I would ever get back [from Miami]. But she said I had to get back. [Laughter] So I went in with fear and trembling to the commanding officer, a man named [ ] McDaniel, who was quite a terror down there, when I had finished the course. I explained the situation, and he gave me three days. "You can get to Pensacola, you can get married, and you can come back here, and that's the extent of it. We're at war," and so forth. Which was generous enough.

So we had a big white wedding with crossed swords in the chapel at Pensacola, with all the bridesmaids, including my younger sister and Sally's. And my family flew down.

Then we left in a secondhand car from Pensacola because we had to get back to Miami posthaste. The windshield was very frosted, so it was hard to look through, and the car was not doing too well. So it only made Jacksonville. Then I left it on the street and called my elder brother, who was the best bargainer in history. I told him, "Sell the damn thing!" We took the train down the rest of the way.

And so in a couple of days we were off again from Miami to

New York.

LAGE: Did Sally come with you?

BEHR: Of course.

LAGE: So she was able to come with you.

BEHR: Oh, yes. We spent the wedding night at Bacon's-By-the-Sea, a lovely little place off the Pensacola Bay. From then on, without going into excessive detail, my naval career consisted of being the executive officer of three different little sub-chasers, which were 173 feet long, and carried a crew of fifty with five officers. I was executive officer of all three of them.

The first one had a captain named Monroe Kelly, who had been with destroyers in the North Sea and was a USN. He had a breakdown when we got to Miami from New York, and had to be taken off the ship. I didn't see him again until my fourth ship.

The other two sailed to Miami, where they were going to be shaken down, from New York, with very green crews and very green officers, and were turned over to Brazil. So each time we kept coming back. The last time I came back to Stamford, Connecticut, to wait for the next one to be constructed at Luder's boatworks.

Then I was sent back to another session at the sub-chaser training center, because they'd figured they'd learned a lot since I'd

been there last.

That's when I was assigned to a destroyer escort, which was a watered-down destroyer named the U.S.S. Chaffee DE 230. I was the first lieutenant and damage control officer, and we toured up and down the Atlantic searching for submarines. And then we went finally through the Panama Canal, and on to Hollandia, New Guinea, and from there to Leyte, where they had the Battle of Leyte. And then to the Lingayen Gulf, where we took a torpedo. That's in the northern part of the Philippines, 150 miles north of Manila.

We were torpedoed, but the torpedo didn't go off. A Japanese Betty plane made a run on us at night. I didn't know we were torpedoed, and I was the damage control officer, and we were the only ship that was torpedoed and didn't know it until the next morning. The torpedo hadn't armed and consequently hadn't exploded. It had just gone through the ship.

LAGE: But it had made a hole in the ship.

BEHR: It made two nine-foot holes, one on either side, but it went through the lower peak tank, which is designed to carry water way up on the bow. It's a watertight compartment.

So, we didn't know it. There was a big splash, and the captain said, "Sound all watertight compartments," so like a good officer I

BEHR: turned to my damage control crew and cried out, "Sound all watertight compartments!" And they all came back to tell me that they'd sounded them all and there was no water in them. So that's what I reported to the captain.

So next morning, when we discovered these two nine-foot holes, he said, "You know, every four hours we put in the official log that we're watertight. And it's been eight hours now after the first report, and we've got two reports that we're watertight. Now you tell me there are two nine-foot holes through the ship? Would you explain?"

"Well," I said, "Captain, the lower peak tank is meant to hold water." "Yes," he said, "but not salt water!" [Laughter]

So in any event, he asked me to explain this in writing, which I did. What had happened was dunnage in there had stopped up the tubes that you drop your tape down to sound. The tubes are open at the bottom. And they didn't check the length of the tape. If they'd done that, they would have realized something was wrong. So I explained it, and then of course, having been that clever and helped the war that much, I was reassigned. I was a lieutenant commander by this time, because some years had passed, and I was made the executive officer of the Prometheus, which was the AR-3.

The Prometheus was the oldest commissioned ship in the navy. She was laid down as a coal collier in 1909. She was converted to a repair ship in the First World War; then she was mothballed; then she was reconverted to a repair ship and fixed up and sent out into the Pacific. She wasn't caught in Pearl Harbor, although she was in the Pacific at the time, and she never came home until after the war. She could make nineteen knots at standard speed. She was a wonderful old girl; we had 800 men and fifty-two officers.

LAGE: And she was still a repair ship when you . . .

BEHR: Oh, yes, she was. She stayed so.

LAGE: Now, what is executive officer?

BEHR: The number two officer aboard ship. By this time, I had more experience.

LAGE: Sounds like an administrative job.

BEHR: No, all your administrative. . . . Well, to a modest degree it is. But you stand deck watch, and you supervise the deck officers; you supervise the first lieutenant, who's in charge of all the deck force. The only thing you're not in charge of, under the captain, is the engineering department--and the repair department, in this instance.

In any event, when the war was over, we took her into Hong Kong, and I did most of the conning of the ship. When we got into

close waters, the captain was unable to conn the ship; he was a much older man, and . . .

LAGE: I didn't hear the word . . .

BEHR: Conn. Yes, that's navigating the ship when you're within sight of land, as opposed to navigation which just indicates where you are if you're in the deep ocean.

There were lots of amusing incidents, and I don't know if you'd want me to go into them.

LAGE: We probably should . . .

BEHR: Move on, don't you think?

LAGE: Try to move on. I think this is a hard question to answer, but when you look back, was the experience of being in the navy during wartime a molding experience, something that you found . . . ?

BEHR: Exceptionally so, so that when I came back after the war to the old law firm, I was bored to tears. And I also wasn't very well. My normal weight was 170; by this time I was weighing about 135 and was really exhausted. So my father caught it, sent me to a diagnostician, top man on Park Avenue, who gave me a battery of tests, and at the end I met the great man in his oak-paneled office.

He said, "I bet you hope I've found something wrong with you."

"Oh," I said, "Not at all, not at all!" Of course, that's what I was

hoping, because I was beginning to get a little cloudy mentally.

"Well," he said, "I've seen a lot of young men like you come back from the war, and don't worry about it. Can you take some time off?"

"Well," I said, "How much?" He said, "Do you like the way you're feeling?" I said, "No." I was very depressed. He said, "Then, does it make any difference?" I said, "You're talking about my life!"

"Well," he said, "You know, three months, six months, I don't know. Maybe even a year. But you'll be all right."

So I left, and that's when, for the first time, we came to California. Sally and I had never been there; we flew, an old DC-3.

#### Relocating to California--Law Career and Family Ties

LAGE: Why California?

BEHR: My aunt by marriage was divorced from my father's elder brother, if you can follow all that, and she had with her mother, when a young girl, homesteaded a piece of land outside of Victorville down south on the high desert, about 1500 acres. And she established a guest ranch there called Yucca Loma, which became exceptionally famous in its time--adobe houses, all far apart, and everybody ate at one big table. She was a great friend of my mother's. So we went out there to see how the desert would fare.

I didn't talk, I'm told, for about two months. I just would say, "Good morning," but I didn't talk.

LAGE: It sounds like post-what do they call it? The Vietnam syndrome?

BEHR: Postpartum. [Laughter]

LAGE: No, no! Well, that's another . . .

BEHR: Same kind of depression, yes. Stress type of thing.

LAGE: Posttraumatic stress disorder.

BEHR: Anyhow, we had all the famous people down there, like [Reuben] Mamaulian, the great director, and a number of other actors whom she liked. The president of Stanford [University] came back year after year. It was really a first-class group, who enjoyed each other. They were allowed to be completely alone in their own private homes, nobody could visit, but they all met for lunch and dinner, breakfast.

LAGE: Did you find it restorative?

BEHR: I didn't know. I thought so; I certainly rested. And then one day, one night, I started to talk. I took over the table, I'm told. My aunt winked at my poor wife, who was going crazy.

LAGE: She must have had a hard time with it.

BEHR: She was a brick. From then on, I was en route to being cured. It took very little time then.

Neither of us had ever been in California. Then we went up north to see my first cousin, who had a place in Alamo, which is halfway between Walnut Creek and Danville. And at that time, it was nothing but a post office and a grocery store.

[End Tape 1, Side A]

[Begin Tape 1, Side B]

BEHR: She had a lovely place, with a swimming pool and stable. It was very difficult to find housing then; almost impossible. So she offered to build us a little prefab on her own place; we could pick the location. We jumped at that. I'd had letters of recommendation to all the major law firms in San Francisco, so I started to make the rounds.

LAGE: Was there a particular reason why you decided to stay out here?

BEHR: Yes, although we never mentioned it. Dillon Read was a major client of the law firm I was in. My father was very well situated, with a good deal of influence.

LAGE: Dillon Read was your father's firm.

BEHR: Yes. And I just felt coming back that I'd never know if I had succeeded or not. I was on sort of a moving platform that was moving me toward success, but I wasn't moving myself toward it. And my father was very hurt, crushed, when he heard we were going

to stay in California. He said, "Look, if you want to go to Texas or Cleveland or," he named three or four other states, "I could help you." He said, "I don't know anybody in California!" Which was all right. I wanted to carve out a career of my own at that time.

Anyway, I got tied in with a law firm called Brobeck, Phleger, and Harrison, which was a well-known law firm in San Francisco, and still is. I stayed with them for three years, and, amusingly enough, by hindsight, I was fired. But they never would tell me why, and they never really fired me. They didn't give me my Christmas bonus. And the Christmas bonus amounted to about 40 percent of the yearly salary. When I'd first been hired, Herman Phleger said, "Well, we'll pay you. . . ." Three hundred dollars? Two hundred fifty dollars a month? Something like that.

And I said, "You know, I've got a daughter, and I passed the New York bar, and I've got a wife of course, and we can't live on that."

"Oh," he said, "young man, we're perfectly aware of that. But that's what we're offering." [Laughter] And you couldn't find a major law firm who would offer more. It was a conspiracy, without question, or an understanding that hadn't been stated.

LAGE: What did they expect these young lawyers to live on?

BEHR: They didn't really care. It really wasn't their business.

LAGE: Was there an excess of lawyers?

BEHR: Yes. There always has been in the Bay Area. So that's what I took, and I was there for three years and didn't get the Christmas bonus in the third year, but they wouldn't tell me why. I went up to the department head I'd been working for; he said, "Well, you'll have to see Mr. Phleger for that." It was Gregory Harrison.

So I went to Mr. Phleger, who was the head of the firm. I asked him, and he said, "Well, you'd have to see Mr. Harrison for that." I said, "Look: is it the quality or the quantity of my work, or both?"

Mr. Phleger replied, "O-oh, we have no problems with you!" I said, "Do I have a future here?" "Well, young man, of course you do!"

I said, "Well, look, if that's the situation, I'm staying on until I find another position, and you're going to pay me in the meantime, because I don't believe you. I don't think I have a future here." Which obviously I didn't.

So I went with a small law firm called Keesling and Keesling, two brothers, very old-time law firm, no longer exists. Within the next three to six months, I'd taken away three or four of Brobeck,

BEHR: Phleger's leading associates and found them locations in other law firms. They were unhappy. One in particular, [Robert] Bob Burns, had gone to war. When he came back, all the others hadn't, so they'd all become partners; he didn't. He was their best trial man; he was being underpaid.

And I met Roger Kent, of Crimmins, Kent, Draper, and Bradley. I had lunch with him. Roger said to me, "God, I wish we could find a good trial attorney! My firm is just coming unglued; we're growing so fast, and we don't have a first-class trial attorney."

I said, "Have you ever considered Bob Burns?" "Oh," he said, "Bob Burns? That's absurd. He's very happy over there, and what's more, he's a classmate of mine. We're very close friends."

I said, "Why don't you have lunch with him?" So Bob went to work with Roger's firm as a partner. And it was small potatoes, really, looking back. But I found out I'd been fired for reasons that had to do with connections on the East Coast with the law firm. They had a large registration issue in Dillon Read & Company that had to be done by a San Francisco law firm. Another partner was a very dear friend of Herman Phleger's and was pushing to have it go to Brobeck Phleger. My father, who was an idealist and absolutely straight as an arrow, said, "No, this will go to a firm that's had

experience in registration matters. I'm not going to put it into a firm simply because my son is there."

That got back to Herman, and he was retaliating. But he never told me.

LAGE: Funny how the arm of your father reached out to California, without . . .

BEHR: His arm reached out everywhere. He was considered for governor of Alaska. He became close friends with [President Theodore] Teddy Roosevelt in his later years. He was the grand marshal of the Preparedness Parade before the First World War. He was doing some prospecting for silver in Mexico when he was in law school. He started his own little business, which was aluminum castings for Model T cars to dress them up, the shell of the radiator and the hubcaps and so forth. His treasurer absconded and the business folded. He was in a whole host of other things, but he's written his autobiography, which is an interesting one. I'll let you read it if you'd be interested. I think it's interesting.

LAGE: He sounds extremely dynamic.

BEHR: He was, absolutely. What he thought, he said, and very much like they said of Teddy Roosevelt, he was all act. [Laughter] But they had a lasting friendship. He was much younger, but he'd met Teddy

Roosevelt when the leading young tennis players were brought to the White House to meet the president, and they took a liking to each other.

LAGE: Was there a strong political interest in your family, then? Was it an active subject of discussion?

BEHR: Yes, it was, and I think he would always have wanted to become a politician. And he would have been exceptionally good at it, because he knew where he stood, and he slept well. He wasted no energy in wondering if he was right. Just like Teddy Roosevelt. And that's a great attribute for a politician; not one that makes him a better politician, but for staying in office. People like that. He never waffled.

LAGE: Did you carry these qualities with you?

BEHR: No. I didn't at all, I don't think. But I admired them.

LAGE: How about your older brother? Was he more like that?

BEHR: My elder brother had nothing of this in him at all. He is a lovely man; he never resented me, which is unbelievable, when you consider that I was being the favored son all this period of time.

LAGE: The favored son because you were more successful, do you think, or . . .

BEHR: No, not that. Well, maybe so. In any event, he was persona non

grata with IPI, International Printing Ink. My father was on their board, so when my father died. . . . because he was outspoken, and he was just a lowly salesman, when my father died, they fired him in two weeks.

He set up his own company, and over fifteen years he beat the hell out of them. They were always ten times larger, and he took a specialty ink and manufactured and sold it. Finally, at the end of his career, he sold his company for over \$10 million and retired.

I'm very proud of him. He is wonderful. Always been very good to me, and we've been very close.

LAGE: It's hard, I think, to be a son of a father like yours, as you've described him.

BEHR: Well, it is. It didn't work with my younger brother, Jimmy, who was a very happy person all his days, and at his funeral--he died of cancer--somebody said, "He's a man who never met a stranger." And that was my brother Jim. I mean, he knew everybody: toll collectors, everybody. But he didn't have much business sense, and finally he had failed in so many little businesses that Karl and I had to get together and tell him that we could afford to keep him and his family secure, but not if he went into any further businesses.

[Laughter]

LAGE: Couldn't finance that!

BEHR: Couldn't finance it. But he was a lovely man, one of the sweetest, kindest, most. . . . He woke singing, and he fell asleep singing to himself, and his whole day was a bird song. And he loved everybody, and everybody became his best friend in about two or three days. And he meant it.

LAGE: Did he get taken advantage of?

BEHR: Yes. Steadily. That was just exactly right. He was just set up to be made a mark. Which is a tragedy; he was too good for that. No matter.

## II. MARIN COUNTY POLITICS

### Political Stirrings, San Francisco Law Practice

LAGE: Anyway, back to you.

BEHR: Back to me. Well, I got interested in politics. In 1952, I was on the Mill Valley Commuters' Club.

LAGE: Now, what was that? I ran across a little reference to that.

BEHR: Well, there was a federation of commuters' clubs, which was very active in Marin County at that time. We had nothing but the old Greyhound line, and they had nothing but their oldest buses to offer us. Traffic was--commuting was very difficult.

LAGE: And you did tend to commute by bus?

BEHR: Oh, yes. So I was in charge of the Mill Valley Commuters' Club, which was very active. I later was in charge of the Federation of Commuters' Clubs for the county. About that time, I became interested in the [Dwight D.] Eisenhower-[Adlai] Stevenson race [for president, 1952]. I'd always registered Republican.

So I took over the Citizens for Eisenhower in Marin County. [John] Jack McCarthy, the then state senator, was given the chore of running the race because the Republican county central committee was so weak that they were bypassed by the state central committee. So Jack and I, in that order, ran the campaign.

LAGE: Had you known Jack from other connections?

BEHR: Not very well.

LAGE: You hadn't been in political circles before then?

BEHR: Not much. No.

LAGE: Now, why were you attracted to the Eisenhower-Stevenson race?

BEHR: Because I was very high on Eisenhower. And it was Eisenhower and [Senator Robert] Taft, if you recall, in the tremendous primary fight. And we really got things churned up. In the end, we had a higher vote in Marin County than any county in the United States. Ninety-two percent of voters turned out. And it was a furious race, and fun.

There is something peculiarly special about politics that can't be likened to anything else.

I failed to mention that after being with Keesling and Keesling for about a year and a half or two years, I opened my own law firm and practiced privately in San Francisco in general practice for about fifteen or sixteen years. It was very interesting, and I was very busy. Didn't make much money, ever. In fact, I've said facetiously that after twenty years in the law, I realized that I couldn't support my family. So I moved into politics [Laughter], and after twenty years in politics I knew I couldn't support them that way, so I retired. And I've been rich ever since. [Laughter] Which is probably not true, but partly true.

LAGE: When you said general practice, what kinds of things would this be?

BEHR: Everything--well, I specialized in the next client through the door. Very inefficient way to practice law, but much more interesting, because you have to constantly research and start from scratch in some fields. I didn't take criminal law; I didn't take patent law, but I was ready for about any other kind, and so I had endless divorces. I even libeled a ship under federal law when she came from Seattle and tied her to the dock and sold her, because a client of mine was owed money. It was a one-steamship company.

BEHR: And I went into a case for the taxi drivers for the Bay Area, attempting under federal law to get the courts to agree that tips were gifts and not taxable. I went up through the Court of Claims to the [U.S.] Supreme Court, which refused certiorari. I never did practice before the Supreme Court. But I did get admitted to the Supreme Court, which simply means you have to be there after you've practiced a certain length of time. And it was fun, because [Justice] Potter Stewart was a classmate of mine, and I had never liked him. He was the chairman of the Yale Daily News when I was an associate editor. I don't know whether it was envy--I don't think so, though--but I was never taken into the circle of boarding schools in New England in which he belonged; he was taken in everywhere, because he was a wonderful man, really.

I hadn't seen him for thirty years, and so when I was sitting with this clutch of attorneys waiting to be blessed by the Supreme Court, he looked down and saw me, and he winked. From then on, I thought he was the greatest man in the world--just that little gesture. [Laughter] But I couldn't see him; he was flying to New York that night.

But yes, I did all sorts of work, a lot of divorce work. Well, you name it, I did some of it. I even took on Herb Caen [San

Francisco columnist] when he was attempting to end the alimony for his first wife, when nobody else wanted to take on Herb Caen. And he, in turn, took a judge--got a judge--that was very close to him, and he hired Harold Brown, [Governor Edmund G., Sr.] Pat Brown's brother, to represent him. And I realized since Pat was the governor, that I was in a hole.

So I subpoenaed all his financial records and simply set down to make a record, knowing I'd have to appeal. This judge was saying, "Well, come on, is there anything else? I want you to get going here. Come on, you're wasting my time." But I persisted, and we made a complete record.

Then, in order to be sure that his judgment in favor of Herb was going to stick, he wrote a written opinion on it.

LAGE: Which is unusual, I assume.

BEHR: Which is unusual, a superior court judge. And that was his undoing, because he was not a very good attorney. I used that to get it reversed [Laughter] in the appellate courts. I've never seen Mr. Caen since.

LAGE: It sounds as if you partly enjoyed the kind of competitive side . . .

BEHR: Oh, I liked that very much, very much indeed.

Entering Electoral Politics in Mill Valley, 1956

BEHR: Then when we moved to Mill Valley, which was in 1949, the Mill Valley Council had a wonderful idea, which was probably not new, and probably not copied, but they set up a Mill Valley Civic Commission. Have I mentioned this?

LAGE: No.

BEHR: The Mill Valley Civic Commission was a commission of distinguished citizens of Mill Valley, so described, appointed by the Mill Valley City Council to assist them in their deliberations. Well, they made the Mill Valley Civic Commission large enough so that nothing could happen. And whenever anything of any consequence came before the City Council, creating a political problem, they shook their heads and said, "Well, this is the kind of situation where we have to refer it to the Mill Valley Civic Commission [Laughter], because it's too important just for the little Mill Valley City Council." So this group of twenty-six--or however large it was--met once a month.

At the end of the first year, I realized that we hadn't done anything.

LAGE: Were you on this commission?

BEHR: I was appointed, yes. So I resigned. So then they appointed me to the planning commission. I never knew much about planning, but

we had a lovely lady named Betty Rodman who'd been chairman for some years, and she took everybody under her wing and taught them planning, learn by doing. I was on there for about two and one-half years and received a thoroughgoing, patient education on what planning was all about. So I was very indebted to her.

Then finally, I said to myself, "Well, look, I think this takes more time than the city council." So there were vacancies on the city council, and I decided to run for it. Because I was enjoying it, and I loved the little city, and there were problems that I felt were important. I think many people run on the basis that they want to change the status quo, and they want to emphasize certain problems. You may not agree with them, but it's an honorable motive.

So we had quite a race. There were thirteen running for three seats.

LAGE: That was a very active community.

BEHR: Oh, I should say so. And we went all over. I door-to-doored the entire city and had a lot of fun doing that. I loved door-to-dooring. It was quite a lot of people, ten thousand people in the city at the time.

LAGE: Did you have a group of people going around with you?

BEHR: Oh, we had other precincts, but I took them on and then had other

people go, too. But I door-to-doored. . . . There's quite an art in door-to-dooring, but it's very elevating, because you find that people generally are terribly cordial to you. Only about one every twenty slams the door; maybe less than that. I think that's generally so. A lot of people haven't done it and feel bashful about it, but it's a great experience. There are things you have to learn, but I won't bother you with that.

LAGE: It's a lost art anyway.

BEHR: Well, it will come back. There was a fellow named [ ] Max Johnson, I'll never forget, down among the smaller homes in the flatlands of Mill Valley, and Max Johnson was said to own about three precincts. Everybody called him up; he was the key man. So you never wanted to get trapped inside a house, but with Max Johnson I couldn't wait. He invited me in, he had a very large and charming wife, whom I think was probably the power behind the throne.

We sat down, and I talked with Max, and he was nice. He was a very able man. He'd retired. I noticed this ivy that started down in one corner of the living room and went all the way around the living room and came back again. Max said, "You know, we're terribly worried about this ivy because it's in such a small pot. Do

you think you'd risk repotting it?"

I said, "Max, I've worked with bonsai for many years, and I know a lot about repotting. I'll be glad to do that for you." So I did.

LAGE: Right then and there?

BEHR: Right then and there. Well, I figured out that nothing would happen to the ivy until after the election [Laughter] so there was no risk! And as it turned out, the ivy flourished under the repotting, which is not too difficult.

But we got Max, and that helped. I had a fellow named [Eddie] Reichmuth, and he was an entirely different type. He wasn't very well educated, but he said, "Anything for the kids, anything for the kids," tremendously enthusiastic. And he helped a lot.

LAGE: Were there particular issues, or just more personality?

BEHR: Well, there were issues, a number of them, but I don't remember them too well. I guess I was too busy getting elected. [Laughter] In any event, we had [Robert] Bob Huber, who was the mayor, and he was not up for reelection, so I very shortly gained his support by indicating that I didn't believe in the rotation of mayors. [Laughter] We had all sorts of little tricks and so forth.

There was another gentleman, whom I won't name, who was a

shoo-in. He was with the Catholic Church, and he had worked very hard for them; that was by far the largest block in town. He knew he'd win. He hoped I might make third. But I came in first, and I got 1600 votes which was the high-water mark of any one election up to that time in Mill Valley. It was a very active campaign. You couldn't get into the council for the people coming to listen--not just the League of Women Voters, but we had debates all over the city.

It was, I guess, an old fashioned campaign. And so I served there for four years, and then I decided not to run again.

LAGE: Now that was, let's see . . .

BEHR: '56 to '60.

LAGE: Do you recall--I'm trying to get you more back into issues again--but were there things that arose there that came up later?

BEHR: Well, there were. We were downsizing some of the lots, which was very difficult to do, and created quite a bit of problem.

LAGE: Does this mean allowing more residential . . .

BEHR: No, just the reverse. See, you have no right to your zone legally, and we were actually downsizing some of the lots people had, for areas already zoned. And people were very cross about that. I don't blame them, but it was better for the city. I don't really remember any particular issues of that period. I was popular enough; I'm sure

there were lots of planning issues. I got along well with my council members. There was sort of town and gown; I mean, the commuters against the merchants.

We had a number of merchants who had always run the city, but times were changing now, and all the commuters were taking over, and this was just one example of it, but an early one. It was a great learning experience, because in local office, you have to answer your phone. You have to be available seven days a week, and if you don't answer your phone, they'll come around to see if you're sick.

LAGE: How did your wife like this?

BEHR: [Laughter] Poor Sally. She, I don't think, liked it much. But she's always been a good sport about it. With the classic statement of all loyal wives, "If that's really what you want to do, then you just go ahead and I'll be behind you." [Laughter] And she always has been, but she's a rather private person, and I don't think she. . . . I think most women (and this is really not a cheap shot at women, but it's a truism) most women who marry hope their husband will do something that is routine, will slowly increase him in salary and responsibility, is fail-proof, and which he enjoys. So he comes home not exhausted every day, and without the constant worry of whether he'll change course or do this or do that. And I think Sally was no

different than anyone else.

LAGE: You were always throwing these . . .

BEHR: I was always throwing myself in one direction or another, I must say.

Race for Marin County Supervisor, 1961

BEHR: Well, the county supervisors race was very much more interesting and dramatic, because there was a group. . . . Vera [Smith] Schultz.

LAGE: She's one of our former interviewees.

BEHR: Yes. Was probably the finest supervisor, certainly of her time, or perhaps for all time. She managed to get on the board of supervisors and change somehow the archaic approach of older gentlemen whose approach had long become vested. And the only ally she had was [Supervisor] Walter Castro, and she was up against a formidable opponent in [Supervisor] William [D.] Fusselman. And poor little [Supervisor William] Billy Gnos, who lived in Novato and has never left it, and was born there, went along naturally with the ranchers; his background was in dairying. So Fusselman had him.

But there was another very fine rancher named [James] Jim Marshall, who helped her. But she turned the whole thinking around and was responsible for all the wonderful things that happened.

LAGE: Was this a case of ranchers versus suburbanites?

BEHR: Well, it was a case where the entire county was being run by persons

who were very, very competent local politicians. George S. Jones was perhaps the most competent of all; he was the county clerk. He tied in with Frank Keaton, who was the coroner, who tied in with George Hall, who was the assessor. And they pretty well dictated what was happening in the county, and Fusselman went along, and Bill Gness usually went along. [Supervisor] George Ludy went along, after Marshall left.

And somehow, Vera turned this about. What happened was that--I don't think she knows this even today--George Jones decided that he'd get three-to-two working three-to-two the other way by getting rid of one of the members, and naturally the one he wanted to get rid of was Vera Schultz. So he had a large dinner down in Sausalito and introduced J. Walter Blair, who was a rather large, inoffensive fellow, who ran some self-service laundries. There was nothing wrong with him, which is to say that he was sort of Mr. Everyman. He had a very right-wing philosophy, especially on planning.

George introduced him to a group of Sausalito businessmen as the next candidate against Vera, and he won.

LAGE: And that was a surprise.

BEHR: That was a shock; it was worse than a surprise. So a group of Vera's

friends got together and decided after he'd been in office for about six or seven or eight months that this was too much. Vera wanted to run in a recall election, but they said no, that would look like she was a spoilsport. They'd have to find somebody else.

So one Sunday night, when I was in bed about 9 P.M., they called me and asked me to come right over; it was very important. Which I did. They were going to start a recall petition and asked if I would run, should it be successful. I said, "Well, look, I'll have nothing to do with the qualifying of any recall petition. If you get enough signatures, I'll run."

So Sally and I went down on a vacation to Mexico, and lo and behold when we'd gotten back, they had some 3,000-odd signatures, which was more than they needed. I had committed myself, and so we had this recall election.

At that time, the issues were that the board had voted to support only a 20,000-acre Point Reyes National Seashore, where the 53,000-acre one was the one proposed by Congress.

[End Tape 1, Side B]

[Begin Tape 2, Side A]

BEHR: That was an issue largely because [Congressman] Wayne Aspinall, who was the chairman of the Interior and Insular Affairs Committee

in Washington, had said he wouldn't move any bill through his committee unless it had local support, which he defined as support by the board of supervisors. So that was a very major issue.

Another issue was high-rises in Strawberry, in Blair's district. He was all for authorizing high-rise building in southern Marin [County], which, of course, created a great furor. In addition, the supervisor had decided to try to change the civic center into a hospital, and it was half completed and everybody got cross about that. Vera Schultz had set up a county administrators' system of government, and they'd decided that Alan Bruce was to go.

LAGE: He was the administrator?

BEHR: He was the administrator, making, I might add, when he first came in, about \$1,000 a month. So they couldn't get rid of him, or there was a big furor and they didn't dare, so they assigned him to a small room across from the old courthouse called the broom closet. He had one secretary, and they told him to spend the next six months working on civil defense. So that was a strong . . .

LAGE: They really were trying to turn the clock back.

BEHR: Oh, yes, they were. There were other issues involving the proper assessment of a distillery in Sausalito, which gave me a chance to say that if whiskey barrels could vote, they'd sweep the election.

[Laughter]

LAGE: How did you campaign for this one? Was it more door-to-door?

Was it a district election?

BEHR: Yes. We had precinct organizations throughout the district. We had coffee klatches. We had advertising. We had signs, we had buttons, we had just about everything imaginable at the time. We met all the southern Marin commuters leaving on the ferry and gave them little flowers. We met all the commuters leaving on the buses at the southern Marin bus stations and gave them literature to read.

LAGE: Did you get out into west Marin, or . . .

BEHR: No, but I did a lot of door-to-dooring in the district. What I did was to take the rotten precincts and door-to-door them personally.

LAGE: Now, when you say rotten, were those the ones that were less likely to go for you?

BEHR: The ones that were statistically least likely to go for me, I would door-to-door personally. Which was a little reverse twist.

LAGE: Was it effective?

BEHR: Well, I won. It was the first recall that has ever been won at the supervisory level. They tried six times before in the state's history, but this was the first one that had ever taken out a sitting supervisor.

I failed to mention a little twist in the Mill Valley city council

election, if I can go back. We had an interesting campaign there which worked out very well. We used postcards, bought postcards, and we got a lot of volunteers to call up a lot of people and get them to agree (if they were on our side) to handwrite why they wanted to vote for us, address them [to friends], and then we had a gimmick that made it work: leave them at three stores in town, conveniently located. The reason being that we wanted to sort out the duplicates and send them on different days.

So once they'd agreed, we realized that they wouldn't do it. So we kept the volunteers working on them every week.

LAGE: I'm not following this!

BEHR: Well, they would write out hopefully . . .

LAGE: These are volunteers, and the people who supported you.

BEHR: That's right. They wrote [postcards] out in their own handwriting and signed them.

LAGE: And addressed them to . . .

BEHR: To the person they were writing.

LAGE: Oh, I see.

BEHR: And then they would take them, ready to be mailed, to stores. We wanted to have them take them to stores to make sure that they'd actually done it, instead of just saying they'd done it, you see.

LAGE: Oh, I see. You wanted to keep track of whether these got in the mailbox.

BEHR: That's right. And the reason we wanted to keep track was that we were constantly chivying at them, and they were promising, because most people don't do what they promise. So every week to ten days, we'd have a volunteer call them again and ask if they'd done what they'd pledged to do. So in the end, we got 3,000 postcards, and we sorted out the duplicates and sent them out at different stages a week before the election.

LAGE: Were these things you thought of yourself?

BEHR: Yes, that was. That was one of them.

LAGE: Sounds like you had a real feel for this, I can see.

BEHR: I enjoyed it; I must say, I did enjoy it. We had a lot of amusing incidents. [Thomas] Tom Collinson, who was head of the Mill Valley Record, publisher, was strongly against me. He wrote an article saying that he'd seen me (and this was just a week before the election) and I was flushed and looked sick and was trembling, and he felt that I was in very poor shape healthwise, and I shouldn't under any circumstances be allowed to take office.

There was an old gentleman who had been a piano tuner and been confined to his house with a bad heart attack. This old piano

tuner was let out once a day to go around the block by his wife, and then she'd put him back on his couch. He went around one day (and he was a little man, about this high, and slim); he went into Collinson's office and asked to see the publisher. And old Tom Collinson was about six feet tall. The piano tuner came in asked him, "Are you the publisher?"

Tom said, "Yes." He poked him in the nose. [Laughter]

Wonderful!

LAGE: Did that get in the paper?

BEHR: Well, Collinson brought over the police, the Mill Valley police, to arrest this man for assault and battery. The police took him home to his wife and told him to stay home; they wouldn't arrest him. And of course, we got it in the IJ [Independent Journal] right away, and we had that everywhere.

Then, I had a friend who ran the Mill Valley bus depot, [ ] Maggie Grant, and she put up a big collection for a prize for the gallantry of the little piano tuner [Laughter], with a box below for contributions. In no time, he was presented with a large clock with a brass inscription on it, "Our hero." And that made some headlines, too. And by and large, it was a fun campaign.

But getting back to the board of supervisors, I won, and the

first thing I did after the election night was to insist that all bumper strips come off, all signs come off, there be no discussion whatsoever about the recall. During the campaign I got Blair in a terrible position. He started by saying that he would never appear. If anybody wanted to know his position, they could come to the board of supervisors' chambers and he would tell them. But he was the official incumbent, and he had no intention to campaign. And so, time went on, I finally boxed him into a position where in the last ten days, I said that I would agree not to go to any meeting that he went to, so he could at last describe to his constituents, where he stood on these issues. But it was too late for him; he couldn't change his pattern. And I refused to debate his surrogates. What happened, they put in surrogates, of course, to debate. I put in my surrogates, and I sat in the audience and answered questions after the debate was over. [Laughter]

LAGE: Was he afraid to. . . .Was he not so articulate?

BEHR: He wasn't articulate. He was really a decent fellow, and I never said anything else. I said he was a gentleman but completely unfit to handle the office. So I didn't want to build any sympathy for him, because that's how you lose a recall election--if everybody had a reason to be sympathetic for him. He wasn't doing anything that he

hadn't promised to do when he ran.

LAGE: He was carrying through.

BEHR: He said, "If my neighbor was to put a pig sty or a pig pen next to me, he has a constitutional right to do so." [Laughter]

LAGE: He didn't like planning, or zoning . . .

BEHR: He thought it was just a nuisance.

LAGE: Well, there must be some explanation of how he beat Vera Schultz, and then you beat him so handily.

BEHR: I didn't beat him handily; I just barely won.

LAGE: Oh, you just barely won?

BEHR: Oh, yes. Yes, it was a very fierce campaign.

LAGE: So maybe she hadn't campaigned. . . . hadn't realized the threat?

BEHR: I think that must have been the case, because everybody loved her. You get, as a politician, a very false impression of where you are, because you're never with the people who don't like you. And after a while, you really have the feeling that you must be liked by everyone, which is when you begin to move into private life.

[Laughter]

Issues on the Board of Supervisors: Open Space, Marincello, Commuters, Budget

BEHR: Then, when I got on the board of supervisors, I made urgent

affectionate approaches to all the ones whom I knew wouldn't want me and worked very hard to gain their support. Which, in time, I got, either through attrition or in other ways.

LAGE: Support of the other members of the board.

BEHR: Yes.

LAGE: So you saw this as a need to not be confrontational.

BEHR: Absolutely. You've got to have three votes out of five. And I had Walter Castro, who was a lovely man; he ran the Cadillac agency. He, in turn, got Bill Gness back. So there we were; we switched the three.

LAGE: Was this on the issue of the county administrator and the county zoning?

BEHR: Yes, absolutely, the county administrator. We canceled the call for his elimination by vote, so he was brought back.

When I first got in, it was the old county courthouse, which later burned down. We had a room to meet in. We had no secretarial support. We had no automobiles. We had no locker to hang our clothes. It was a very small meeting room. The only perk we had was a parking space that was supposed to be reserved, but we never reserved it for fear of annoying our constituents. I was paid \$500 a month and felt very pleased with that.

LAGE: And how much time did it take up?

BEHR: More and more as time went on. We had initially, when I came on, an agenda, and after we got rid of the older gentlemen and I ran again unopposed, all that agenda was put on the consent calendar. We had one motion for approval, and before we voted any member of the board could take an item out of the motion for further discussion. The rest was all by consent. So the former supervisors weren't doing anything at all, which was what they intended to do.

But the open-space ordinance I was very pleased with. We took two years to get this through. There was a violent objection by the Marin Municipal Water District, which was really the target for it. What we proposed, outside of the cities where we had no jurisdiction, was to declare as open space all lands under public jurisdiction, including the north Marin Water District lands, the lands of the Marin Municipal Water District, and a lot of others.

LAGE: And they owned a good deal of this land?

BEHR: The Marin Municipal Water District alone owned 18,000 acres around all Mount Tamalpais except the Tamalpais State Park.

LAGE: Was the fear that they would sell off the land?

BEHR: They threatened to steadily. And they had meetings that weren't agendized--weren't noticed to the public or the press. We found out

about them, and it was too tedious, really. But they were terribly cross at us, and I guess we could do it, because it's never been challenged. But they held it up in the planning commission two years and did every trick in the book to see that it wouldn't happen.

LAGE: The water districts?

BEHR: The North Marin Water District came along like a baby, but the Marin Municipal Water District, the big one, held it up. And I wouldn't blame them, because they at that point thought this was a business and not a public trust. And if it's a business, you want to make a profit, all this stuff. Sam Gardiner was the main fly in the ointment. He later became a superior court judge.

LAGE: How was public support for that kind of a move?

BEHR: All for it. Marin was the most environmental county in California, even then.

LAGE: How do you explain that, that the county is so environmentally oriented?

BEHR: Well, I think it started with the Marin Conservation League, way back when. I think we showed what it's like to live in this kind of a county, and over time, people rallied to the cause.

LAGE: So this wasn't something that you particularly had to advocate.

BEHR: No, I didn't. You just had to reinforce it.

LAGE: Now, how about Marincello? Is that the way you pronounce it?

BEHR: Oh, Marincello!

LAGE: That kind of divided the conservationists.

BEHR: Well, yes, no, not too much. Yes, it did too: Vera went as an advisor there [for the developers], which upset me very much. But 90 percent of the conservationists were against Marincello. I was against it on the board, and . . .

LAGE: Let's just briefly say what Marincello was.

BEHR: The Gulf Oil Corporation had managed to acquire a large block of land just in back of the fort properties, and at the end of (what road is it? I'll think of it in a minute).

LAGE: Not the Tennessee Valley Road?

BEHR: Tennessee Valley Road, thanks so much. And they had contracted with [Thomas] Tom Frouge from Connecticut, who was a big developer in Connecticut, to build a massive subdivision which was, in effect, sort of the crystal city in the sky. Tom Frouge was anxious to do this to cap his career and have this wonderful city with its circle of churches at the top come into being.

So he moved to Marin County and spent a great deal of money, and we were all opposed to it. Well, I was. But he got the board of supervisors. I was on the short end of that vote, so a group of

environmentalists took it to court. I had nothing to do with that, except to encourage them, and they kept asking my advice.

The big struggle was to try to get access to [Highway] 101. Part of the struggle. The second part of it was the water, which they didn't have.

LAGE: The struggle was the access road from Highway 101?

BEHR: That's right.

LAGE: Up to the development.

BEHR: That's right. Because if they had to go around and up Tennessee Valley, it wasn't really very close to the city at all.

LAGE: So did that bring the decision into the state's domain?

BEHR: Oh, yes. We had to fight it at the state level. And finally, Gulf began to chivy at Frouge because he couldn't meet his commitments. So they had a quasi-parting of the ways, and the lawsuit was progressing, but it was lost and then appealed. I was very influential in getting them to appeal it, to keep the pressure on.

Finally, Tom Frouge died, and Gulf realized that they were in trouble. We got a lot of people to take their Gulf credit cards, cut them in two, and send them to the president of the corporation, which caused them some . . .

LAGE: Were you involved in this kind of planning?

BEHR: Oh, yes. [Laughter] [Inaudible]

LAGE: Planning may not be the word. "Scheming."

BEHR: Yes. Which caused him some sleepless nights. Somebody broke into his private phone number and kept calling him at twelve and one in the morning, which I had nothing to do with. But in any event, they realized they had a dog on their hands because we won the lawsuit too, on appeal. And so Gulf people got rid of the executives who were running this show, and got a whole brand new group, who kept coming up to see me every three to six months, asking my judgment on how they could use the land best.

They'd given up the idea of making a subdivision of it, and they were stuck. I suggested--we were running out of space in our national cemeteries (we have already now)--I suggested that they should look at the Punchbowl Cemetery in Hawaii and make it a national cemetery. I said, "That reduces the traffic." It's just one-way traffic! [Laughter] "And it would be an enormous gesture that would get you a lot of publicity throughout the country."

They thought that was a pretty good idea, but nothing came of it. They didn't know and we didn't know. Finally, Huey Johnson moved in, with the Nature Conservancy, and persuaded them to turn it over to the Nature Conservancy.

LAGE: So the idea of a great park just hadn't surfaced, at least in your mind.

BEHR: Well, it had surfaced, because I was on Marin Headlands, which was the group that was attempting to get into state ownership little parts of the fort properties. And we got Kirby Cove, and we thought that was great. We got an abandoned lighthouse just above the Witter property at the end of Tennessee Valley Road, and we thought that was great. And then a fellow named Smith, Frederick Smith IV, who was [Elizabeth] Libby Gatov's [Democratic party leader, U.S. Treasurer, 1961] former husband, we took a walk along the headlands, and he said, "Well, you're just picking at gnats. The whole thing should be a park. It's absurd, you stupid people."

And he made me very angry, because he was right, but we were stuck. But then . . .

LAGE: When was this? What time period was it?

BEHR: It was probably two or three years before anything happened, in terms of the GGNRA [Golden Gate National Recreation Area].

Before then I got a call to meet Mr. Packard, David Packard, at the Pacific Union Club, and [Assemblyman William] Bill Bagley got a call as well, our assemblyman. So we met him, and he was in charge of northern California's campaign to, I guess, reelect

[President Richard M.] Nixon.

LAGE: Marincello was given to Nature Conservancy in '72.

BEHR: This was well before that. He said he needed an issue for the campaign for northern California, and he said, "You know, I know nothing about politics, and I just need help." So we were ready for him, and we both suggested that we ought to have a gateway park on the West Coast, and this should be it. We pointed out that the Nature Conservancy was going to save an enormous sum of money, because they'd gotten this Gerbode property--well, later Marincello was named the Gerbode Preserve. They'd gotten the Green Gulch Ranch, which I had a lot to do with getting for them. They'd gotten the Slide Ranch. And so you could price out the cost, and it was very low because of the charitable deductions to the Nature Conservancy. And it would be a wonderful thing.

So he took it under advisement, and then when Nixon came back from China, he was placed on a ferry boat with the reporters, went into the middle of the bay, and announced the new park, the GGNRA [1972]. It was very exciting.

That fell into the place faster than anything I know of.

LAGE: It did seem to.

BEHR: It just worked. But Huey Johnson took enormous risks with the

Nature Conservancy. Because if they'd been stuck with these properties, it would have cost them an eye . . .

LAGE: They couldn't have survived that.

BEHR: They couldn't have survived. So he was great at that, and he never lost. I remember standing there when the dedication was made to Dr. Gerbode, the Gerbode family [The Martha Alexander Gerbode Preserve]. Typical of Huey, he was in the crowd, cheering, but he never said anything. He is a fine man, sort of sui generis.

Then the traffic and bridge tolls [referring to interview outline].

Oh, that goes back to . . .

LAGE: The Commuter Club.

BEHR: No, well, that doesn't. It goes to the board of supervisors, though, because I was allowed to appoint a committee to examine means of reducing traffic on the Golden Gate Bridge. I appointed a wonderful committee with a fellow named Frank Sutherland as the chairman. But we had about six or seven on the committee who were really topflight.

Mr. [ ] Jenkins, who was the traffic safety engineer for the bridge, was retiring. They went up to the bridge and just cosied up to the bridge, instead of confronting them.

LAGE: To the bridge?

BEHR: Golden Gate Bridge District Board [of Directors]. And especially this old gentleman, because Frank Sutherland had a dream. First of all, the recommendation came out like this: they should change the lanes. They'd never done that; we suggested that in this report.

LAGE: You mean changing two lanes one direction, three another, and reversing [to accommodate the traffic flows]?

BEHR: That's right. They'd never done that. They should do away with driver-side toll collection only, which they had. I mean, two-way collections.

LAGE: Just collect one way.

BEHR: Yes. No, I'll come to that. No, this was the way the tollbooths were set up. It was very inconvenient. And they wanted to fair the curve on the northern part of the bridge, which was done.

And then Sutherland said he wanted one-way tolls. Well, he persuaded the committee, but he was having a terrible time with the bridge [district board]. The reason he was having a terrible time was that the bridge said, "If there's another bridge you can point to in the world that has one-way tolls, we'll talk to you, but otherwise it's just pie in the sky, and you're dreaming." Sutherland was the stubbornest guy I ever saw, and he just beat at them. And Jenkins, the bridge's engineer, who was retiring, and able to do this, said, "Well, let's have

a trial run and see if it works!" And that's what happened.

LAGE: So that was the first bridge to have one-way tolls.

BEHR: Yes.

LAGE: That's really quite a simple concept.

BEHR: Very simple concept, but they were dead set against it.

LAGE: And what a difference it makes!

BEHR: Oh, it makes a lot of difference. And of course, all the other bridges have caught on now. That was some time ago.

LAGE: What about--this goes further back, but I came across references for widening the Waldo tunnel [on Highway 101 just north of the Golden Gate Bridge].

BEHR: I was never for that. I was for a bus system run by the Golden Gate Bridge. I was also for a ferry system run by the Golden Gate Bridge. But I was of the opinion that we should insist on the bus system, modern bus system, first. After that was in operation, then to start the ferries, because obviously the buses were more important. And that did happen; we put pressure on them, and they bought out Greyhound [Bus Lines] along with a package where they had to pay their drivers the same amount as they got from the Greyhound people. They had a lot of senior people.

LAGE: Was that very difficult?

BEHR: Cost them an arm and a leg. And it's never paid for itself, but no transit system ever does, as you know, I'm sure.

LAGE: This must be a major concern in Marin County, the commute.

BEHR: Oh, yes. Congestion on the highways is the number one problem in the county. The board of supervisors recently had a poll, which never became public, which showed that about 60 percent would vote for half-cent sales tax for alleviating transportation, and a large percentage, over 50 percent, would vote for a one-cent sales tax, for the same purpose. But they had no plan yet, so they said they couldn't put it up without a plan.

LAGE: That's reasonable.

BEHR: Well, I guess so. It's taking them years, though. So those were some of the issues.

Oh, another thing we did: I insisted, when we got on the board, that [State Senator] Jack McCarthy and Bill Bagley, who was our longtime assemblyman, come down, appear before our board, and be given a collection of bills that were of particular interest to Marin County, which they were charged with introducing and passing.

We had a terrible time getting them to come down. They thought it was real lese majeste. But we forced them to. And that helped us a great deal, because we had a lot of local bills that

needed attention to alleviate the problems of the county. And it was not a new idea. All the large counties have lobbyists in Sacramento full time. They all have legislative programs, but no county our size had ever thought it was feasible. So we've done that ever since, and I was stuck for eight years with cowtowing to the Marin County board, because I had to come down each year . . .

LAGE: And since you'd instituted the idea, you . . .

BEHR: That's right, I couldn't get away.

LAGE: Well, how did you feel about it from the other . . .

BEHR: Fine, just fine. For example, one bill that I got into law<sup>1</sup>--what had happened was the state takes its liquidated claims to other local jurisdictions--the cities, the counties, or whatever, school boards. And they delay the payment of them, as long as they can, because they get the float, the interest. So I had a bill which I put into law saying that the end of sixty days (or was it thirty days? No, I guess it was sixty days, I had to compromise), at the end of sixty days, the state unliquidated claims would have to start paying 6 percent interest to all other jurisdictions, on those claims. And boy, that did it.

[Laughter] Just the reverse of a float. And so the state's been very

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<sup>1</sup>S.B. 1053, 1971 Reg. Sess., Cal. Stat., ch. 1526.

good ever since in paying their liquidated claims, because it costs them. So that was another little one that came through the county.

LAGE: Just to finish up that Marincello--as a state senator, did you have any role in the final resolution of it?

BEHR: No, the state never entered into it.

LAGE: Never got into it. The access road . . .

BEHR: That whole thing left, because this was simply part of GGNRA then; it was turned over. It was a good sized piece of land; I don't know how large it was. I imagine 2,000 acres or more. Terrible climate; a lot of fog, a lot of wind.

LAGE: They didn't seem to care about those things.

BEHR: They had stars in their eyes, all made of diamonds.

Other nonenvironmental issues of greatest importance [from outline]. Well, that's a hard one to answer. The single most important subject that comes before any jurisdiction is the budget. That's true of the state, the federal, and the local level. At present, the county budget is chipped away from the Department of Social Welfare, that's what we called it. At that time, we were working to attempt to look after people who couldn't look after themselves, [Inaudible].

And you see, the county is the jurisdiction of last resort for

persons who are helpless, healthwise or poverty-wise. So the counties are in charge of looking after them. We've always done very well, but you go up north. . . . I learned that some of these northern counties, if they have somebody they don't want, they give them a one-way ticket on a Greyhound bus and a sandwich. They're moved out.

LAGE: To Marin County?

BEHR: Anywhere, out of that county. So they don't face the problem.

[End Tape 2, Side A]

[Begin Tape 2, Side B]

#### Value of Experience in Local Government

LAGE: Maybe this is another question better left for when we get into the state, but I had an interesting interview with [Thomas] Tom Willoughby, who was a consultant with various assembly committees, and he referred to the fact that some of the assemblymen he worked with seemed to have a different style when they came out county government, a more of a consensus-building style, because they'd worked on a board of supervisors.

BEHR: It's my opinion that anyone who moves to Sacramento, either at the assembly or the senate level, should have considerable local experience. City council, school board, whatever. Or county board

BEHR: of supervisors. When you're at the local level, you're not marinated by your constituents with affection or respect. You have no distance between you; you have no staff. You're on the front lines; you're not back with the brass in an underground shelter with the bombs bursting [outside].

And I think this gives you a far more realistic understanding of who you are and what you're supposed to be doing. I've seen many assemblymen, and senators too, who haven't had this experience, who are utterly dazzled by the enjoyment of state office. And there's nothing to reverse that trend when you drive into the underground garage for the first time. They know your name. They've studied your photograph. They say, "Sir, just leave your car here." And then you move toward the elevators, and "No, no, that's for the public. You have a private elevator over here." [Laughter]

And then you get out, and you start choosing your staff. All of them serve at your pleasure. They have no tenure at all, so obviously they're going to be nice to you. Lobbyists come around, what do you think about them? They're not going to be mean to you. And neither are your constituents, because they come to you on foreign turf, but it's your turf. They're attempting to get something, so they in turn are lobbying their own cases. So they're very kind to

BEHR: you. And sometimes, they really think you're quite something, because "My God, it's the senator."

And it's terribly heady for young men who come up there with no background in local government. In local government, you come to realize that people are decent, and people are interested, and they don't want flim-flam answers. And you're also dealing with subjects and with people that are very close to the issues and know a lot more than they do about the widespread issues for the state.

So I think local government is an enormous boost. And some people can get over not having had it. I mean, it's not a prerequisite for state office. But many of them never do, and they don't do much in Sacramento. You have to--everything you do is a matter of informing, discussing, persuading, and eventually building the kind of coalitions necessary to get a bill through a committee or through the floor. This is the same experience you have at the local level; only at the local level, it's more intense, and you're working with fewer people.

If you have to persuade twenty senators aside from yourself to get a bill through, it's much more arduous than attempting to persuade two others to see your way on a city council or board of supervisors. Although there are some large city councils. But it's the

same thing.

LAGE: So the experience you've described when you came in as a supervisor, of having to learn to get along with that group of people, to kind of build a consensus, must have had some carry-over.

BEHR: Oh, it does, of course. There's no doubt about it. And you don't add to the difficulty of a solution by putting ciphers at the end of numbers. Sometimes, the fact that you have less money than you need is cause for a little creative work. Whereas, if you have as much money as you can chivvy, you don't have to be as creative. You also learn the budget process; you recognize that you can't compare apples with oranges, but that's what you have to do all during the budget process. So it's a matter of priorities. And there's no difference between that and the state process, really, except there are more players in the game, and you know less. [Laughter]

LAGE: I'm sure we could do better if all of them had your modesty.

BEHR: Well, I think you need a healthy ego, but it's well not to show it, if you're going to try to do something. I made some awfully good friends as I went along. You have to reach out to people; you can't hope for them to come to you.

Point Reyes Save-Our-Seashore Campaign

LAGE: We're going to talk just briefly to get an overview of the Point Reyes

struggle that you were so involved in.

BEHR: OK. I was involved originally at the board of supervisors' level, because by then, or shortly afterwards [in 1962], President [John F.] Kennedy had signed a bill creating the seashore, which simply outlined the boundaries of it, all inside being private land to be acquired. They didn't put up much money to acquire the seashore, and it reached the stage in 1969 where we were \$38 million short. The seashore was checkerboarded with public and private parcels. You couldn't get on the public parcels except by trespassing. They'd run out of money; there were sixteen bills in congress to acquire the remainder, but it was \$38 million, which seemed like a gigantic sum, and it was competing with other major projects which had priority, like Cape Cod [Massachusetts], and Padre Island National Seashore [Texas], and a whole fistful of other federal projects needing funding.

So, there was no real way of completing it, unless we broke the Land and Water Conservation Fund, which was a fund large enough to go well beyond the \$38 million, believe me. And yet, the budget director, [Robert P.] Mayo, and the president [Richard Nixon] proclaimed that they would not spend down the Land and Water Conservation Fund, or if so, only very modestly.

They said, "Well, go ahead with your bills, but there's no

money." So [Katharine] Katy Johnson, [Congressman Clement W. Miller] Clem's widow--and I was very fond of Clem--indicated that they were at a critical stage, and what could we do? And she came west. And that's how we all began. So we put together this little ad-hoc organization [Save Our Seashore] with all sorts of different decisions. The best one made earliest was to circulate petitions to the president himself, because only he would be the one to break the logjam, which we did. We got half a million signatures in about six weeks.

But we said anybody could sign; they didn't have to be registered. Even children could if they were old enough to understand what they were signing. So, in a sense, it was bulk but not . . .

LAGE: Not votes.

BEHR: Not political quality. But we did that, and we got a lot of wonderful people together, and all sorts of schemes and plans. Eventually, we managed to help make up the president's mind. In the end, it was [Senator] George Murphy who did it. I knew that George was a dear friend of Richard Nixon's. He was running for reelection against an upstart named [Senator John V.] Tunney, and he was scared to death, and he wanted to increase his political base in northern

California. So we focused on good old George.

LAGE: Did you know George?

BEHR: No, I never knew George, but we sent him all sorts of little gifts and tokens, and indicated there were five million people living within fifty miles of the seashore. Which was true, and we sent him a big map with some concentric circles, showing where they all were. And many other schemes and devices.

In the end, Murphy went in to see (we learned later) the president, and said, "Dick, I've got to have it." And Nixon replied, "Well, you should have come in earlier. That's quite all right!" And so the president announced that he was ready to open up the Land and Water Conservation Fund, and the bill went through and became law with his signature.

LAGE: And George Murphy won.

BEHR: And George Murphy lost.

LAGE: Oh, he lost! That was the time he lost.

BEHR: That's the time he lost--his second try at it.

So I was invited back to the signing ceremony. I was the only lay person there. That was an interesting experience. At that time, Nixon was not only brass, he was shining. [Laughter] Nobody thought he was the person he turned out to be. We all had, perhaps,

some suspicions, but he overcame our suspicions at the time.

But anyway, this was a fine thing that happened, and we were pleased and proud about it. It was one little organization that worked.

LAGE: You didn't put on the tape the name of the organization.

BEHR: Oh, Save our Seashore. We stole the name from a group in Sausalito who were getting tideland lots which they were holding to turn over to the little city. That was Save our Seashore. But that wasn't the right seashore, and we learned they'd stolen it too, so we felt better about it.

LAGE: So that's a story that we want to go into in greater depth, but I just thought we should mention it here. That was about '69, wasn't it, when all that took place?

BEHR: That sounds about right.

LAGE: And so that was before your entry into the state senate.

BEHR: That was between the time I left the board, which I did voluntarily at the end of seven years, and the time I announced for the senate. I was free, and I'd given up my law practice two years before I left the board of supervisors.

LAGE: Oh, you had?

BEHR: It was too much of a conflict and too much--you couldn't satisfy your

clients and the county at the same time. I could afford it, at least live through it, financially, and I became so consumed with the politics and what you could do there, and I had a law firm, so they were covering my old clients. My partners were generous enough, but they didn't want to give me any money. [Laughter] So I eventually said, "This is enough, I don't want to take the responsibility and not be paid." But they didn't force me out; I forced them to put me of counsel. And we have all been very dear friends.

But I had this free time, so Katy struck me just at the right time. Wonderful woman.

LAGE: How did you decide not to run again for the supervisor?

BEHR: Well, I'd had that experience, just as I'd had the experience on the city council. That's the same reason I left the senate at the end of eight years. I think that the law of diminishing returns sets in; you get a sense of *deja vu* after a while. You think you've seen things, where in fact you're not looking at them with new eyes. I noticed that all my colleagues, almost all of them, I'd say all of them, after eight years never did much. They were more interested in how to stay than why they were staying.

Some of them are wonderful men who made their mark and put

their stamp on some serious problems, but not after the first eight years. They just hang around. And the idea that you need these senior advisors is a lot of baloney, because if you can't pick up in a couple of years what's going on, you're in the wrong place.

[Laughter]

LAGE: OK, well, I think that's a good place to pause, or stop for the day.

BEHR: Yes. Let's see if this works.

[End Tape 2, Side B]

[Session 2, December 2, 1988]

[Begin Tape 3, Side A]

### III. CAMPAIGN FOR STATE SENATOR, 1970

#### Republican Party Involvement

LAGE: We were going to start with your campaign for the state senate. I wanted to go back and talk about how you became involved in Republican party politics and how involved you were.

BEHR: Well, mostly tangential until we get to Citizens for Eisenhower. I was on Nixon's campaign speaker's bureau in San Francisco in 1950 when he was still a congressman. I played a minor role in Senator [Thomas] Tom Kuchel's reelection campaign in 1962. And then I was Marin chairman of the Citizens for Eisenhower in 1952. We had the highest turnout of any county in the United States, over 90 percent, in that election. And then, as I kept repeating to the doubters, I was a third generation Republican.

LAGE: Who were the doubters?

BEHR: Well, the doubters were considerable, because I had never paid any

attention to the Republican county central committee or any party function of any kind, because I was in nonpartisan office.

LAGE: I see, a supervisor.

BEHR: As supervisor. Which was probably more of an excuse than an explanation, because I'd never been interested in the Republican party per se, but from time to time I gave them a little helping hand. But not very much.

LAGE: Were these particular candidates--Nixon, Kuchel, Eisenhower--ones that excited your support?

BEHR: Well, Nixon didn't excite me so much. Kuchel did.

LAGE: Now, don't say that in retrospect.

BEHR: [Laughter] Well, he certainly looked much better in prospect than he has in retrospect. But Tom Kuchel was a fine person, and I felt strongly for him. And I was very devoted to Eisenhower, so I really made a significant effort. In that campaign, there may have been some lingering dislike by the Republican central committee, because the state central committee had bypassed the county committee and put Senator Jack McCarthy in charge of the campaign, which they felt was a very real affront. So when I joined with him and brought in the Citizens for Eisenhower, they may have felt that, along with Jack, I was not doing them any kindness.

LAGE: The county committee.

BEHR: The county committee.

LAGE: Were you a close ally of Jack McCarthy?

BEHR: No, not at all, not at all. In fact, I didn't know Jack too well. He was. . . . I'd met him several times in the capital. He was toward the end of his twenty years, much younger than I because he was the youngest senator ever sworn in. He'd been drinking very heavily and was really part of the [Senator] Hugh Burns team that was running the state senate. They'd go up there in the afternoon and drink together and decide what bills should come in and go out the next day.

I described him once returning from a lobbyists' luncheon as looking like a man walking underwater. Which indeed he did. But he was a very jovial, nice fellow, and I got along with him.

LAGE: He was a Republican leader, minority leader, wasn't he?

BEHR: I think he was, some time.

LAGE: OK. So you were only tangentially involved in the Republican party, and not so much with the county committee.

BEHR: Yes, that's true, and it became clearer to me as time went on in the campaign. Perhaps the most graphic example was my friend David Winslow, who had been chairman of the county central committee,

very fine man, and during the campaign, he wrote me a letter saying he didn't think I was a real Republican, and he was going to help [Donald] Don Pinkerton, who was from Solano County. And in fact, he took over Pinkerton's campaign in Marin County. I think he resigned from the central committee so he could do it. But I felt that was unfortunate, naturally.

LAGE: Did you have a sense of what he thought was not a true Republican about you? Was it the issues you were espousing?

BEHR: I think he felt I was awfully progressive. I think perhaps that's the first time the big "L" [liberal] ever came into public print.

LAGE: Those were Reagan years. Was [Governor Ronald] Reagan's influence reaching down at all to the county level in the Republican party?

BEHR: I don't think so. Not in Marin.

#### Decision to Seek State Office

LAGE: We didn't talk about why you decided to run for the state senate. How did that happen?

BEHR: Well, I had withdrawn in 1967 from my San Francisco law firm and become a full-time supervisor for the last two years of my seven. And so when that came to a close, I was fancy-free. I had a love affair with the environment, believed I could play some role in the

senate. And this belief was bolstered because of the Point Reyes [National] Seashore campaign, which had recently closed successfully.

So when the incumbent state senator, Jack McCarthy, announced he'd retire after twenty years in office, there was an open seat. I think he retired partly because he had a new wife who was worried about him, and partly because of reapportionment. He had always represented Marin County; now there was Marin and Napa and Solano Counties. Fortunately, [Senator] Luther Gibson, the long-time state senator from Solano County who ran the Vallejo Times-Herald, I think it was, the largest paper, he was Republican--he also had resigned. So it looked like a pretty clear shot, and a good one.

I also realized, being fifty-four, that this was the last chance I'd get. I guess I was fifty-five. I was in a position to claim I'd be a full-time state senator as well. All my three children had graduated from college, so I didn't have that obligation or problem. It was a now-or-never opportunity, and I thought the odds were on my side.

LAGE: And Bagley decided not to run.

BEHR: Well, Bagley was the big threat, because he was a five-time assemblyman. He'd served five terms, and was very well regarded and exceptionally well-connected. Bagley's always been a politician's politician. So that was the kind of risk you take when you make an

announcement ahead of time. I was the first one to make the announcement, on January 2 or 3, I think, of 1970.

But he decided not to, and perhaps happily for myself. Also, Marin had 40,000 registered Republicans. There were 15,000 in Solano County, and 12,000 in Napa. So we outnumbered them, and even more than the numbers show, because Marin Republicans voted on a higher average than they [Solano and Napa Republicans] did, about 70 percent to 60 percent. So that was a good sign, although overall the Democrats were in the majority in those three counties.

So those are some of the reasons, and I guess the selfish reason is that I enjoyed it.

LAGE: You like politics.

BEHR: I loved it, and especially in comparison to the general practice of the law, where you had to represent the client regardless of what you thought about your client or what the client's position was. Here, you could pick and choose and perhaps affect slightly larger issues. Perhaps.

LAGE: Did you have a group of people that you discussed this with before you . . .

BEHR: No, I didn't talk to anybody, except my dear wife, who as a loyal wife said, "Dear, if that's what you want to do . . ."

LAGE: Was she looking forward to moving to Sacramento?

BEHR: I don't really think so, and I don't blame her. But she's always been loyal, although she's been tested from time to time.

The Primary Campaign

LAGE: Let's talk about the campaign some. You mentioned that [ ] Bill Press was your campaign manager, although we didn't put that on the tape at all.

BEHR: No. Well, I'd never met Bill Press until he called me at my office and asked me out to lunch, because I was still of counsel, at my law firm. So I had lunch with him and found him immensely attractive and very energetic and enthusiastic, and he called because he said he wanted to run my campaign.

I said to him that under normal circumstances, that would be fine, but he hadn't run a campaign, and his background was as an AA [administrative assistant] for [San Francisco Supervisor] Roger Boas. He resigned from that because Roger was impossible to work for, and he always had been and has been.

But I told him no, and so then I got [Sanford] Sandy Weiner, a very expensive campaign manager who had come off some big wins and was going to run [State Superintendent of Schools] Wilson Riles's campaign. I guess he'd run [San Francisco Supervisor] Dianne

Feinstein's and [Congressman Paul N.] Pete McCloskey's. And while he was expensive, he was, as they say about fine whiskey, the best procurable.

So I took him, and he was reluctant. He wanted to be sure, you know; he wanted to check me over, and he said he'd call me back in a week. And that was a pretty good tactic, I think. So he agreed, and then I said to him, "Well, look. I know you're going to have many more important candidates in your office than just myself, and I'm going to have to make a condition on this bargain that I have one person assigned full time to my campaign. Because in the last few weeks" (which were the most important) "you won't be around."

Well, he said he'd have to think that over. And so he came back in another four or five days, and said, "I've got the very person: Bill Press." [Laughter] And that's how I got Bill.

LAGE: So Bill Press sort of went around the back door!

BEHR: I guess so, and he certainly ran my campaign. I didn't see anything of Sandy, and I don't think that with Bill's skill and energy and enthusiasm we needed Sandy, although we paid through the nose for him.

LAGE: It was an expensive campaign; I read somewhere that it was one of

the more expensive.

BEHR: It was the most expensive campaign, as it developed, of any campaign in that year, including all campaigns for Congress with the exception of Pete McCloskey's. The actual amount was \$84,688. It not only was the most expensive in Marin County's political history, but I think it was the most expensive across the board at that time.

I received something over \$68,000 in contributions from more than 600 contributors, but that also included myself as a contributor for about \$13,000. Inevitably, you wind up with deficits. I was worried about this, but everyone does, especially if you have a campaign manager who wants a scalp on his belt at any cost, and it's usually yours. So we wound up with a deficit of \$16,000. Pinkerton spent \$12,927, and [Raymond H.] Ray Shone, who was the other serious candidate . . .

LAGE: Now, are those figures for the primary campaign?

BEHR: Primary, just the primary, yes. Shone never filed.

LAGE: Never filed his expenses?

BEHR: No. Hasn't to date. It's said to be a felony, but actually it's never been prosecuted, and it simply means that you can't run for elective office again until you've done it, which he had no intention of doing. So we never did know what he spent, but he didn't approach that

amount I'm sure.

LAGE: Who was the strongest competitor against you, then?

BEHR: Well, I think Shone should have been, because Marin was the anchor county, and for twenty years he'd been the campaign manager for Jack McCarthy. And Jack, of course, endorsed him at once. For sixteen years, he'd been a member of the state central committee. But the general feeling was that, even with that, he wasn't very high on the priority list of the true Republicans.

Don Pinkerton was a very decent man. He'd been mayor of Fairfield, he was, if I may say so, a straight arrow in the right quiver as far as being true Republican. He ran a very cool, decent campaign, and was the first person to agree to help me as soon as the primary was over; he was very gracious. I think he must have been disappointed too; everybody's disappointed if they lose. But he never showed it.

LAGE: Were the issues clearly delineated in the campaign, in the primary?

BEHR: Well, yes and no. I made a list of some of them, but I think this was a campaign that was more political-oriented than issue-oriented. I got cog signs and put them all over the three counties.

LAGE: What kind of signs?

BEHR: C-o-g. They're the small signs that you stick on everything, just gets

BEHR: you name recognition. There's a company that has the monopoly on putting them up. It says, "Peter Behr for State Senator." All through Marin, somebody got ahold of a strip and put it over so it read, "Peter Behr Wants Your Guns," [Laughter] over all the cog signs. This came about because I had gotten a county ordinance through to register handguns, which was later swept off the books by a referendum. I never knew who did it, but it made us nervous.

In regard to the issues, there were no primary issues. Peripheral Canal came up, and Ray Shone was in favor of it, which did him no good in Marin County, believe me. Property tax reform came up. Even in those days, the drug problem was an issue of sorts. The votes for eighteen-year-olds, I was in favor of that, and so was Pinkerton; Shone was not. Tax credits to private schools, which I was opposed to. Shone was not. Going into Cambodia became an issue, although you wouldn't expect it for a local campaign. Of course, I was strongly opposed to Nixon's doing that.

And then, Ray Shone wanted to dissolve the Golden Gate Bridge Highway and Transportation District, which at that time was the Golden Gate Bridge and Highway District, I think, I don't know. But that was an unpopular move, and I think he was on the losing side there, because the so-called profits from the bridge went to a bus

system that was serving Marin. If the bridge board had gone into public ownership, of course, that would have dissipated that profit. Transportation problems were an issue.

I had a bit of luck, because the Point Reyes bill was signed on April 3 [1970] in Washington, and I was the only lay person invited back to the signing. So that gave me a little burst of publicity which no doubt helped a bit. But we were running all over the counties steadily and hard. We had coffees all over. And then I was trying to make myself more of a Republican, so I had some. . . . Well, I guess that was in the general campaign when I really started to do that. But by and large, it was a fairly close thing in the vote. I have the statistics for the primary. Would you want them on the tape?

LAGE: Sure, I think that would be good.

BEHR: In Solano County, Pinkerton whacked us. He had 6,179; I was second with 1,964; Shone was third with 1,895. Shone had strong connections with the Native Sons of the Golden West, and the Sons of Italy, and the Marin Rod and Gun Club, which is composed mostly of persons of Italian background. And I guess he presumed that he was going to win--well, I guess we all did. Then we had Hugh Pessner, who was the fourth candidate. He didn't do so well; he got 246 votes in Solano County. He was a proud and declared member

of the John Birch Society, which didn't help him.

LAGE: Was he from Marin?

BEHR: He was from Marin. He said he believed in the constitution.

And then in Napa County, Pinkerton won there as well with 4,041 votes; I was second with 3,048. Shone got only 1,969 in Napa, and Pessner 166. Then in Marin County, I got 15,505; Pinkerton 4,109; Shone 10,584; Pessner, 1,073. So all told, I garnered 20,517 votes; Shone 14,448; Pinkerton 14,329; and Pessner came in with 1,485.

I think I didn't realize as much at the time, but being in Marin County and being well known in Marin County (as I was, and Shone to a lesser degree), was an almost insuperable obstacle for Don Pinkerton. Solano County is a good long ways away, and this [Marin] was an anchor county; it always has been.

LAGE: Was that the first election where those three were combined?

BEHR: Yes, the very first.

LAGE: So it was somewhat an unknown.

BEHR: It was an unknown. We did no polling; I think that's the only thing we didn't do. Maybe we did some polling; I don't think so, though. But we had a full precinct organization going in Marin County, and we walked door-to-door every weekend--not just myself, but all my

supporters. We had offices opened in all three counties. It was a lively election.

LAGE: Is campaigning still done in that way, do you know? Or is it more media-oriented?

BEHR: No, it's more media-oriented. And that, again, is the reason that I chalked up such a horrendous expense, because I did some radio and television advertising. As we both know, television is out of sight [financially], always has been. And very inefficient, because you have to pay in the Bay Area for an audience of four or five million, where you're only targeting 500,000 at the most, because that was the number that the population was for the three districts here. So that may have helped me too, but it was very expensive.

LAGE: And just the primary election left you with a \$16,000 deficit?

BEHR: Yes. That's right. So we swallowed it and went on ahead. But on the general election, I didn't use Weiner, and I think we came out very much lower, but I haven't looked up the figures so I'm not sure.

#### Campaign Strategies in the General Election

LAGE: OK, well, let's talk about the general election. Is there more you want to say about the primary?

BEHR: No, that's really about it.

In the general campaign, I decided that I'd better get more

Republican, since I was now representing the Republican party. I began slowly to garner some support. Reagan came out on September 18 when he and I toured Leisure Town in Solano County. [Robert] Bob Monagan, who was the assembly speaker at the time, talked for me at the Napa Valley Country Club at a fundraiser.

Then we had [Robert H.] Bob Finch fly in from Washington. At the time, he had given up his job at the HEW [Department of Health, Education, and Welfare], head of the HEW, and was a special counselor for President Nixon. So the only time he could come in was on a Sunday, and he could only appear at lunch on a Sunday. I don't think we'd ever had a campaign fundraiser where we went to lunch on Sunday, but we did, and we had 300 people. He flew in on an Air Force One plane, a smaller one, all glowing white, came in to the Hamilton Air Force Base. It was very exciting, and he was a very nice man.

LAGE: Had you known him previously?

BEHR: No, I'd known all about him, because he'd been originally lieutenant governor for California [1967-1969].

LAGE: But you didn't have a personal tie that you got him to come in?

BEHR: No, I really didn't. He was more liberal by far than Reagan, and in fact, he didn't go to cabinet meetings for some time because he just

disapproved of Reagan. Which I think showed some taste.

We also got. . . there was a big fight as to who was going to be the pro tem of the state senate. [President pro tem] Jack Schrade, who was an old-timer, beat out Howard Way. There was a lot of bad blood between them. Howard later became a very close friend of mine. I liked Jack; Jack was getting on, and was all right, I guess. I got them both to be at the head table at one of my fundraisers, which helped.

Then I formed a businessman's committee, and that was all right. And then I got the Solano County Peace Officers' Committee, and we had other committees coming around. FAPA [Filipino-American Political Association]--there are a lot of Filipinos in Vallejo. So we appeared before them to try to get their endorsement, but they were quite wary. They and MAPA [Mexican American Political Association], Mexican Americans. A lot of blacks, a lot of Filipinos, and a lot of Mexican Americans.

LAGE: So you went after that vote. Were they more traditionally Democratic?

BEHR: Oh, yes, they all were solid Democrats. I went right after them. Didn't get very far. I went to a large dinner for the Sons of Italy in Vallejo; it's very strong there.

And then I did something that turned out to not help me at all. The truth about the seashore was that George Murphy went in, and perhaps we've discussed this.

LAGE: Just briefly, but let's . . .

BEHR: And said to the president, "Dick, I've just got to have that funding for the seashore. I just need it for my campaign." And the story is that the president was agreeable, he said, "Well, you should have come in sooner, George. But the whole campaign, although it wasn't known, had been focused on Mr. Murphy, Senator Murphy, because we realized that he had a very close tie with the president. And we also realized he was in trouble with Tunney running against him, and that he was in trouble particularly in northern California.

So, while everything was addressed to the president, we did all sorts of work to see that George was informed. So afterwards, he came to Marin County and had a fundraiser, Senator Murphy. And of course, it was a big show, because there he was, the United States senator seeking reelection.

[J. Michael] Mike McCloskey, the executive director of the Sierra Club, praised seven persons for their part in funding the Point Reyes National Seashore and said some glowing things about Senator Murphy. So I read the letter from Mike McCloskey to the assembled

multitude, and said it was as close to an endorsement as the Sierra Club has ever come. Which I shouldn't have said; it was just one of those blurry remarks that you wince about. It didn't sit well with the Democrats, you can be sure of that.

LAGE: How did it sit with the Sierra Club?

BEHR: Oh, the Sierra Club was fine. I was very close to the Sierra Club. They wouldn't disturb me. And very close with Mike McCloskey too.

But the biggest single mistake happened in the entire campaign, and I thought I would lose because of it--I had a brochure that went out with a wide distribution, and it was one of these that compared my record with my opponent's record, and if I had done something and he hadn't, it would leave a blank space. And it's quite effective. But, I said in the brochure "Lieutenant Commander, Second World War, five years active duty," on my side, and a blank on Mike's [Michael Peevey]. It turned out he had had six years in the Marine Corps. [Laughter] And this was an all-district brochure, and it was out!

Well, why we did it, I was wary, and my advisors said they knew that he hadn't had service. We had a lady who was a public relations woman named Charlotte Risnick, who was a dear friend of mine. She was on our payroll. She managed to infiltrate the library,

or the old morgue, of I guess it was the Independent Journal, where they work up future obituaries and so forth. And there was no record of military service. They said, "Well, hell, if the IJ hasn't found it, and it's not in the obituary, he's not dead, but he's never served!" So we were thunderstruck, and it was a very sad time.

LAGE: How did you handle it?

BEHR: I instantly apologized, publicly and privately, said that it was a terrible mistake, and I deeply regretted it. When I do something wrong, it's been my habit to admit it as quickly as possible, and in full, which gives the newspapers nothing more to say. If you waffle, they're on your throat. So I knew enough to realize that there was no hope for it, so I got down on my knees and begged forgiveness.

Then I had on October 30 a big ad, "Marin Democrats for Peter Behr," and I listed all my dearest friends in the general campaign. Because all the Democrats were working for me, most of them. They didn't know Mike Peevey, and they knew me well for all sorts of reasons. So, once I'd got through the primary, I've always been very safe as far as the Democrats were concerned.

But then the newspapers came out with their endorsements, which everybody was interested in, and whether they do good I don't know. The Pacific Sun, which you know about, endorsed me on

October 7; the Independent Journal endorsed me on October 13; San Francisco Chronicle endorsed me on October 19; on October 27 the Vallejo Times-Herald endorsed me; on October 28 we got the Napa Register; October 29, we got the St. Helena Star. So we made a clean sweep of all the papers in the district.

[End Tape 3, Side A]

[Begin Tape 3, Side B]

BEHR: I noted that one issue, which I felt strongly about--it wasn't an original issue with me--but there was a 9.6 mile section of the Sears Point Road on the Napa turnoff to Mare Island. It's a very deadly road, and there have been a lot of accidents and some deaths.

I got behind a campaign by the California Highway Patrol to get the Department of Public Works, as it was then known, to put in a daylight headlight program over the 9.6 miles. There had been another one farther north, near Redding. That was an issue that nobody objected to, and which I think I got some mileage from.

Then there was the Napa River linear park that had been suggested which I came out strongly for.

LAGE: Was this an effort to get support in Solano and Napa?

BEHR: Oh, yes, indeed. And then one other thing, but that comes later in bills, but I don't think I mentioned it in the campaign. It was taking

out Freeway 29 from the freeway system through the upper Napa Valley . . .

LAGE: You mentioned that when we first talked. But you don't think that was part of the campaign?

BEHR: No, I don't really.

LAGE: We didn't talk about your opponent, Michael Peevey.

BEHR: Mike Peevey was an economist, he was young.

LAGE: He was from Marin County?

BEHR: He was Marin County, he was attractive, and very forceful in his speaking. Very close to labor, which didn't help him as much as it might because of Marin County. He had all the traditional Democrats behind him, the ones who were party Democrats--Libby Gatov, who was the former treasurer of the United States, and a number of others. He ran a pretty good campaign; he was a little strident, and the problem was that we both agreed on a number of things, but he got pretty nasty towards the end of the campaign, claiming I was saying one thing in Solano and another in Marin County, and this wasn't true.

But we answered that, and it all worked out. He was a very effective campaigner, but he started from scratch. Nobody knew him.

LAGE: That must have made a big difference, your having been supervisor

and have a record on the environment.

BEHR: And also on the city council in Mill Valley. Yes, that did make a difference, I'm sure. Naturally. Of course, sometimes people without a record are better off than if you have a poor record. But people liked what I was doing, and I didn't create any enemies.

LAGE: Did you have major kinds of differences with Peevey?

BEHR: I can't say I did. [Laughter]

LAGE: Just who was the better man.

BEHR: I think so.

LAGE: Or Republican-Democrat.

BEHR: Yes, and that was one of my slogans, "A better man for Sacramento."

#### Wooing Solano and Napa Counties

BEHR: Another thing in the campaign: we managed to get Henry Wigger, who owned the funeral parlor in Napa. I learned then, and have always known since, if you get a funeral director, then you've got yourself a heavenly man. [Laughter] For all sorts of reasons. In the first place, their whole business requires them to give aid and comfort to the bereaved, and they know how to do it, and they're unctuous. Over time, they just have all sorts of friends. It's good for business, and they have the ultimate product.

Henry was on the board of supervisors in Napa County, and he

was very conservative. I mean, it was generally said that he was the most conservative member on the board. So I made violent efforts to get him to come, which he did.

LAGE: Come . . . ?

BEHR: Come on my campaign as honorary chairman.

LAGE: Oh, honorary chairman!

BEHR: Oh, yes. It came back to me that, "Well, if Henry's for him, he can't be so liberal." [Laughter] And that helped a lot.

Then I had Jack Davies, and Jack had just started the Schramsberg Winery, which makes fine champagne. He helped me in the upper Napa Valley, where I went around and met the people and had lunches and so forth. He was a great help in Napa. And every vote counted, so we got good help there.

LAGE: Well, how did you get these very conservative Republicans to support you?

BEHR: Well, I was the Republican nominee, and I appealed to their party loyalty. After I'd begun to get party support with these fundraisers, it became easier and easier, because I had swept up most of the Republicans who admitted to be good Republicans. But I suppose I trimmed my sails a little bit, particularly in Solano County. The counties are utterly different, they should never have been put

together, and it was just one more curiosity of reapportionment. In fact, I don't know why they were put together that way, perhaps for Jack McCarthy before he decided not to run.

Solano County is very oriented to development and growth. Fairfield wanted to be the biggest little city in the west. They are actually a very rural county with Vallejo, which is a very depressed city at the base, and Fairfield, which is the only other city worth talking about, farther north. But Fairfield and Vallejo are anxious to attract industry at any environmental cost with any deal they can make. Which is utterly different from Marin County and Napa.

Napa was even more rural, except for. . . . Well, they had one thing in common, Solano and Marin County: Solano had the Travis Air Force Base, and Marin had Hamilton Air Force Base. But aside from that, the differences were monumental. We had hardly any minorities except in Marin City, and they were dwindling. Vallejo is a minority city. Napa is so lily-white that they have a subdivision which is half in Solano County and half in Napa County, and has no blacks in the half in Napa County. It's really wicked. And in the other half there are all sorts of minority people residing.

LAGE: All in one development?

BEHR: All in one big development, yes.

LAGE: It sounds like something was going on.

BEHR: The county line was split down the middle. And Napa was really very rural, too, and oriented to their major industry, which is wine growing.

It was awfully hard to get into those counties. I had [James V.] Jim Jones, who was a member of the Napa city council, looking after me in that part with Henry Wigger, the more populated part. Jack Davies up north. And I had an office in Napa, the city of Napa. I had an office in Vallejo, and of course I had a campaign office in Marin. We had them all staffed all the time, but we started from scratch in Solano and Napa. It's hard to do; you just can't get a toehold into it. And even over the four years I represented Napa and Solano--I never seemed somehow to find out enough about it so I felt comfortable. They were interested in things I wasn't.

For example, I wanted to put (and in time we did) a cordon sanitaire between the Suisun Marshes and agriculture, recognizing the need to protect the marshes and the certainty that in Solano County, agriculture would be wiped out if a big development came in. This was not viewed with delight by the Solano County Board of Supervisors. We never managed to integrate with them. It was difficult.

Napa, though, after I got through, was beginning to come around. They zoned agricultural all their upper Napa Valley, which was unheard of before.

LAGE: Was this something that you contributed to, an awareness of it?

BEHR: No. Awareness, yes, for sure. And then they open-spaced the hills around, too. But it's a very tenuous kind of thing as you know, because with local zoning, three-to-two [on the board of supervisors] can change to three-to-two the other way. So it's not a permanent solution.

At that time, the prices of grapes were rising, and the wine industry was reaching out and merging and being bought off by large companies, and it all looked like heaven had descended on them. And so the big industries were anxious to protect their agricultural acreage. Of course, that concerned us too, but it was good, and Henry Wigger voted for it, for which I was proud.

LAGE: OK. So, if there is no more we need to say about the campaign, shall we get you into the senate? We can add in the election statistics when we edit the transcript.<sup>1</sup>

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<sup>1</sup>Marin County: Behr, 43,969, to Peevey, 28,829; Napa County: Behr, 14,952, to Peevey, 13,819; Solano County: Peevey, 23,764, to Behr, 17,491; totals: Behr, 76,412, to Peevey, 67,412 (from the 1971 Handbook to the California Legislature, p. 82).

#### IV. IMPRESSIONS AND REFORMS OF A FRESHMAN SENATOR

##### The Committee System and the Voice Vote

LAGE: Let's start with some of your general first impressions of the Senate, how you were received, how you were appointed to committees.

BEHR: Well, when I came there, the senate Rules Committee appointed me to some committees. The senate Rules Committee is composed of five members. The president pro tem, as you know, is the chairman of it. In the senate, there were always three of the majority party and two of the minority party on that committee. We were very much less partisan than in the assembly, very much less, and that's continued to the present day.

By and large, many of the members of the senate are older; they have served in the assembly and come up that way. Or, they've had local government experience. They're older and they're more relaxed, and you have a cross-section of good and bad. But if you take the three to four who were very, very good, and the three to four who were horrid, the rest of them run the gamut of every occupation and so forth. There are not as many attorneys as there used to be, and that's been a declining profession in the senate.

Everybody was very nice to me, and I was treated with a good deal of kindness. My first committee assignments were the Public

Utilities and Corporations, and I was vice chairman, which meant nothing. On Health and Welfare, on Local Government with Milton Marks, who, I guess, still chairs it. And Water Resources. Then, later, I served on Education, and the Finance Committee, and also was chairman of the Insurance and Financial Institutions Committee.

LAGE: But that was later, wasn't it, into '74 and . . .

BEHR: Yes, that was later; the last two years, two or three years. So those were the ones I served in when I first came to the senate, the ones I spoke of originally.

The committee system was fun to watch, and enjoyable to be part of, but it was like Alice in Wonderland playing croquet with the flamingoes [Laughter] because the chairman ran them. Depending on the quality of the chairman, he ran a good or bad committee. He set the agenda; he could delay bills, which he still can, and run you out of time, even with a two-year session (although we were on a one-year session at that time). He heard the voice vote as he heard it, and if you challenged him--I say him [because] there were no women in the senate, Rose [Ann] Vuich came later--the chairman remembered this, and your bills were in real jeopardy if they were assigned to that committee.

And very often, the assignment of a bill by the Rules

Committee, who would do all the assigning of bills, determines whether the bill will live or die. If you get assigned to one policy committee, you're dead; to another, you're through it. And then if you have any appropriation you have to go through the Finance Committee. Here you really start anew; they say, well, they're only interested in the dollars involved. The truth is, they're the senior senators, and if they don't like a bill, it doesn't get through, regardless.

LAGE: Now, that was [Senator Randolph] Collier's committee, wasn't it?

BEHR: Collier had been chairman of that committee for a long, long time, and the committee is of exceptional importance because it deals with the budget bill. And the budget bill is the single largest and most important bill. There is nothing like it, in fact.

And so, yes, he was chairman and ran a good committee. He'd been around a long time. He relied on [Senator Stephen P.] Steve Teale to help him with the budget. Steve Teale was a doctor, the only doctor in the senate, who'd been around almost as long as Randy. He was very knowledgeable.

The committee system is where the bills die or live. You are at the whim of a chairman, who says, "The bill's still in committee," after the voice vote, or, "The bill's out." And so that gave the

chairman immense power, and it rankled me, because it didn't seem right.

LAGE: Did you have this occur on bills that you'd introduced?

BEHR: No, not particularly. I lived with the system, but I wasn't discriminated against. Or, I wasn't angry for myself, I just felt. . . . there were no records kept of these voice votes, and so you couldn't tell. Members would vote "yes," when it was called for a vote, and then would vote "no" in an equally loud voice. Or, they would open their mouths but nothing would come out. So there was this [Legislative] Bird Watchers' Committee, who were environmentalists, and who would split up and would take a certain number of each committee to try and determine how they'd voted. And this had been going on for a couple of years, so they were frustrated. They couldn't find out, even they, and the reporters couldn't either. And they were annoyed.

The television reporters would come out--I remember Jack McCarthy coming out from one hearing I went up to before I was in the senate, and they asked him, "How did you vote?" "Well," he said, "of course I voted for it! What do you mean, how did I vote?" and he stomped away. But you couldn't tell.

So we decided to do something about that. In Ag and Water,

for example, Agriculture and Water Committee, that was composed of persons who were in favor of water being used for industry, domestic purposes, and being sent down south. And it was no use to get a bill that had something to do with pollution of water, or trying to keep the water in northern California, or anything of this nature, because they wouldn't hear it. The Judiciary Committee was composed exclusively of attorneys. So the Trial Attorneys' Association has always had the whip hand on that committee. And so it goes.

Building a Constituency for Legislation

BEHR: I know when I finally (well, this is much later, we won't go into that) . . . The friends and foes among the senators were not too evident. Everyone was quite pleasant to everyone else. [Senator] George Moscone was the leader of the liberals, without any questions. And [Senator Anthony] Tony Beilenson, who has since gone to Congress--he was the smartest of us all without any question, and he had persistence, patience with a purpose. He never lost a bill but what he'd put the same bill in the next year and the year after and the year after, and pretty soon it went through. He kept building a slow constituency for his bills. He was a Harvard attorney and now is a leading light in Congress.

LAGE: Did you know him before?

BEHR: No.

LAGE: Was he someone that you patterned or learned from?

BEHR: I learned from him, and from whatever went on. But it's really no different from being on the board of supervisors; it's just a little larger equation to unlock. It's like the lottery: you think it's easy because there are only six numbers [Laughter], but there are forty combinations up in the senate. And you can't depend on the vote, but when you build a scorecard for a bill, what you do is (at least, what I did) was try to get as many coauthors as possible. Which is window-dressing, but it's embarrassing for a coauthor to vote against a bill . . .

LAGE: That he's coauthored!

BEHR: You see. So, I went down the scorecard, and you had to be careful, because some people didn't like others.

LAGE: You're holding a scorecard here. Is this something standard?

BEHR: It's just what we worked with. Those are everywhere. So you go down the scorecard, and you start getting coauthors who are neutral, so they wouldn't disturb either side. And then you start moving toward the ones who had a following, but you had to be careful, because if the Republican leaders went on it too much, it would chill

out the Democratic leaders. So there was a certain pattern that you followed. On bills that I cared about, I went around and talked to them about the bills at some length. Sent memos around, and made a big fuss about these coauthors.

LAGE: Did you get coauthors based on some appeal to loyalty or personal . . .

BEHR: No. I took the attitude from the beginning, "This is a good bill, you should be on it." And I never swapped a vote in the eight years I was in the senate, which has been done. It's a felony to promise to vote for one bill if you can get a vote for your bill. But it's never been prosecuted. I wouldn't do that, and I didn't do it. And I think I profited from not doing it, because everybody knew that I was objective and wanted them to come in. I never was unfriendly with any single member, because sooner or later you're going to ask that man to give you a vote, and someday he may. You don't want to reduce your odds by antagonizing him or getting into a quarrel with him.

Then we had a few that had something of a gift for quarrelling, but we just ignored them and went ahead.

#### Resolution to Require Roll-Call Vote in Committees

LAGE: Should we talk more about how you got the roll-call vote. . . . you

can use that as kind of an example, also.

BEHR: It's a pretty good example, yes. Let me look this over for a minute.

[Looking at his files]

LAGE: OK, I'll put it on pause.

[Interruption]

BEHR: I decided to take a whirl at getting a senate concurrent resolution drafted and put before the Senate Rules Committee, because it had to do with the rules of the senate, and the assembly. It [S.C.R. 4]<sup>1</sup> required a majority vote in both houses to become part of the rules. It was a very simple bill, which stated that voting in committees should be by roll-call vote only. All roll call votes shall be properly transmitted to the secretary of the senate, and a record of such roll-call votes shall be printed in the appropriate journal.

Now, when I appeared before the Rules Committee, I realized clearly that I had only been in the senate a year, and this was a very touchy subject. So what I did was to get four senior senators (five of them, actually) to speak for it before the Senate Rules Committee, and I sat in the audience. The five were [Senator George] Moscone, [Senator] Clair Burgener, [Senator] Arlen Gregorio, [Senator

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<sup>1</sup>S.C.R. 4, 1972 Reg. Sess.

Nicholas] Nick Petris, my seatmate, and the fifth one [Pause]. . . . I forget who that was.

LAGE: Were these divided Democrat and Republican?

BEHR: Yes.

LAGE: So the fifth one must have been a Republican.

BEHR: That's right. The Rules Committee was very angry at being placed in this position, and protested mightily, but in effect, what they said was that, "We'll teach you fellows a lesson. We'll put it on the senate floor, and you'll see what happens."

So they turned it out on a 3 to 1 vote. Teale voted against it, I believe; he was on the Senate Rules Committee. But the other ones came along, not thinking that anything would happen. What they'd forgotten in their haste was that the author has only one privilege, and that is to determine when a matter will be heard on the senate floor. So I decided not to hear it, or not to have it heard, until we'd built up a storm.

Just about every radio station, every major newspaper, every television station north and south, came forth with editorials and repeated screams that this was something that has to happen.

LAGE: Was their support something that you solicited?

BEHR: No. I didn't solicit it; it just burst upon the world, and I've got here

a very large and thick folder showing all of the newspapers and all of the editorials and all of the radio stations and so forth. Going it over again, it surprised me, because it reached a level that made an issue and continued an issue. It seemed to have a life of its own.

LAGE: The time was right.

BEHR: The time was right. And this you like to think you know, but you never can tell. So it reached a stage where it was just a peaking steadily, and so I took it up on the senate floor.

The vote was 34 to 3 in its favor; [Senator Mervyn] Dymally was absent. The ones who voted against it were [Senator William E.] Coombs and [Senator Ralph C.] Dills, and Teale. Everyone else came along.

The Resolution in the Assembly--Moretti and Burton

BEHR: So then, since it was a concurrent resolution and not just a senate resolution, I had to cross into the assembly's world, and I had to go through their Rules Committee. [Assemblyman] John Burton was then chairman of the Rules Committee. He put in some suggestions which were very sound, and which I added to S.C.R. 4, having to do with procedural matters and certain things that wouldn't need to be recorded. He fine tuned S.C.R. 4. But he said he insisted that there be proxy voting.

Now, proxy voting wasn't really a proxy vote, but what it was, in my judgment, was unacceptable. When a committee met, it had a quorum. It couldn't do business without a quorum. And anybody who wanted to leave, looking down a list of the bills to be heard, could give a slip of paper to the chairman, date and sign it, allowing the chairman to vote in his absence. He would walk away and wouldn't come to the committee. And the purpose of the committee was to hear bills and determine, on the evidence and your own knowledge, how you intended to vote.

So it was very much against my grain, and against what I felt was proper. So John and I went to the mat on that, and he was very violent, verbally.

LAGE: How was he to work with, in situations like that?

BEHR: Well, he was completely intractable and simply outraged that I didn't go along with proxy voting, but I told him I couldn't do it.

LAGE: What was the virtue of proxy voting?

BEHR: The virtue was, it made it very easy for the members to do other things and not sit in committee all day. It also built great pressure on the chairman to get proxy votes, because that made the chairman, again, the key man. After the vote was called, or before it was called, he would say, "I have the following proxy votes, which I will

vote this way." So he could solicit them, and strong chairmen did.

LAGE: Was Burton's goal to keep that strong chairman control, or did he have some other . . .

BEHR: No, I don't think he had any personal motive involved, except that he felt that something had to be changed. The senate had put this through, and we ought to have a little give and take here. He wanted to take, and I wasn't willing to give.

So we went in to see Bob Moretti, who was the speaker at the time, and John continued his language in such a violent manner that Bob Moretti reprimanded him. [Laughter] And so I said, "Well, I guess we've come to an impasse." So what they did was to tailor-make their own resolution, which was then a house resolution, not a concurrent resolution, with proxy voting in it.

#### Senate Vote and the Effects of S.R. 9, 1972

BEHR: I took S.C.R. 4 back to the senate floor, and I guess they had amended that as well to put in proxy voting. So I asked for nonconcurrence, which was my right. If we didn't concur, it was dead. So it was killed, and we didn't have anything on the senate side at that time, and they in turn were working on their assembly resolution with the proxy voting.

But I had put in S.R. 9, which was a senate resolution identical

to S.C.R. 4. That had been approved at the same time by the Rules Committee. [Laughter]

LAGE: Oh, you put them in the beginning!

BEHR: I put them in together, figuring something might go wrong. I had S.R. 9, which was identical to S.C.R. 4, but it only covered senate rules. That came roaring in, and because everybody had voted for S.C.R. 4 they were stuck, so they had to vote for this.

[End Tape 3, Side B]

[Begin Tape 4, Side A]

BEHR: The very next session, the two rules committees got together, did away with proxy voting, and put in S.C.R. 4, the current part of the rules of the both houses.

LAGE: Oh, so proxy voting didn't continue in the assembly either?

BEHR: Not the next year, and never has since. They've been following this rule steadily. There was a good deal of effort made to prove how much this might cost, and how extravagant we were and all this additional printing. But we got the state printer and asked for an estimate, and it wasn't too bad.

LAGE: Weren't they afraid it would slow down the business?

BEHR: Oh, they had all sorts of arguments against it. But they were afraid to make the arguments. Senator Dills, who was the only person to

take the microphone on the senate floor, just unleashed himself in a frenzy of anger at the thought. He said, "We've been doing this since the state constitution was approved. Now you're changing it, and the whole situation is going to change." He wound up by saying that he guessed he had to vote for it, but he didn't.

LAGE: He didn't?

BEHR: No, he voted against it. No, he was one of the three who voted against it.

LAGE: And Collier voted for it?

BEHR: Collier went with it, yes. It was really a landslide of public opinion that did this. It took off. And nobody was. . . . it hit every district, and some of these radio editorials were played four and five times a day for a week.

LAGE: Goodness. That's a lot of interest in a procedural matter.

BEHR: It really is.

LAGE: Was this part of a total change in the senate? There had been a change of leadership shortly before you came.

BEHR: Oh, no. By the time I came, [Senator James R.] Jim Mills had taken over pro tem from Jack Schrade. Because the Democrats had gotten in, the majority. So it had nothing to do with that.

LAGE: But it seems like sort of a trend of opening up, perhaps.

BEHR: Well, I think that the trend was there, and I think that it became more general. I think we were more innovative, perhaps, than at present, although we stumbled over a number of issues. I don't know, really. It's hard to say.

LAGE: Well, that's an interesting tale. Do you feel that it had an effect? Did it limit the committee chairs' power?

BEHR: Absolutely, absolutely. It made all the difference in the world. And it also gave the public a fair shake. It didn't slow anything down, because we all had secretaries in the committees, and all they did was record on a sheet how the votes were on each bill, and send it down to the floor, and we put out a weekly journal.

And I think it makes a difference, because if a member can play games with a committee and tell his constituents that he's voted this way or that way, they'll never know. And now, he can't play such games, and he's more tied to the vote he made in committee when the matter gets to the floor. He's going to have to give a reason for changing his vote.

LAGE: Did that put the Legislative Bird-watchers out of business?

BEHR: Yes. I guess it did.

LAGE: They went on to other things, most likely.

BEHR: Yes. I think that was their major issue. It was a local Sacramento

group. Yes, they went out [of business].

## V. ENVIRONMENTAL ISSUES, 1971-1974

### Wild and Scenic Rivers Act, 1971-72

LAGE: Let's talk about the Wild and Scenic Rivers Act.

BEHR: Yes, [Inaudible]. I introduced this Wild and Scenic Rivers Bill, S.B. 107, on January 14, 1971. The bill got through the Natural Resources Committee on a vote of 5 to 3 with one abstention on March 20. Then we came to the big challenge, which was the Senate Finance Committee, with Collier as chairman.

LAGE: Well, give a little background here on the bill.

BEHR: Yes. Let me do that.

LAGE: The committee--the bill, and how you decided to introduce it, and . . .

BEHR: Shall we talk about the bill, and what it says?

LAGE: Right. And how you came to. . . that was a major piece of legislation.

BEHR: Yes. I talked during my campaign about wild and scenic rivers. There wasn't any California wild and scenic river system.

[Congressman Jerome] Jerry Waldie, a congressman, very fine man, was trying to put the Eel, Trinity, and the Klamath rivers into a

national wild river system. We had a good deal of interest in this.

I didn't want to disturb his effort, so I wrote him to make sure that if I put mine in, it wouldn't harm his efforts at the federal level. He said he didn't think he was going to get anywhere, and for goodness sake, do it. So I did put it in. And what the bill did was to create this system. It wasn't the first state system; some other ones had already gone into effect in Oregon and Michigan and Arkansas, Louisiana and Maine. But the last of California's 38 free-flowing rivers were on the North Coast, and the Eel, the Trinity, and the Klamath were the largest and most important of these rivers.

They had virtually no dams on them, and they'd been designated by a protected waterways report the previous year as priority A for inclusion in the national system. So we decided to make these the target for the bill, and they were listed with their major tributaries. We also recognized the need of local counties to take water for domestic use and continue their resource uses.

The major purpose of it was to exclude high dams. The Corps of Engineers had studies going on the North Coast which covered all these rivers in great depth. They must have had fourteen or seventeen dams already on design for all these rivers.

LAGE: And Dos Rios dam had just been beaten back.

BEHR: That's right. That was another feature, too, that we thought was interesting, because the governor, who had reached the high water mark of his environmental career, had withdrawn state support from the Dos Rios dam. You need the cooperation of the state in order to build a federal dam. Without it, you're dead in the water. He was caused to do this by Richard Wilson, who lives in Covelo. Covelo is right on the Eel River. He lived in Round Valley, which would have been flooded by the Dos Rios dam. Also [Secretary for Resources Norman B.] Ike Livermore, who was the resources director, who was a dear friend of Rich Wilson's.

LAGE: That helps.

BEHR: Which helped a great deal. So we put this bill in, and I made the mistake that showed how young I used to be, and how inexperienced. All these rivers ran through Senator Collier's district, and as a matter of simplest courtesy, I should have let him know I was doing this! Suddenly he saw . . .

LAGE: Did you think to tell him and you decided not to, or it never occurred to you?

BEHR: It never occurred to me. I thought, you know, this is a great big state problem. And so away I went and introduced it without talking to the old gentleman, who was the senior senator, the Silver Fox of

the Siskiyou, as he was known. I never saw anyone more outraged. He turned red, white, and blue, and purple and could hardly speak, he was so angry. And for good reason.

So, once again, knowing I'd made a mistake, I apologized profusely, and I told him I would never do it again. [Laughter] He accepted it grudgingly, which I don't blame him for doing. But we had some people behind this bill who were lovely beyond the telling of it, and this is the first bill I know of where the fishermen of the state, sports fishermen, spearheaded a movement and brought in all the major conservation organizations behind them. They took the lead. It picked up an enormous swarm of hard-fought people, or people who were willing to fight hard, as sportsmen will. The leader of all of this was a gentleman named [Joseph] Joe Paul of San Francisco.

Joe Paul was a publicist, but he was a man of. . . he was a great fisherman. Nationally known for casting for salmon, longest cast made in the state, and things of this nature. Man of about fifty-five, I guess. His wife was a doctor.

He set up the Committee of Two Million . . .

LAGE: Now, was this after you introduced the legislation, or was this one of the things that . . .

BEHR: No, this was one of the things that made me sure that I was on the right track, that he had done this and he would be behind this.

LAGE: So that was in existence before you . . .

BEHR: Yes, indeed. And I have always said, and would be glad to repeat, that he was the spiritual father of the bill, and indeed he was. We couldn't possibly have done it without him. Fortunately, somehow . . . . he had a great gift of language, and he somehow managed to have Senator Collier's number. Because he'd been born in Eureka and raised there, and he was a native son of this district. It was very hard for Randy to be mean to him, but Collier was upset and angry and fought it like a tiger.

But he made one mistake in the Senate Finance Committee that almost undid him. He failed to check a certain vote, on a vote which he owned, by a fellow named [Senator] Lou Cusanovich.

LAGE: When you say he owned his vote, what do you mean by that?

BEHR: Well, he told him how to vote, and Lou was going to vote that way. There was no question about it; I mean, we all had our little coterie. You have to be sure that your dearest friends are going to be with you, but you can't take it for granted in private or public life, because friends can't be taken for granted.

But he did this time; he knew perfectly well that Lou wouldn't

vote for the bill. Lou sat on the Senate Finance Committee. I knew because we had the hearing on Monday, and Lou had come to me and he said, "Those blank-blank friends of yours from the San Fernando Valley, those wild hippies, are raising hell with me. I may have to vote for your damn bill!" He couldn't have been angrier with me! [Laughter]

LAGE: Was Lou a Democrat or a Republican?

BEHR: He was a Republican, rock-ribbed. "Well," I said, "they're your constituents," and let it go. So I realized that there was a sneaking chance. Monday came, and Collier failed to check. When he called the roll. . . . Oh, and Collier had called me up. He said, "Now, look. I don't have to call the roll," I don't think I'd gotten my [recorded roll-call vote resolution passed].

LAGE: No, this was '71, and the roll call was '72.

BEHR: '72, oh yes. He said, "I've heard you've been talking about that. I want to do the right thing. I want to have this absolutely a fair hearing. How much time will your side need?" He said, "We'll have the time divided equally, and I'm going to call roll on this one, so everybody will realize that this is a fair hearing." He didn't say fair hearing, but that's what he meant. So I was delighted about having a roll call vote.

So, we had the hearing, and by this time, I had a large number of persons who were behind it. We got all the major conservation organizations, all the rod and gun clubs of the state, all the state sportsmen's associations, the Native Sons of the Golden West, and the Native Daughters, and of all things. We got the California Real Estate Association, which I've never yet understood. But they're very powerful.

LAGE: But you don't know how was it you got them? I mean, you must have solicited them to come, or did they just come out in favor of it?

BEHR: No, it's just, these people behind this bill were working everything, every angle. And we had [ ] Ed Henke, who was the vice chairman of. . . . Ed Henke was a great old 49er football player, a real star. He had a trucking company, and he'd go barreling up and down the entire state. He talked to all the service clubs: the Rotary, the Elks, the Kiwanis.

LAGE: And he was a fisherman?

BEHR: Oh, God yes, he was the most urgent of fishermen. That's how it all started. Actually, he lived down south, and there were salmon running those rivers as he was growing up. He told me the dearest thing in the world was a dark day; it would be raining and he was at school, everybody would go out, the salmon would start to run.

"And then," he said, "as time went on I had to go farther north. Now, there's no farther north left. These are the last great rivers, and we've got to save them."

So he was sending me letters once a week from, "We've got this Rotary of such-and-such a place," and "I've talked to San Mateo County," and so forth. So we had a lot of support.

LAGE: Do you know how the real estate association came in?

BEHR: Not yet. [Dugald] Doug Gillies was their exceptionally able executive director; we fought continuously for eight years.

LAGE: Maybe he was a fisherman.

BEHR: It's possible. Then we got all sorts of little counties, mountain counties: Modoc, Shasta, Siskiyou, Trinity, Lassen, Tehama, the Intercounties Chamber of Commerce came with us.

LAGE: What about the counties that were affected?

BEHR: Well, we got [Raymond W.] Ray Peart, who was a supervisor from Humboldt County. He came down to the hearing. We got a lady named Hazel Willburn, who came down from Trinity County. She was chairman of the board of supervisors there. And another supervisor from Trinity County. See, they put a Lewiston Dam on the Trinity River. The Lewiston Dam is a federal dam, and it ruined the river. The river was turned into a creek with sand bars and

willows growing in the middle, because the dam impounded all the water and sent it south. They tried to mitigate it with a large hatchery, which didn't work. They released, I don't know, half a million or so fingerlings. None of them ever came back. They couldn't make it back.

So they were outraged, and Hazel was a wonderful witness, because she said, "Look, they also promised us all sorts of jobs. But everybody came in from out of county; when the dam was built, they left. We got no jobs."

So I had [Daniel] Dan Frost from Redding, who was a very effective attorney, and of course Joe Paul. Oh, and a whole host of other people came to the hearing and stood up to be recognized. The AAUW [American Association of University Women] was with us, and Fresno sportsmen, and [ ] Connie Parrish of Friends of the Earth--we got everybody.

LAGE: But you didn't succeed that first year.

BEHR: The Senate Finance Committee didn't, and we got through it.

LAGE: Oh, we didn't finish our story.

BEHR: No, this is coming back to the hearing, and these are the witnesses in support.

LAGE: OK.

BEHR: We rang every bell, and they called the roll. Senator Cusanovich voted "Aye," and he was the key vote. It was a thirteen-member committee; we got seven votes. Collier couldn't believe it. But Cusanovich was stuck with it; that's how we got on the senate floor.

So when we got on the senate floor, we put a call on after we'd gotten nineteen votes. You can put a call on and hold the vote, and try and get other votes, and then lift the call and hopefully run up to twenty-one, which we needed. I made the immense mistake of putting a \$50,000 appropriation in the bill after we'd gotten out of Finance, which would have meant a two-thirds majority. Just at the last moment, I amended that out, so it was just back to twenty-one.

So what happened when I took a call on at nineteen, Cusanovich refused to vote. So I was following him around, and Collier was following him around shaking his fist. [Laughter] It was really quite a sight. But in the end, it didn't work, and he wouldn't vote, and I don't think he did vote.

LAGE: Just didn't vote.

BEHR: Just didn't vote. That didn't help either party. But it helped Collier, because I didn't have any more votes. So that was the end of the first year.

LAGE: Now, who was the opposition? Why were there so many senators

who didn't come along, with all this public support?

BEHR: All the senators from San Jose north, except Collier, voted with it. But the whole water establishment who were looking forward to more water for southern California were desperately opposed, and every irrigation and water district in the whole state was opposed. The metropolitan water districts were opposed. All the ranchers and farmers, who were looking for this additional water, were opposed. And the water industry was tremendously powerful, and they had the south in hand. So there were a lot of people down there who were disaffected, because they were looking for all the additional water from the North Coast.

And the Eel River was the only one in contention, because Collier said he'd give me the Klamath, he'd give me the Trinity, but the Eel was the water that they wanted.

LAGE: Oh. And was Collier--I don't want to use the word "tool"--but was he a spokesman for some of these water interests?

BEHR: I'm sure he was, and a very effective one. I mean, he knew every trick in the book, and he invented some of them. It was really . . . . if you talk about being educated, this bill in the first and second year gave me the greatest education in parliamentary procedure, little tricks and games that are played . . .

LAGE: Could you give a couple of examples?

BEHR: Sure I will. We started the next year with S.B. 107,<sup>1</sup> and the bills are numbered concurrently from the time the session starts. I waited, so from 1, 2, 3, up to 107, and I reserved that slot so we'd have the same number. Pretty soon, he put in S.B. 4,<sup>2</sup> and that bill was a carbon copy of mine, almost literally. We couldn't understand what he was doing. Every time we amended our bill, he'd amend his to look just almost the same. And he had a great deal of influence, and as the bills kept moving along, they looked the same. Nobody wanted to offend Collier, and so those bills went all the way through both houses and landed on Reagan's desk.

The question was, which one had the Tony, so to speak, if you remember that. And we had to analyze these bills, and present the analysis to the governor's office to prove to them that, while they looked alike, they weren't alike. What had happened was that, as often does happen, the governor's office had made certain requests to amend our bill, one of them being reduce the length of time before the Eel River came back to be studied from twenty years to twelve,

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<sup>1</sup>S.B. 107, 1972 Reg. Sess., Cal. Stat., ch. 1259.

<sup>2</sup>S.B. 4, 1972 Reg. Sess.

which we both agreed to.

Then we allowed certain studies on the Eel, geological and other kinds of studies, for dams. But no studies to build dams, no design of dams. We also required the state not to cooperate with the feds. Well, Collier was unwilling to put all that in, and that proved the difference because, in effect, he was defying the governor, in a very clever way.

LAGE: Well, the governor . . .

BEHR: Had a choice between the two bills.

LAGE: Right. But the governor's office had preferred not to have the studies, the dam-building studies?

BEHR: Yes. They asked us. . . . they agreed that this was what they wanted, and not . . .

LAGE: How does that relationship work, or how did it in this instance? Where . . .

BEHR: Where does the governor come in?

LAGE: Yes, and who speaks for the governor?

BEHR: The governor has a lobbyist. Also, although this isn't generally known, in Reagan's time, they started a folder on every bill, and everything that was relevant to that bill was put in the folder. And if the bill got all the way through, the cabinet sat down, without the

governor, and went through the bills and determined which they'd recommend for signature to the governor and which they wouldn't. Very sensible decision; I'm sure the governor took part in the major bills. Probably sat with them.

Well, this was a major bill, but I also had a dear friend in the Resources Agency, Ike Livermore. He was the head man, and he and I were very close.

LAGE: He's from Marin County.

BEHR: Yes, he is. Of the old Livermore family, one of five brothers. And that probably helped a good deal. But I also was a Republican, and even then, while some of the gloss had worn off, and there wasn't much gloss to begin with, it made a difference. I'm sure that Collier and the governor butted heads from time to time because both of them were very stubborn.

So that's how it works. And then, it goes to the governor. You feed a letter in to the governor on your bills, describing as briefly and succinctly as you can why it's a good bill and why he should sign it, and that goes through to the file and is reviewed too. Anybody else can do the same thing for or against it. But we won out, and this began to develop into the same kind of play that was evident in the recorded roll call vote.

I began to move out, and my helpmates did, to get editorial support. We got all the major newspapers. We got the city of Los Angeles, we got the county of Los Angeles . . .

LAGE: Hm, despite the water . . .

BEHR: Despite the water, we got them. The sportsmen were indefatigable. We thought we'd lost, because at the early stages of the second year, Joe Paul had a heart attack and died. [Snaps fingers] Just like that. It was a personal tragedy for all of us, and we felt we couldn't move it without him. But we rallied around, and [Richard] Dick May took over. He was head of California Trout. And we just moved on. So it lived to be in his honor and in his memory and so forth, and indeed it was.

LAGE: What about the assembly? Had they come along?

BEHR: Yes, the assembly came along. But I'll tell you what, that reminds me, and I'm glad you asked. Another trick Randy did was, he refused to set the bill for hearing in the Senate Finance. He knew we had the votes, and he just said that he was going to do it, and he certainly intended to do it with ample time. But he was running us out of time, so the session would be over before we got it through. He damn near succeeded, because we raised such hob with the Rules Committee and publicity and so forth that he finally had to give us a

hearing.

Well, we had so little time that when we went over to the assembly, we were in desperate need of help. Leo [T.] McCarthy, who was a close friend of mine and was then assembly speaker after Moretti, took over and pushed that bill through the committees. On the last night of the session, which is crazy night, and these bills were just all over the place; you can only pass a certain number, and when the big clock stops at midnight that's the end of the session. He personally presented the bill to the assembly at the last moment. So without his help, we never would have gotten it through. And it went right through; he had the assembly in hand.

So that's how it happened, and really he deserves a lot of credit.

LAGE: And then Collier's bill went right through, too, or had it already gone through?

BEHR: His had gone through, oh, yes.

LAGE: Because he had passed it out [of the Finance Committee].

BEHR: Yes [Laughter] he passed his own bill out.

LAGE: Did that happen very often, that two bills so similar are sent to the governor?

BEHR: No, it's a very rare occasion. Usually one of them is beaten in

conference, and that does away with the differences. But this was a stubborn. . . . nobody was going to vote against either of them. And I kept saying, "Well, you can vote for his if you'll vote for mine." So they moved through. And it was his district, you know. He played that game to the fare-thee-well. Wily old man.

LAGE: Now, how was the personal relationship with Collier during all this? Was it all very cordial, or . . .

BEHR: Respectful. I was respectful, and he was reasonably cordial. He'd been around; he wasn't taking personal affront. No, he'd been all through that game, and he wasn't one with a short. . . . well, he had a short fuse, but not with his colleagues. He was really something. He married late in life and had a baby; everybody teased him about it. I mean, he must have been close to my present age of seventy-three.

LAGE: Goodness.

BEHR: [Laughter] You know what men are like.

#### Protection for the Tule Elk

LAGE: We're going to talk about the tule elk. When was the tule elk legislation? Was that early on?

BEHR: I have a list here of all of them, but it's fairly early. It was in 1971.<sup>1</sup> At the time we put the bill in, there were 292 tule elk in the Owens Valley of southern California. They were exotics there; they'd been sent down there from the only two that were discovered on the Lux and Miller Ranch in the early days. They were all gone, and they thought they were extinct.

LAGE: And they had been very prominent.

BEHR: There had been 500,000 tule elk roaming the entire state, most of the state. They were the dominant animal on the landscape, and they'd been shot out before the gold rush for their hoofs and hides and meat; like the buffalo, they just simply disappeared.

The legislature knew this was happening way back then, and they tried to stop it but they couldn't because they had no enforcement power. So some years later, two tule elk came out of this Lux and Miller Ranch from the tules in San Joaquin Valley. They were the last tule elk in the world, as far as we know. And only with ungulates, hoofed animals, can you reproduce and grow from small numbers. Almost all other animals, when they reach a certain number, are extinct, even though they're still alive in a small

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<sup>1</sup>S.B. 722, 1971 Reg. Sess., Cal. Stat., ch. 1250.

number. That's what happened to the passenger pigeons.

Anyway, the Department of Fish and Game had been issuing permits to reduce the tule elk in the Owens Valley. Every time they got to 250 or so, they'd issue a permit for fifty, and then--it was very unsportsmanlike--they'd take the hunters out with game wardens in jeeps to shoot these tule elk. They charged a lot for getting into the lottery.

[End Tape 4, Side A]

[Begin Tape 4, Side B]

LAGE: You mentioned they charged a lot. Did they see this as a way of funding their programs? Was that part of it?

BEHR: Well, the tule elk. . . . the Fish and Game Department was strongly in favor of sportsmen. Especially hunters, and fishermen. If the hunters wanted to shoot if anything moved, they'd give them a permit. At least, that's the way I felt about it, and I still do. Witness the mountain lion situation. But in any event, this bill came to me through Beula Edmiston, and she was perhaps the most important single person in the whole history of the tule elk, because she fought hard to preserve the tule elk. They had a committee. She worked with great skill and diligence at the state and federal levels to do something about the tule elk.

So I put this bill in for her, and she did all my lobbying for me. She was better than any lobbyist I ever knew. We'd get a note, "See so-and-so, he's wavering, but I think you can contact so-and-so. Don't worry, this man's safe." She was fabulous.

Well, the Department of Fish and Game and [Director of the Department of Fish and Game Charles] Charlie Fullerton originally opposed this bill, because it was an affront to their department.

LAGE: What was the bill providing for? To end the shooting, or to translocate?

BEHR: The bill amended the code, fish and game code, directing the department to seek suitable areas for relocating tule elk and required them to transplant these elk to these areas and make biannual reports to the legislature as to how they were getting along in this transfer. And we'd had to put a total population figure on, because we were forced to do it. So the bill set a total population goal of 2,000, prohibited hunting until at least the number reached 2,000.

LAGE: When you say you had to put that figure in . . .

BEHR: We were forced to by the department. They got to the governor, and it was pretty . . .

LAGE: I see. So you get the word that it won't be signed . . .

BEHR: Yes. And the word was pretty clear that I'd have to do it, and so I

did. But that seemed like a large number at the time.

LAGE: From 250.

BEHR: That's right. These tule elk had already been classified as an endangered species, and so I thought we could do something, largely because diversity is the greatest single safeguard in terms of making sure that you don't have the plague, or disease, you don't have a long drought that will ruin their forage, you don't have wildfires and things of this nature. If you separate, diverge, and so forth. So it's sort of a strategy for survival. We had a great deal of backing through Beula and others.

LAGE: Did Beula have a group she was working with, or did she form a group, or was she a one-woman show?

BEHR: Oh, no. She formed a very potent group called the Committee for the Preservation of the Tule Elk. She worked on this for years and years, so she was a familiar figure.

LAGE: So she'd been doing background before '71, it sounds like.

BEHR: Oh, yes. Oh, indeed, yes. She'd been at it for years and years. We had an interagency task force survey federal holdings and determine where these deer could be transferred. Point Reyes seashore was one mentioned at the time. They couldn't claim that there wasn't a place for these tule elk to go.

So we fought this through, and finally were successful, and we even had the department shifted around where they said they'd become neutral on the bill. We put the bill through, and it became law; it was signed. The transplanting began. Now, the numbers almost reach 2,000, and the Department of Fish and Game is rubbing their hands together. They can't wait.

LAGE: Where are they going to go, out to Point Reyes to shoot them?

BEHR: I don't think so, but there has been some talk about shooting even in Point Reyes, at one time or another. But I don't think they will.

On the other hand, if they start to exceed their range, we gave authority to cull, which simply makes sense, if they're overgrazing their range. And if there are any diseases, they had other privileges, but by and large the bill has worked. But that's been some time now. They are the smallest elk in the world. They only weigh about 250 pounds. They eat far less than a cow, although they look very large, with their beautiful racks, the males. The thought was they were dangerous during rutting season, which is absurd. They're not dangerous at all.

LAGE: Aren't they out on Pierce Point?

BEHR: You betcha.

LAGE: It's a thrill to see them.

BEHR: Yes, it's exciting to see them. Of course it is. Well, that was a good bill, and I enjoyed carrying it.

LAGE: Did Ike Livermore enter in on that at all? Did you . . .

BEHR: No. I never went to Ike for that kind of help.

LAGE: OK, that's what I was wondering.

BEHR: This was one of the departments under him. I figured that he knew where I was, and he reviewed them all. No use badgering him. He may have helped me; you never can tell, because he was in a position to do it, of course. He was in the cabinet and a true environmentalist.

LAGE: Was that one difficult to get through?

BEHR: No. It took time and lobbying, but. . . . You see, the groups behind the bill make it possible or impossible. If you stand up before a committee and turn to your first witness and you've got nobody there, you can tell the committee, "This is the greatest bill in the world," they'll instantly respond, "Next bill." They don't want to hear from you and your opinions; they want to hear from your witnesses.

But if you know how to build a constituency behind a bill--it takes timing and persuasion and outreach--you can go a long way. Of course, you can be beaten; I guess I've been beaten more often than I won. But that's the luck of the game.

The really tragic part is a constituent who comes up, desperately anxious about one bill, and it's like putting all your money in the middle of the table. The bill fails, and they never recover. But if you're playing the odds, it's like a batting average, and you can take comfort in the fact that one went down, but maybe you'll swing again next inning. But constituents can't, if they have a special problem. It becomes very discouraging. If they feel they've had a fair shake, you know, that's one thing. But if they feel that they've been blindsided, they never recover.

LAGE: Did you have constituents who had trouble understanding that amendments had to be made, and compromises . . .

BEHR: Oh, yes, sure. When you run for office, you run on the left or the right, because that's where people are who will help you the most. They're probably more extreme than you are, but without them, you'll never get into office. Then you've got to start to vote, not just on their issues, but all others. They have opinions. They figure you've sold out. They don't know what the price was, but you couldn't possibly betray them in this manner. And they're outraged; they turn their backs on you.

So I think if you're going to stay in office and do a good job, you're always moving toward the center. Although the center's no

place to run from, because nobody in the center cares that much.

LAGE: Interesting. Did you have trouble with environmentalists in that way? Or did you not have to compromise that much? But I've heard of other occurrences where some of them couldn't understand the need . . .

BEHR: For compromise? I'm sure that's true. The key to compromising is to do it as late as possible and as little as possible at the time. If you're ready to give away the store, everybody knows it, and they'll compromise you to death, and you won't be carrying the bill you started with. So you have to be tough and just take your lickings if you lose a bill.

#### Hearing Aid Prescription Bill

BEHR: I had a bill go through that I cared a lot about, worked two or three years on. It got through the final committee on the assembly side, and they'd gutted the bill on the Ways and Means Committee. I refused to take it up on the assembly floor. I just said, "The bill's dead." But it's a heartbreak.

LAGE: What was that one?

BEHR: That was a bill that might interest you. It was a bill that would require, for people with hearing problems, a prescription, either from an audiologist or an otolaryngologist, before a hearing aid dispenser

could sell a hearing aid.<sup>1</sup> The Friends Committee [on Legislation of California] put that bill together, lobbied desperately for it. I got that bill up to the Ways and Means, and it was lost by an amendment. The hearing aid dispensers had never been challenged before, but they quickly got together and got a war chest. They had a member of the Health Committee on the assembly side, and they set up a campaign dinner for him [Laughter].

LAGE: So that does work!

BEHR: That worked. I got through that committee just the same. But they were indefatigable, and outraged. And of course, it's the only serious health problem that is being handled by laymen, hearing aid dispensers, who enjoy a profit if they sell you a hearing aid that is more expensive. I called [Francis A.] Fran Sooy [otolaryngologist and chancellor, University of California, San Francisco], and asked him about it before I took the bill. He said about three out of four of them are absolutely worthless and are found in dresser drawers, that people have tried and just thrown away. And they have half of these. . . . Well, half, I'm not sure that's true. A large number of licensed or registered hearing aid dispensers have never taken the

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<sup>1</sup>S.B. 173, 1975-1976 Reg. Sess. (1975).

license exam. They are given temporary licenses, and they were going door-to-door with older people trying to sell them hearing aids. It was a wicked scandal; still is. Most of them are no damn good.

We proved there are ample number of audiologists, all through the state; we had a big chart showing where every audiologist in the state was, because they said there are not enough, and these poor people need hearing aids. But there were enough.

LAGE: I seem to remember that.

BEHR: We had quite a time.

Bay and Coastal Issues and Staff Member Bill Press

LAGE: OK. Back to the environment. We were going to mention BCDC [San Francisco Bay Conservation and Development Commission], which you said wasn't a terribly significant assignment for you, but I just wanted to. . . . you had been the local representative [as Marin County supervisor].

BEHR: Yes, I had been for two or three years, and played a very active part. But when I was assigned to the same position for the state, I'm rather sure it was a non-voting position, sort of an honorary one, and I was too busy to do much about it.

I should mention that [Melvin] Mel Lane, who was a dear friend of mine, was chairman of BCDC throughout its existence until

he took over the chairmanship of the [California] Coastal Commission when it began, and stole [Joseph] Joe Bodovitz away. And he's had the most fabulous career, the best chairman I've ever served under.

LAGE: That might be something we could talk about if we go more deeply into your Marin County work, because I think that would be an interesting story.

BEHR: Oh, sure, another time.

LAGE: OK. Let's turn to coastal legislation, which was over a period of years.

BEHR: Yes. I was interested in it, but didn't play a significant part. When the one that passed [Proposition 20] was being so battered about with misrepresentations, Bill Press came to me and asked if I would let him go to take over the PR [public relations] on it for the state. I was worried for him, and I was worried for myself, because that wasn't quite the role that the general public expected in terms of an administrative assistant, a staff man.

So I told him that if Moretti agreed to release his man, I'd release him, but I wanted some cover. [Laughter] So he got Moretti to release somebody from his staff . . .

LAGE: To work on the same thing?

BEHR: To work on the proposition, sure. So then I figured, nobody's going

to go after Moretti; they won't go after me anyway.

So Bill went down and did a hell of a job. He's an exceptionally able person.

LAGE: And he did PR on the '72 initiative?<sup>1</sup>

BEHR: He ran the PR for the state. I'm sure he had a great deal to do with its finally winning.

LAGE: We actually didn't talk about the fact that he was on your staff.

BEHR: Oh, didn't we?

LAGE: We talked about him as your campaign manager.

BEHR: Oh, precisely, and then after that, he came with me as my top staff person, and because the district was so large, I was allowed an extra person too. So he stayed with me for a couple of years, and played a leading role in S.B. 107.

LAGE: What kind of things would he be doing as your top staff person?

BEHR: Everything that was done in the office, he was in charge of. He gave me advice, he lobbied other staff persons all through the assembly and the senate, and he. . . . if he were a disease, he'd be the most infectious one in the world. Everybody would catch him, because he has an enormous outreach, and great charm, as well as being very

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<sup>1</sup>Proposition 20 (November 1972)

smart.

He left me almost by prearrangement after a couple of years, and he took over as executive director of the Planning and Conservation League. Then he went on to the . . . when [Governor Edmund G.] Jerry Brown [Jr.] came to office, he was in charge of the Office of Planning and Research, which was a big job. He carried that out with great skill and success. Then later, he's become an announcer down south, he's on Channel 7. Ran for the U.S. Senate, unsuccessfully.

#### Setting Limits on the Herring Catch

LAGE: OK. Now, here are some more fishing issues coming up.

BEHR: Oh, the herring catch.

LAGE: Now, these didn't involve. . . . did they involve sports fishermen at all? Or this was dealing with the fishing industry? Poaching striped bass and limiting the herring catch?

BEHR: Well, the poaching was just statewide. . . . you want to talk about that?

LAGE: One at a time.

BEHR: Well, that's all right. We'll talk about the herring problem.

Herring had always been protected by law because they're not allowed to be ground up for fish meal, and they had to be sold

BEHR: intact. There wasn't any real market for herring intact, and they weren't capable of being canned. They tried this, but they couldn't be canned; it just wasn't successful.

So I got a call from the Department of Fish and Game one morning, an urgent call. What had happened was this: the Japanese have a fancy dish called kosimoko. It is composed of herring roe, among other things. Their herring run had failed, and this is a very prosperous, or profitable, venture, to make this kosimoko for the holiday seasons.

So they'd come over and entered into contracts with a number of our commercial fishermen to scoop up our herring, and they intended to (and in fact they do) send it whole to Japan, open it up, extract the roe, and send the rest of the fish on to Korea.

So all of a sudden, fishing boats were descending on San Francisco Bay and Tomales Bay, the only two places on the California coast where herring spawn in any quantity, from Bellingham, Washington, to the north, and from San Diego from the south, and they were just moving in on all these herring who spawn usually toward the end of December and January. So they all come together, and they spawn in the bays, unlike sardine and anchovy.

So in any event, I got this urgent call. They said the boats

were coming, and we had no way of stopping them. They wanted a bill through in the most urgent way because they only had a few days. They came to me, although we [Laughter] . . .

LAGE: You had not been together in the past!

BEHR: No, we hadn't. So I said, "Fine, let's go," because Tomales Bay was in my district, of course. San Francisco Bay also, to some extent. So I put this bill in, S.B. 67, on January 16, 1973,<sup>1</sup> and I had an urgency clause in it, and I got Rules Committee to waive all the rules. We waved the American flag for the poor fish. In seven days from introduction, it was signed by the governor. They ruled it down by special messenger to San Francisco and Tomales Bay, and when these boats came to the entrance, they were stopped by the Coast Guard patrol boats, and said, "A new law is on the books." It set a tonnage on each bay.

And then as time went on, after that crisis was over, the Fish and Game people wanted to set their own tonnage based on a survey of the yearlings, so to speak, the small herring. I very reluctantly agreed to that, because I didn't trust them, and my reluctance, I

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<sup>1</sup>S.B. 67, 1973-1974 Reg. Sess., Cal. Stat., ch 2 (1973).

think, was based on good evidence.<sup>1</sup> I don't trust them yet, unfortunately. But the herring have been holding their own pretty well, and the difficulty is trying to. . . . they have to go by lottery now for the persons who are allowed to fish for them, because there are so many boats wanting to get in there and make this money. And the herring run has never really come back in Japan.

LAGE: So you had the commercial fishermen probably up in arms, I would guess.

BEHR: They were cross, but there were very few commercial fishermen who bothered with herring here. They were competing with a whole chain of commercial fishermen north and south. They weren't happy, but they lived through it. They made a lot of money, too.

#### Preventing Poaching of the Striped Bass

BEHR: Now, the striped bass poaching was another story. An old gentleman, must have been seventy-five or eighty, was with Marin Rod and Gun Club. He'd heard about this poaching and was very disturbed. So he asked me to convene a meeting in my office in San Rafael with the Fish and Game people, sport fishermen, the clubs, and everybody I could think of--commercial fishermen--to try to find

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<sup>1</sup>S.B. 502, 1973-1974 Reg. Sess., Cal. Stat., ch 2 (1973).  
S.B. 1703, 1973-1974 Reg. Sess., Cal. Stat., ch 19 (1974).

out what could be done about it.

We learned then that a law had been passed permitting the importation of striped bass--which were only allowed to be taken by sportsmen in California--for sale by fish markets. And what Fish and Game had done was to give a little certain number of these little seals, metals seals, which you'd put into the lip of the imported fish, so they could then be sold to the commercial fish markets. But we found at this conference that these were being duplicated and sold for \$5 per hundred on the waterfront. It turned out there was a very large poaching ring, which Fish and Game admitted, using all sorts of tactics--scooping up stripers and putting these tags in their mouth and selling them.

We learned it from one man, who had done this for two or three years, but now the fish markets had so many striped bass that it wasn't profitable anymore, so [Laughter] . . .

LAGE: He was ready to blow the . . .

BEHR: He was ready to blow the whistle. So the Fish and Game didn't want to [ban importation]. They said they were going to change the seal, make it a more distinctive, better seal. I said, "Well, that doesn't satisfy me. We'll just have a bill to repeal that section, so that no striped bass can be imported. That's the simplest solution to

get rid of the poaching." They fought me every step of the way.

LAGE: Now, who were they representing, that they would fight you over that?

BEHR: This was their domain, and I was stomping on it, and they were very jealous about it.

LAGE: The sportsmen were on your side?

BEHR: That's right. I just--I don't know. Charlie Fullerton and I went to the mat from time to time. They were a very political department. I don't know the answer, except the department originally was in the grasp of the fish packers, and when these top people were coming up, anything that they wanted, they could have. I think that colored Charles's thinking somewhat. A terribly able administrator, he was.

We finally got to Ways and Means, and it was tough going. I had a charter boat captain whose name escapes me [Clifford Anfinson]. He ran the Bass Tub out of San Francisco, which carried people fishing just for striped bass. He sat down as a witness, and he looked at this double roster, because it's the largest committee, and he knew at once that he was at home. He was the kind of a witness that would be at home anywhere; in Hell or Heaven, he would be happy. He was so obviously knowledgeable and so hands-on that the biologist from Fish and Game never had a chance. Pretty

BEHR: soon, the questions were coming from the committee, "What's the best way to catch striped bass?" and "How do you do it?" and so forth, and he was just giving a lesson to a bunch of children.

[Laughter] They were just so eager to hear him, and he was telling it as it was.

Finally, they said, "Well, where do you go?" "Well," he said, "I can't speak about where the stripers are right now. I've only been doing this for sixteen years. But they always used to be in San Francisco Bay, where we took our charter party. We always caught lots of stripers. Past several years, there haven't been any striped bass in San Francisco Bay. We had to go out in the ocean to try to find them, but they're being ruined." And then he went on to describe this tag, and there wasn't a dry eye in the house.

[Laughter]

Some witnesses just have this immense come-hither, and I knew I'd found the ultimate. Well, after we'd won the bill and had it signed by the governor, my ladies in my office decided they'd all go out on Captain Anfinson's charter boat. So they all went out on the Bass Tub, and for this I managed to get an engrossed and enrolled copy of the act, signed by the governor and the secretaries, and it looks very impressive with the big seal of state on it, and we put a

frame on it. I said, "Look, ladies, take this and put it in his wheel house. He'll enjoy it."

So they went, and they won all the kudos that day. They beat all the old hands, won the pools. So that was fun.

[Discussion deleted]

#### Opening Steep Ravine to the Public

BEHR: In [Mount] Tamalpais State Park, at the bottom of the Steep Ravine trail, there's a flat that reaches out to the ocean, on which are six or eight little cabins which were put in there by the Kent family for their friends. So they were leased for a very nominal sum, and they'd been there for a long time. After the State took over, my predecessor put in a bill which automatically renewed on a year-to-year basis the leases on these cabins at the then price, which was twenty or thirty dollars a month, or less. It was in perpetuity, so these persons were given this privilege on state land forever.

Well, I heard about this, and the bill was originally given to [Assemblyman] Willie [L.] Brown, [Jr.] or the idea, by one of his staff.

LAGE: Now, when was this?

BEHR: This was back in 1972. So I put in S.B. 682,<sup>1</sup> which simply deleted the provision requiring the leasing of these buildings, and the renewal of such leases, wiping it off the books. So then, I found out why Willie Brown had refused to run this bill through. Because it seemed to me after a short period of time that everybody on God's earth had enjoyed the use of those cabins at one time or another from the lessees. They'd say, "Well, why don't you take my cabin for the weekend?" And they had a caretaker in one of the cabins to keep everything nice. They had their own little beach down below on the bluffs. It was really a lovely set-up.

But it was wrong, mind you. And they were all well-to-do people.

LAGE: They were wealthy Marin people?

BEHR: Mostly San Franciscans. Willie Brown saw the light long before I did. I didn't realize it; this was just a little thing.

I began getting telephone calls from everybody saying, what am I doing? "What are you doing with this?" And I kept saying, "Well, you know, it's not right, and I'm just taking it out."

"Well, why bother?" Harold Gilliam [environmental journalist]

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<sup>1</sup>S.B. 682, 1972 Reg. Sess., Cal. Stat., ch. 540.

called me, of all people, who was a dear friend of mine. [Secretary of Defense Caspar] Cap Weinberger called me from Washington, D.C., because he was head of HEW at the time. And a lot of other important people. My assemblyman, Bill Bagley, met me on the street and read the riot act to me for being so intransigent with such nice people. I told him it seemed wrong to me. The bill went through against the wishes of everybody, largely because everybody knew the story and knew it was rotten, and they regretted the bill was going through, but they had to vote for it.

But finally we got to the Ways and Means, and Bagley sat on that. So he put in an amendment from Ways and Means, moved an amendment, which would have in effect deleted this effort. But he hadn't realized that the Natural Resources and Wildlife Committee, the policy committee on that side, had heard the bill, knew the story, and knew it was rotten. There were a lot of members who sat on both committees, and so the motion failed. That bill became law, and the governor had to sign it.

[End Tape 4, Side B]

[Begin Tape 5, Side A]

BEHR: He didn't want to sign it. And years afterwards, there were ways to get rid of the cabins, and money was put in the budget to burn them

down as a nuisance, public nuisance.

LAGE: The same people . . .

BEHR: By this time, the department was angry, and so they got this into the budget. The Department of Parks and Recreation. Then they had a little game next year, I always tipped off the press, and so the thing was rotten. So when it came out, they couldn't do anything. Next year, they decided that they really ought to go to concessionaires, those nice little cabins. And the concessionaires were composed of all the former tenants, who wanted to bid on the cabins again! [Laughter] So this was disclosed by me. Those cabins now are being used by the general public, and it's kind of nice. So that was an amusing thing. They'd sneaked this bill through in the dark of the night some few years ago. I'm not sure it was worth the effort, but it was a lot of fun.

"There were thirteen private cabins built prior to the formation of the park. Access was by a locked gate, to which only the cabinholders had keys. And they have to pay \$41.60 per month for leases--an amount which can never be increased by the terms of the code section. Other cabins currently return \$6500 per year to the state. By opening opportunities for use of cabins to the public, there may be substantial gain in revenues for the state."

LAGE: Why did the state parks object to it--to opening it up? Or why did they want to get rid of the cabins later?

BEHR: As a matter of fact, the truth is that I was mistaken, because I notice that in support of this is the California attorney general, California Parks and Recreation, and the Marin County Board of Supervisors. The opposition was not known. So I was mistakenly saying that. But it certainly got a lot of opposition. It was fun.

Freeways, Bicycles, Dogs, Mudslides, and Exotic Animals

LAGE: We have a couple of other little short ones we might go through here. You've mentioned deleting Highway 29 through Sonoma.

BEHR: I mentioned that.

LAGE: But we didn't really talk about it in any detail. Do you want to . . .

BEHR: Sure. There was a freeway through the heart of the Napa Valley, from the town of Napa to the border, and it went through the finest vineyards imaginable. The upper Napa Valley didn't want this freeway to be built--extended. They were thinking of putting another two lanes on it. And yet, there was a good deal of opposition in the county to deleting it, and in fact, freeways aren't deleted from the list of freeways, as a general rule.

This was a section of about twenty miles or twenty-one miles long, and enlarging it would have taken forty acres per mile. So we

were saving 800, 900 acres of prime agricultural land for grape-growing. And yet I had problems trying to get the cities to come along. So we had a poll taken, very unscientific poll, mostly from the upper Napa Valley I think, and it showed an overwhelming lead for the taking away of this freeway designation.

So I published this poll, the results of the poll, and every time I got before a committee, people would say, I had a few people testify, they would say, "What about your cities? Where is the county board of supervisors?"

I said, "They've all been notified. I'm sure if they were opposed to this, they'd be here." [Laughter] Of course, they were scared because of the poll, and in the end, we pushed that little mother through, and it was signed.<sup>1</sup> I think they've been happy ever since. You don't want a big freeway rushing people through the heart of a lovely area.

LAGE: It would make a big difference. I had said it was to be through Sonoma County, but it was Napa?

BEHR: It was Napa. Yes. Through the vineyards of the Napa Valley.

LAGE: OK. And then you had mentioned the Bicycle Recreation and Safety

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<sup>1</sup>S.B. 158, 1971 Reg. Sess., Cal. Stat., ch. 998.

Act. Is that in the earlier years?

BEHR: Yes, I'll tell you about that. [Looks at files.] It's an act to add article 65 (commencing with section 5078) chapter 1 of division 5 of the Public Resources Code, and to amend sections 21116 and 21207 of the vehicle code relating to bicycles.

LAGE: But what was it really?

BEHR: Well, it gave authority when a subdivider was required to dedicate roadways to the public, it also gave cities and counties the right to require him to dedicate additional land for bicycle paths, for the use of residents. And also, no cities or counties or local agencies could abandon any right-of-way until the governing body determines it's not useful as a bicycle path.

LAGE: Now, how does a bill like that get support?

BEHR: Well, it was not a controversial bill. Nobody had ever really tried to clear up the problem of bicycles, and bicycles were getting more and more . . .

LAGE: Was there a particular group that was pushing for it that brought it to your attention?

BEHR: I don't think so. We also put in a requirement that the Department of Motor Vehicles would include uniform signs for bicycles in their drivers license examination, and also that all bicycle paths should be

clearly and adequately marked on the ground and by signs. And except in emergency, no vehicle other than a bicycle could be operated or parked upon a designated bicycle path.

So, in a sense, it seemed like a technical bill. On the other hand, it was needed, I think. The bill also calls for a uniform sign to designate bicycle paths, and provides that their presence be clearly marked for the motorists.

LAGE: This was 1971, I see.

BEHR: 1971, yes. So it was, I guess, an environmental bill itself.

LAGE: Well, it is. It cuts down on auto traffic, to a degree.

BEHR: Well, it was, because there was no law that they couldn't park on bicycle paths or drive over them at the time.

LAGE: OK. Well, I think that this is a good time to stop, unless you have more that you want to . . .

BEHR: Well, here's a little fellow. S.B. 1050 required the sheriff of every county to maintain a directory of dogs trained in search and rescue.<sup>1</sup> Do you know about that?

LAGE: No.

BEHR: Well, we had a pack of dogs in Marin County that were exceptionally

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<sup>1</sup>S.B. 1050, 1971 Reg. Sess., Cal. Stat., ch. 1038.

competent in looking for lost children, and things of this nature. They were trained by teenagers who ran them two or three times a week, with cloth and whatever the scent was. And there were other trained dogs in the state, but nobody knew about them. Nobody knew about this particular pack of dogs. And so we required a directory by every sheriff as to where these dogs were located, so that in a search and rescue you could call up, and they'd come screaming to the rescue. Dogs could do what people couldn't, especially with small children. So that was just a little fellow.

LAGE: Well, it's interesting to see the balance of your work, how some of it, the dramatic big ones, and then there are a lot of small . . .

BEHR: Oh, one of the things that you won't believe, it's an entirely different . . . . Senate Bill 1053 [1971]. The state was really guilty of not paying their liquidated claims to cities, counties, or districts, and using the money for float so they could keep getting the interest. Even if the claims were liquidated. And it became very difficult for cities and counties, because in the first place, getting money from the state is hard enough. If there's a liquidated claim, you depend on getting paid.

So I put a bill in that all such claims would carry 6 percent interest commencing 61 days after the filing of the claim. And that

bill became law, and they had no problems after the interest was added to it. [Laughter] That was a small bill.

Now, here's one that's important, and I'm proud of that. The Senate Bill 591, chapter 348 amending section 65302 of the Government Code relating to planning. It added to the general plan required to be adopted by all cities and counties an appraisal of mudslides, landslides, and slope stability, which were not in any of the general plans. And that was caused because we have so much slipping and sliding, and the worst county is Contra Costa. And people were building, and their house would run down the hill. Nobody was paying any attention. Geologists can readily locate these areas which were at risk for mudslides or landslides or slope stability. And so we got that into law, and I felt that was a step in the right direction.

LAGE: Who had come to you with this idea? This isn't something that your own background would necessarily bring out.

BEHR: Yes, sir, because I had all that planning commission background, from the board of supervisors.

LAGE: I see. So you knew of it as a problem in Marin, and . . .

BEHR: Oh, yes. Yes, I also had Harding and Associates as one of my clients, which is the leading firm now in this field.

LAGE: I see.

BEHR: So I learned from [Richard] Dick Harding the problems. So that was a good one.

LAGE: That's been in the news now, they're talking about landslides as being a bigger problem than earthquakes in California.

BEHR: Oh, yes. Yes, they're a terrible problem.

I had a funny bill, if you're not tired. Senate Bill 1766.<sup>1</sup> There were all sorts of these people who import and possess all sorts of exotic animals, whatever it is that they can get their hands on to satisfy them, whether ocelots or whatever. These animals inevitably died, because they had either no place to keep them, they didn't know how to feed them, or they didn't take care of them. So I required a permit from the Department of Fish and Game for the importation or possession or the transportation of any wild animal in California, Senate Bill 1766.

That worked out very well, and Fish and Game went along with it. Gave them more work to do, but they were very strict about these permits. So if you were going to have any wild animal, you'd have to prove first of all that you had a place to keep it that was

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<sup>1</sup>S.B. 1766, 1973-1974 Reg. Sess., Cal. Stat., ch. 1503 (1974).

proper, you knew how to feed it, you knew how to take care of it, and you had some reason for possessing it. So that became law.

I had all the zoos in hand, and they had all signed off on it, because I was scared to death that we'd get all the zoos coming in, because they import wild animals and so forth. I was sure I'd satisfied them. Well, next year (I guess it was the very next year), '75-'76, I had to put in a cleanup bill, Senate Bill 1899,<sup>1</sup> clarifying the procedures for the possession and transfer of wild animals by zoos, and also who needs permits to possess wild animals. They all started to throw terrible fits; the San Diego Zoo and others didn't agree on the bill, and then they all wanted some changes in it, but they all wanted different changes. [Laughter] I had all these zoo people coming to me, I said, "Oh, here all you nice fellows had signed off on this bill."

"Well, we did, but after all, it's a very important bill for us, and there have been all sorts of problems with it, and loopholes . . ."

LAGE: So they had to get permits also.

BEHR: No, they didn't! They thought they did, and they didn't think they were being properly handled, or some damn thing.

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<sup>1</sup>S.B. 1899, 1975-1976 Reg. Sess., Cal. Stat., ch. 796 (1975).

LAGE: Or maybe it affected people who got animals for them.

BEHR: I think it may have; I'd have to get the file to tell you. But I said to them, "Now, look. I'm happy to put a bill in, but I'm not going to hang around trying to be an arbitrator between you people, because you know infinitely more than I do. So when you get your act together and all agree on an amended bill, let me carry it." Which I did; no problems. They knew they had to do it. And that was a fun bill, and that's still in effect, and I think that was a good bill.

LAGE: OK, now I'm going to break off, because I think . . .

[End Tape 5, Side A]

[Session 3, December 14, 1988]

[Begin Tape 6, Side A]

VI. CAMPAIGN FOR REELECTION, 1974

Effects of Redistricting

LAGE: We were going to start with talking about the redistricting process and the redrawing of your district in particular.

BEHR: Well, the redistricting process is both exceptionally political and exceptionally traumatic. The only really safe districts are the ones which are filled by the reapportionment committee members. The purpose, of course, is very clear: each party tries to gerrymander the other party out of office, as best possible, and draws districts which have to be seen to be believed.

And then, almost inevitably, after the districts have finally been drawn at a cost of two or three million dollars, because they bring in all the experts to talk about census tracts and so forth, it usually goes to court. And in this most recent one that we're discussing, following the 1970 census, the court simply appointed some old retired judges

who decided to start again. They came up with an incredible result, which meant that many districts were not represented at all for two years, including District 1, which, I guess, is the largest single geographical district in the state. It comprises everything east of the coastal counties, all the way to the Nevada border, and all the way up to Oregon, and all the way down almost to Sacramento. Fifteen rural counties.

LAGE: And they ended up with no representation?

BEHR: They had no representation for two years, because [Senator] Fred Marler [Jr.] in effect was districted out of office. Now, Randy Collier had two counties of the fifteen, the county of Siskiyou, and Trinity County. Those had been a part of his then-district. But since he came from Yreka, he had a choice of staying in office for an additional two years and running in the new district, or the choice of moving to the new District 1, which comprised a good part of his former empire, and running against me.

This was a matter of some trauma, because I announced before he did, which I always like to do. If you take the offensive, at least you have a clear-cut indication to him that he'd better count his chickens before they hatch.

So he did some polling, and he went down to Marin County

and talked to the publisher of the Independent Journal and many other Democrats, leading Democrats, and later decided that he would stay in the new district and run two years from then. People say he was scared, and I don't think anybody could scare Randy, but he was 71, he had a new wife, he had a six-months-old daughter, and he realized that he would be in for a lot of campaigning, particularly in Marin County, which he didn't know at all well. So he took the other option, which pleased me.

One of the reasons he did was that Fred Marler had announced that he intended to retire, and he had a good chunk of that district. So that meant that Randy wouldn't have any stiff competition, at least not as it appeared at the time. So that was very good, and very helpful to me, because about 45 percent of the district, the new District 2, was composed of counties Collier had represented, excluding the ones that went to District 1. They were Del Norte, Humboldt, Mendocino, Lake and Sonoma County.

LAGE: And those became part of your district.

The Primary Campaign--Collecting Endorsements

BEHR: Those became part of my district. That was a great break for me. After that happened, we had a fellow named [Robert] Bob Theiller, and he had been a Republican for some time, was on the board of

supervisors of Sonoma County, representing the coastal part which was in the new district. He formerly was a realtor and had gotten out of that business, but his wife and his father-in-law had a large real estate business. He was quite development-oriented, as you can expect.

At the same time, there was another gentleman whose name escapes me, can you wait just a moment?

LAGE: Sure.

[Interruption]

BEHR: The other gentleman who declared his intention to run was a Byron J. Rowland of Dos Rios, who was chairman of the Mendocino County Planning Commission. And of course, this pleased me no end, because I could see myself in the same position I had been in, with two staunch Republicans splitting the vote, and I sailing between the Scylla and Charybdis of their division.

However, this time it wasn't to be, because they decided that they wouldn't do that. So they called a Republican caucus in Ukiah, including Republicans from every county in the new district, and agreed that they would abide by the results of the opinions of their people they'd put into this conference. I wasn't invited to it, needless to say, and they had some central committee members there, which

was strictly against party rules in the primary, of course, as you probably know.

LAGE: Well, explain this, so we do know.

BEHR: Oh. Well, if you have a primary race, the official county central committees, state central committees, and the party structure are not supposed to ever play favorites or take sides under any circumstances. This is a free fight.

LAGE: Just be neutral.

BEHR: Just be neutral. So they had some committee members from Mendocino County there, but the chairman said they were just observers. [Laughter] In any event . . .

LAGE: What about the Marin County people, the central committee?

BEHR: I never knew whom they brought up, and don't to this day. But it was determined that Theiller was the man, and so that was a little setback, because now I'd have to run directly against only one staunch Republican. And he was staunch Republican; he took exception to a number of positions I'd had.

LAGE: Did this become an issue in the primary, how good a Republican you were?

BEHR: Oh, yes, absolutely. There was a listing of a number of bills which the California Journal had published indicating which Republicans

had voted most for the Democratic bills, and which Democrats had voted most for the Republican bills. I was the low man on the totem pole in terms of voting Democratic, more often than anyone else. He sent out a brochure indicating how he would have voted if he had been in office, which I thought was a little obscure, and indicating that "Will the real Republicans stand up?" It was just a repeat.

He also went strongly against my stand on Warm Springs Dam in Sonoma County. That had been an issue for some time; it was a federal dam. It was nearing completion, but had quite a ways to go. I was strongly opposed to Warm Springs Dam, for reasons which I felt were sound.

LAGE: What river did it dam?

BEHR: Russian River; Dry Creek, which is a major inlet into the Russian River. Among the reasons were that much of the water was destined for Marin County, and yet the Marin Municipal Water District had stated they were never going to use any of that water. The rest of the water wasn't needed and could readily have been provided much less expensively by raising the dam on Lake Mendocino, as it's called, which is the reservoir up there for the Russian River.

In any event, he took violent exception to that stand, as did everyone throughout the campaign.

LAGE: When you say "everyone," was it an unpopular stand in general, or just up in that area?

BEHR: In Sonoma County, of course, I think.

LAGE: They thought they needed the water?

BEHR: Well, the board of supervisors is the water board in Sonoma County, and they had strongly wanted it, and they thought it would be great for recreation, and produce jobs, and things of this nature.

LAGE: All the usual arguments.

BEHR: All the usual arguments. So I actually wrote a letter to the governor asking him to withdraw state support, which would have killed the dam. So I was strongly on record there. I knew it wasn't a very popular issue, but I felt strongly about it and didn't intend to walk away from it. And of course, they were strongly opposed to the wild and scenic rivers bill, and the result of putting the Eel on ice for twelve years--and the other rivers. They thought that was a great mistake.

Actually, Theiller said that he, if he lost, would throw his weight to the Democratic side, when Ernie Banker came out and decided to run for the Democrats. Ernest Banker was . . .

LAGE: That makes you wonder how good a Republican he was.

BEHR: Well, it does. He wanted to win, though. Ernie Banker was a very

nice, very quiet, and quite decent chap.

LAGE: From?

BEHR: He was from Mendocino County, and he was on the board of supervisors. He'd been on that board for eight or nine years; he had . . . . I think he was an aviator or pilot from the Second World War, and he also was in the real estate business. But he was quite low-key, and quite. . . . he'd grown up in the county, gone to the local high school, and I don't think he went to [University of California] Berkeley. I guess Bob Theiller went to Berkeley. In any event, that came later, because I was involved in the primary.

In order to get a little bit more help from the Republicans, I called upon some friends who came through with an indication that I wasn't as bad as I was painted. I got a letter to the various editors throughout the district saying, "In the first three years in the state senate, Peter Behr has been one of the most able and effective legislators. He's the kind of public servant that the Republican party wants and needs. We who know Senator Behr and have worked with him hope we will have the pleasure of serving with him for the next four years." Signed by my old friend, Putnam Livermore, who is the former chairman of the state central committee; Paul Haerle, who was then vice chairman of the Republican state central committee;

Senator George Deukmejian, the Republican minority floor leader of the state senate; and Senator Dennis Carpenter, chairman of the Republican senate caucus. Which would, presumably, have put that problem to bed, but it still festered among the Republicans who knew it wasn't true. [Laughter]

LAGE: Now, how do you go about getting an endorsement like that?

BEHR: Well, you work it on the basis of friendship, to some extent. And the basis that now is the time to come to the aid of incumbents, and while George Deukmejian and Dennis Carpenter never were pleased with my voting record, and Denny and I had a good-natured feud going, making insulting remarks to one another. I liked Dennis very much and he liked me. Deukmejian was strictly a straight arrow in the right quiver. As far as Put Livermore, he was an old friend; so was Paul Haerle. So to a large extent, it was friendship.

LAGE: With Deukmejian, it was your incumbency, would you say, or . . .

BEHR: He was the minority leader in the senate.

LAGE: So he just felt he needed to support . . .

BEHR: The incumbents.

LAGE: But they don't attempt at this time to say, "Well, how about voting with us more often?" Or do they?

BEHR: They know better. I'm sure they've tried it. You see, really what

happened is a bifurcated approach to how you are viewed as a Republican. You had caucuses where the party gathers and allegedly decides what their policies and plans will be, and so forth, which is tedious, but not very challenging. And I was always a loyal caucus member, and just panting to do the right thing. So maybe they thought that was important, I don't know, but anyway, I was pleased to get it.

Then I got various endorsements, which were a little different. I got an endorsement from the Teamsters, United Transportation Union, AFL-CIO [American Federation of Labor - Congress of Industrial Organizations], the Retirement Betterment Committee, public employees retirement system. Which is very good, because they send out letters to all these old folks like myself, and say, "This is the very fellow who's really interested in doing decent things for retirement."

Then I got PORAC, the Peace Officers Research Association of California. I picked them up. They represented 17,000 individual peace officers and 200 peace officer associations throughout California. I got that because my favorite secretary married a top man in PORAC. [Laughter]

LAGE: I want to know each time how you got these, especially when they're

as interesting as that. [Laughter] How about the Teamsters? Why did you get the Teamsters?

BEHR: I never found out. I've always been faithful to the union movement, and so I never really worked out why I got them or who got them for me. We were much smarter than we were in the '70 campaign. We realized that we couldn't spend that much money and still survive. So we got an organization called Shumate-Smith to manage the primary campaign. Emily Pike was a partner of that firm, and she was the former central committee chairman of the Republican party for the city and county of San Francisco. She was a fine person, and their fee was very generous. It was \$6,000 for the whole primary.

And then we had a survey, and they only charged out-of-pocket costs for the survey, which was nice of them. And they knew what they were doing, and what we did was to use TV in the Eureka-Crescent City market. You can flood Eureka and Crescent City with TV, which everybody watches--they can't get any other TV--and it doesn't cost very much. [Laughter]

LAGE: And that's where you needed the exposure.

BEHR: That's right. That's where we needed it for sure. For the rest, in the Bay Area we used radio, KCBS and KGO. That seemed to work

pretty well. We only had one campaign piece, which we handed out to everybody. It was quite nice, I think, and listed with cunning care and reasonable accuracy my enormous achievements for the last three years. [Laughter]

LAGE: It was the same piece for all the areas?

BEHR: Absolutely.

LAGE: So you weren't hiding your environmentalist credentials from the northern counties.

BEHR: No. In fact, what happened at the earliest stage possible was a recognition that you couldn't reconcile under any circumstances the northern counties with Marin County. They were utterly different, they had different lifestyles, different points of view, and to try to do so in terms of catering to their northern constituency would be something that would require me to give up everything I believed in, which I didn't care to do at the time. And I haven't since, I don't think. [Laughter]

So what I did was to say that I recognized and appreciated their lifestyle in the north; I didn't claim to know just what it was, but I asked them to tell me. I assured them I intended to protect it in every possible way.

And it was not really an issue campaign, strangely enough.

Theiller was uncomfortable attempting to run a campaign in a district this large. I think he was a very local type of person. He didn't know anything about what to do or how to do it, and he didn't really raise much money. He hoped to. He'd raised a lot of money in his supervisory campaign, from developers and car dealers and so forth. But he wasn't a very appealing person, unlike Ernie Banker, who was low-key but very nice. And they, both of them, really didn't want to come into Marin County. They were uncomfortable. It was entirely different.

And all the Democrats by that time, I had pretty well pleased them as far as their voting for me or against me. A number of them changed their registrations to vote for me.

LAGE: In the primary?

BEHR: In the primary. The two Henry sisters were very old at the time. One of them, Alice, came back after--it may have been Helen--and said, "You know, I've got a terrible confession to make. I've re-registered Democrat." She said, "I'd rather die a Democrat."

[Laughter] I said, "Helen, that's quite all right; I think you may even be correct." But in any event, we won quite handily, and that was pleasant. We won every county except Humboldt. We got more votes in Sonoma County than Bob Theiller, and we got a large

number of votes in Marin. [Looking at results] We carried 62.73 percent of all the Republican vote in Marin County.

And that was very overwhelming, because Marin County is so much larger than the others in population, and they always vote more. I beg your pardon--in Marin County, I got 76 percent of the vote, and Theiller got 24 percent. I carried 62 percent of the vote throughout the district. I was pleased that I'd beat him in Sonoma by 6,175 to 5,904, which I wouldn't say is a striking difference, but it pleased me.

LAGE: Considering he was from Sonoma. Did you make many personal appearances in the northern counties?

BEHR: Yes. I was up there most of the time. Of course, part of the time, I was still in session, which made it difficult. I was up there Fridays, Saturdays, and Sundays. I made at least five trips to Humboldt and Del Norte, and at least six trips to Mendocino, and there wasn't too much time to do that. We had a complete schedule of where I was going and what I was doing which we kept. It was a very busy time.

LAGE: It does sound very well organized.

BEHR: It was very well organized, and it was largely due to [Ezilda] Bunny Lucheta who then had been with me for three years, and she kept everything well organized. We had committees in every county, we

had. . . we lucked out in Sonoma County because I got [James L.] Jim Harberson and focused on Petaluma, because Santa Rosa was not in our district, and Petaluma was the largest group of voters. Jim Harberson, a younger man, had been on the council of Petaluma, greatest vote-getter in the history of the city, and lively as a cricket, and full of charm and pizzazz, energy.

And I got [Arthur] Art LaFranchi; he was a well-known attorney, and a very respected figure, a Republican of course. He'd been on the county's central committee. I guess Jim had, too. Then we got a man named [ ? ] Parent, who had been a former mayor of Petaluma, and was in the funeral director's business. He was very helpful.

Then there was one other person who had a wholesale gasoline company, who was very conservative like my friend Henry Wigger in Napa. Anybody said if I could get him, that would be a bonanza. After a good deal of currying, he was well-groomed and came along.

LAGE: Now, how did you appeal to him? Just your personal charm?

BEHR: Well, I got my friends to do it. Certainly other people can speak far better for you, and I think if you let a person know that you really want him and care about his views and intend to consider them seriously, you're halfway home to getting him to come. We had a

gentleman named John Golden in Mendocino County who was splendid. He was also an attorney, and former chairman of their Republican central committee. I remember him with great pleasure.

Later, when the general election came, he was appointed a superior court judge in Lake County and had to withdraw from helping me, which was unfortunate. But we became good friends. And so it went, and it worked out.

The 1974 General Election--Level of Republican Party Support

LAGE: Well, let's talk about the general election, then.

BEHR: Well, the general election, I don't have the results on that.

LAGE: We can insert them.<sup>1</sup> You won, we know that.

BEHR: I remember that distinctly. [Laughter] And Ernie Banker ran a very low-key campaign and never really reached out to the other counties. It's a curious thing, but I think one worth mentioning, because it goes against the usual opinions. It's much better to have had a contested primary when you get into a general than not. The prevailing view is that everybody gets bloodied and goes home and sulks. Well, that really isn't true entirely. And even if it's partly true, you get a lot of exposure, a lot of momentum, you find out

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<sup>1</sup>Behr defeated Banker 97,504 to 79,963, winning Marin County by 35,000 and losing in all five other counties of his district.

where your weaknesses are, you put a committee together, you raise money, and you have a lot of very satisfied people when you win. They're ready to go in the general; you don't have to reinvent the wheel.

And so, you also have reached out to both Democrats and Republicans. It doesn't really make any difference except in the primary. So you get a lot of exposure there. It takes a while to get a campaign up to speed, so after primaries are over, then you let everybody take off a month or two and away you go again. That's what happens; it happened to me both times.

But the prevailing wisdom is that you should never have a contested primary, it's going to ruin you in the general. But I don't agree with that.

LAGE: Now, did the Republican party support you strongly in the general election?

BEHR: No. No, I never, if I can recall properly, never got a dime from the Republican party, or the Republican caucus. I remember now, Denny Carpenter said, "Well, you're going to win; you don't need anything. You're not a really. . . . you're a safe district now." Which was hardly the case, but . . .

LAGE: Did you feel this was because you hadn't come along?

BEHR: Well, actually, the Republican caucus was run by Dennis Carpenter. And properly so, he raised the money, and he disbursed it. He was the great fundraiser. He's now one of the wealthiest lobbyists in Sacramento, and has been that for three to five years.

I recall poor [Senator] Milton Marks coming up, and I was a shadow member of what was said to be a three-man committee, which Dennis had put together so he didn't look so exposed. The things Dennis said about poor Milton were unrepeatable, and furthermore, Milton never got a nickel, not a dime. I said, "How about a little token payment, a hundred dollars, something for my friend Milton?" "Nope," he said, "let's just get on to something else."

LAGE: Did Milton have even the. . . . I think the California Journal calls it the independent quotient. I think his independent quotient was even higher than yours. In some years, at least.

BEHR: Oh, I'm sure it was, and reasonably so, because if they thought about it, they'd realize that he has a constituency that is so heavily Democratic that if he's going to stay in office, he'd better tend to them. When that happens, you make allowances for it and only ask him to do certain things. But he always had a sticky time. He finally, as you know, changed his registration.

LAGE: How about this central committee? Did they come through . . .

BEHR: No, they didn't.

LAGE: Was this, do you think, because they were more interested in supporting conservative Republicans?

BEHR: I'm certain that it was. There seems to be a tendency among Republican central committees, at least the ones I've come across at the county level, who regard the procedure of the party as more important than the substance of it. And if you haven't been a part of the procedure, like in the reserves in the navy or army, you've gone to all those meetings where nothing happens--hardly anything--because there's nothing for them to do, they resent it, and they let you know. Furthermore, they don't raise much money. The party system is very weak here, compared to other states.

But anyway, we went ahead and continued the same hectic routine with Ernie Banker, and we just overwhelmed him. He was quiet and respectful. Occasionally, I'd see him walking around looking like a lost soul in Marin County. And that's where the votes are, so that was the best . . .

LAGE: He wasn't familiar with the territory.

BEHR: He wasn't familiar with it, and also, by this time, he got no help from the Democrats in Marin County, and all the prominent ones were on my side, and always had been. So they wouldn't give him

much walking room, which was unfortunate for him.

But then another feature of the district was interesting. One would think that Mendocino and Humboldt and Del Norte would have all sorts of connections for all sorts of reasons. I mean, they're all lumber industry, fishing, and visitor-oriented.

[End Tape 6, Side A]

[Begin Tape 6, Side B]

BEHR: On the other hand, it isn't so. There's no crossing the border line, or having any feeling of connection between these counties. They go their separate ways, and don't seem to have any cohesion.

#### Regional Government and Other Issues

BEHR: Oh, another big issue was that I was in favor of regional government, and everybody thought that was very bad. I said, "Well, look, I happen to be in favor of it, but it's never going to happen. I've been working on it for ten or fifteen years, so I don't think it's something that should worry our constituents!"

LAGE: This is Bay Area regional government?

BEHR: Bay Area regional government. For obvious reasons: all the supervisors are appointed to all these single-purpose commissions--air pollution, water quality, transportation commissions, and there are a host of others--and they are all supposed to look Bay Area-wide at

some feasible approach to this issue. But they can't do it, because the supervisors have no time. The Golden Gate Bridge is another one. And all of these should be folded into a regional government where people can vote for thirty or forty people they want, they can attend the hearings, they can actually have them here. Because you can't attend the hearings of all these multiple single-purpose agencies.

Anyway, that was an issue, too. Ernie said that we'd be outvoted, because there are larger, more populous counties around. He thought that was a terrible idea. He didn't like ABAG, Association of Bay Area Governments. He thought that was a waste of time. And I agreed with him on that, but I couldn't say so.

[Laughter]

Anyway. . . . And then there's BCDC, which is another major one that I didn't mention.

LAGE: Was that a controversial agency by that time?

BEHR: It's hard to say, because I wasn't going to give any prominence to anything he said, so I simply ignored it. The best thing to do with a rotten precinct is to quarantine it and hope they forget to vote. No use trying to turn them around. But I was digging for gold up north, and I think the vote results indicated that there were more persons who were more liberal than anybody understood, even though I lost

in all the counties north of Marin.

LAGE: Well, you've gotten some support for your wild and scenic rivers up there, too.

BEHR: Not within the district.

LAGE: Not within that district? I thought you had some . . .

BEHR: No, I got Trinity County, and all the Bay Area counties, but not in the district. They were going with Randy. Poor Ernie Banker said, well, he wouldn't have run, because he intended to support Randy Collier, but if Randy wasn't running, he felt he had to, just to make sure a Democrat was in there. And nobody else came around to disturb him really. We had a fellow named Gordon Pusser who was a land speculator in Marin County who filed, but didn't get very far.

LAGE: Did any national issues come into play, like Watergate was a big issue in many campaigns?

BEHR: No, Watergate was no issue of any kind. It might just as well have been on the moon. Nobody mentioned it, and it never surfaced at all. Interesting enough, that. I hadn't even thought about that myself, but it certainly didn't. So, that's the way it went.

LAGE: We didn't talk very much about any role you might have taken in reapportionment. Did you have any particular role?

BEHR: I had absolutely none, except biting my nails and knowing with

certainty that they wanted to move my district to the point where I couldn't run.

LAGE: When you say "they," now who are you referring to?

BEHR: The Republican leadership.

LAGE: They wanted you to be one that lost out.

BEHR: They did indeed, yes, they did. I guess they thought they'd done it, and I was going to be running against the Silver Fox of the Siskiyou. And some of the newspapers said it was going to be better than the governor's race, with the old man.

LAGE: So that's what they had in mind, that you would run against Collier.

BEHR: Oh, absolutely. Absolutely. And that would do away with me, and they could live very graciously with Collier, who was much more conservative than I was.

LAGE: I was amazed when I saw how great seniority he had. He'd been in there since '38, and I think the next oldest and most senior had come in in '58, or '59.

BEHR: Yes. That might have been [Senator] Tom Carrell. But Randy had great seniority, had great gusto, and he coined many phrases about, "Well, there's no law around here that says we have to be fair." It was a truism; he knew every trick in the book. I told you about how he almost killed my second effort at the Wild and Scenic Rivers Act,

by delaying the scheduling of it for his committee.

LAGE: Yes.

BEHR: I think we covered it last time.

LAGE: Yes, we did.

BEHR: Well, butter wouldn't melt in his mouth. "Why," he said, "I wouldn't do a thing like that. Just everybody in proper order." [Laughter]

LAGE: And he lost the election, when he ran in two years.

BEHR: Oh, he lost it, sure, he lost it.

LAGE: Wasn't that something of a shock?

BEHR: Well, I think it might be, but when you reach that age (I can appreciate it very much now, because that's my present age, of 73, when he ran) it takes an enormous effort. The geography of this district has to be seen to be believed; it's just enormous. And is all rural, because the region is so large. I just don't think he could have made the kind of effort that some eager and anxious younger man could make in an area around Redding or someplace where there actually was a population center. I didn't follow that campaign.

But Marler told me once that, "You know, if you give me thirty thousand dollars, I can cover this whole area with a television blanket. That's more money than I need." It's interesting, because if you're in an urban area, of course, the cost just skyrockets to get

exposure.

Pleasures of Campaigning

LAGE: OK. Before we move on from the election, I wanted to comment that when you talk about the elections, you always have this twinkle in your eye that isn't picked up on the tape recorder. It seems as if you liked campaigning.

BEHR: I loved campaigning; I've always loved it. I loved to go door-to-door; it's a very refreshing thing. And only once in every forty or fifty houses do you ever come on anybody who won't open the door-if you know how to do it. I mean, you don't crowd the door; you step back, and you take your time. If there's nobody home, you leave a brochure with a personal note on it, "Sorry I missed you." If there's anything around the house that you honestly admire, like roses, "I admired your roses." [Laughter] There are little tricks of the trade.

One time, when I was running for the Mill Valley city council, I guess it was Throckmorton Street, in any event, we door-to-doored the city. We door-to-doored my district, which was larger, the county district. There were a group of little children playing on the street. It was all the Catholic households around there. So I got five or six of them and suggested we play a game. One would ring the

bell, the other one would introduce me, and the other ones would stand around to see what happened! [Laughter]

They were charming little children. One rang the bell, with eyes sparkling, then the door opened and the lady would say, "Oh, Isabel! How good to see you! Who is this you're bringing around?" I took that precinct pretty handily. [Laughter]

LAGE: That's great. Do you think your fellow legislators enjoyed it as much? Is that a standard . . .

BEHR: No, I don't think so. I think it's considered a necessary evil, to some extent. And with a lot of these campaigns, if you haven't been in local office, you lose touch with people because they're media campaigns at great cost. And some of that's very necessary, and direct mail of course. But I don't think they enjoy it.

In fact, when Barry Keene, my assemblyman, was door-to-dooring, he had a charming wife. (They've since divorced.) And the campaign manager checked it out and said, "We don't want you to go door-to-dooring, Barry. We just want to use your wife." [Laughter] "She's so much better at it than you are." So there's a knack to it.

And then I go store-to-storing, which is very much fun. It's an entirely different approach, because first you go to the owner of the store and get allowed to talk to his clerks and things. And there's

always somebody in the store, and they vote too. And then if he's for you, he'll allow you judiciously to approach his customers. And there are shopping malls, which are not as good; they just appear good, because you don't get the impact store-to-store in shopping malls that you do when you're going door-to-door.

LAGE: What kind of stores do you pick?

BEHR: You can go right down the line, right from store to store. And it's also necessary to go door-to-door down the line too, because neighbors compare. They say, "Well, so-and-so never stopped at my house." So you never leave the same notes at them both.

LAGE: Don't admire the roses of the neighbors.

BEHR: [Laughter] That's right. It was fun, it was fun. And I enjoyed it, I did enjoy it. It was very tiring.

LAGE: I would think so.

BEHR: Especially in a larger district. But if people don't like you, you just . . . no reason why they should. I know I have 5 or 10 percent of the people I don't like, and it's just--I couldn't give a reason for it. And I assume it's the same way with me. Five or 10 percent, perhaps more, that don't like me.

LAGE: For no good reason, I'm sure.

BEHR: Absolutely not. [Laughter]

## VII. LEADERSHIP CHANGES, ENVIRONMENTAL LEGISLATION, 1975-1978

Zenovich Challenge to Mills's Leadership

LAGE: Let's go on to the senate, after your 1974 election.

BEHR: Well, with the leadership in the senate there was an amusing effort by [Senator George] Zenovich to unseat Jim Mills, who had been the president pro tem for some time. And George had a scorecard listing of all of the members which he would carry around on the senate floor, and everybody would say, "How are you coming, George?" George said, "I have nineteen," or twenty, "all I need is one more." [Laughter] And nobody paid much attention, because, well, Mills was completely unassailable from the standpoint of being very bland and low-key. Anybody was concerned about Zenovich, who was very smart, and very political, and an attorney, and they really didn't want Zenovich, even though they liked him. So he was the best argument for Mills, in terms of his tenure. Because everybody said, "Well, gee, if we don't keep Jim in there, we're going to get George!"

LAGE: Now, what would have been the objection to George? You mentioned positive things about him.

BEHR: He was. . . . it's hard to say. I would think that he wasn't really trusted. That didn't mean he wasn't a man of his word, but he had little tricks up his sleeve. He was also very Democratic. Mills was

trying to play it on more of a nonpartisan basis, so the Republicans wouldn't want George in any event. And Mills was a pretty good pro tem and handled things with considerable dignity, I would say. He was a train buff, and he was a vegetarian, and he was a former professor down south. He enjoyed the perks, but he didn't abuse them.

LAGE: Did he use a strong hand in running the senate?

BEHR: I never saw him use a strong hand. The way the senate runs, we have a five-member Rules Committee which assigns all the bills and makes all the assignments to committees. And does many other things.

LAGE: Is more power lodged there, then, than in the pro tem?

BEHR: The pro tem is the chairman, but it's a three to two committee, with three of the majority party and two of the minority party. They also confirm appointments, or don't confirm them, from the governor. A certain number that have to be confirmed. And so I would say the power of the pro tem can't compare to the speaker's power on the assembly side.

The extent of the way in which the Democrats and Republicans react to one another is entirely different. Caucuses aren't very often held for the purpose of seeing how you can get even with the

Democrats, they deal with the Republican affairs, and I think that was true on the Democratic side too. And most of the members are older, too, and they're not going anywhere. Don't forget that anybody that has been in the state legislature and is still there after a certain number of years hasn't made it to a higher level. They may have lost, or they may have lost interest in getting there, but they are the residue of the ones who haven't moved on to Congress. Now, that doesn't mean they're necessarily worse, but after eight years in the senate, I looked around and couldn't find anyone who had been there longer who was carrying any significant bills. They were more interested in staying than in why they were sent.

LAGE: So they were not initiating policy legislation.

BEHR: No, not at all, and not carrying big bills. They'd get a sense of *deja vu*; they'd really seen this all before, and they were sort of nodding.

LAGE: So they either move out or they become kind of interested in status quo, would you say?

BEHR: I would think so. Some of them, like [Senator] Alan Short, and my seatmate, Nick Petris, had tremendous achievements in their first few years. Alan Short with Mental Health, and Nick Petris with the bay, and BCDC and so forth. And he was always a good vote for all the right things, and he knew his business. But he wasn't anxious to do

much himself. Neither of them. And that's rather typical. That's one reason I left.

LAGE: OK. I just came across, I think it was an interview with Zenovich that we have in our office,<sup>1</sup> and he made some reference to the fact that Mills gave you the S.B. 1 tax bill. Is that the way bills came to you? Somebody gave them to you?

BEHR: No. In fact, that particular bill was very complex and took two and a half years until its making. Maybe three years.

LAGE: So maybe we should wait and talk . . .

BEHR: I think so.

LAGE: But does . . .

BEHR: Well, what happens is this: the administration parcels out bills, but the pro tem never does. You get your bills mostly from constituents, or groups that ask you to carry it. Like the Friends Committee.

LAGE: Was this the American Friends Service Committee?

BEHR: Oh, yes. They had the best lobbyists up there, a man and wife team from Washington.

LAGE: Who was that?

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<sup>1</sup>George Zenovich, "Senate Democrat in the Reagan Government," in Legislative-Governor Relations in the Reagan Years: Five Views. (Fullerton: California State University, Fullerton Oral History Program, 1983).

BEHR: I'm trying to think; I don't remember. I've been trying to think for a long time. [Joseph and Emma Gunterman]

LAGE: OK. Will that come up when we get into talking about the health and welfare issue, the Friends Committee?

BEHR: I don't know. Well, they helped me, the Friends Committee, they helped me with workman's comp and unemployment insurance [Inaudible]. And also they helped me for this bill on hearing aid dispensers, which they worked like beavers on for two years, and I lost it at the end.

LAGE: OK. I might well find their names, because we might have an interview with them in the office.<sup>1</sup>

BEHR: I'm sure I have it in my files. They really were wonderful people. Did it free.

LAGE: Oh, they did?

BEHR: I'm sure they did, or such a pittance it was practically free. Wonderful.

LAGE: OK. Well, let's talk. . . . I think some of this business about how the senate operates comes out when you talk about particular bills,

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<sup>1</sup>Joseph Gunterman, "Sacramento Advocate for the Friends Committee on Legislation of California," in Law Enforcement and Criminal Justice in California, 1966-1974. (Berkeley: University of California, Berkeley, Regional Oral History Office, 1985).

instead of just in the abstract.

BEHR: Yes.

Contrasting Leadership Styles of Governors Reagan and Jerry Brown

LAGE: Now, when you came in in '74, that's when the new Governor Brown came in.

BEHR: That's when Jerry came in.

LAGE: Did this bring a change that was discernable in the senate?

BEHR: Well, not a change which was as great as it turned out to be.

Reagan ran a very pleasant show, which was very well-structured.

And some legislator once said that he always had a shot at Pat

Brown, because Brown had something that he really wanted, and the

legislature could withhold it in terms of a bargaining chip. But they

say with Reagan, there was nothing. If you said, "We're going to

take the money away," he says, "How much?" and rubs his hands

together. [Laughter] Nobody really could get to him. And he kept

a fairly modest time schedule--left at five or five-thirty, was

unavailable in the evenings.

He had an orderly system under which the cabinet met steadily, and they went over all the bills for his signature, and recommended some and not others. He usually followed their recommendations, rarely vetoed them otherwise. Unless there was money involved.

BEHR: And if a bill had money involved, it was tough to get through. Very often, he would strike the appropriation and sign the bill, which gave you a pyrrhic victory at best.

But he was stubborn on some things, and he had that blue pencil out. The Department of Finance--which is the governor's department, I mean, he owns them--they were death on anything that had money. They'd say, "We're terribly sorry; we have to oppose it for this reason." It was always a matter of money. That would be not very serious in Jerry Brown's administration, because he was much more independent. But with Reagan, that was sort of the warning shot across the bow that you better get together with him and see what you can do. Which the governors both did, more than most people realize.

When a bill starts to--if it's of any consequence--starts to move toward the governor's desk, maybe it has one more committee and a floor vote, you begin to hear concerns from the governor's office and the governor's lobbyist. You better pay attention, because if you can't work out some compromise, you're going to get vetoed. And so they have a great deal of muscle in terms of last-minute amendments to make the bill palatable to the administration. And that was true of Jerry Brown too, but not as much.

LAGE: He didn't make his desires known in the earlier stages as much?

BEHR: Well, his desires changed so readily and so often. He was a man of great creativity on any subject, at any time, for almost any reason. He would much prefer, like a Jesuit, to discuss the philosophical background of something than to discuss anything practical--or what other people might view as practical. He was very much of a loner. He didn't like to be touched, he didn't like to be near people, and he didn't communicate too well with people on a one-to-one basis. He was wonderful for the press, because he came out with these startling remarks, all of them very brilliant. But I don't think from the terms of the nuts and bolts of running the governorship that Brown ever learned it, or wanted to.

He lived a celibate's life. He was a great night owl and stayed up to all hours, but he had a barely furnished cell in a little apartment just off the Capitol lawn. And it was very ascetic; and that's the way he was.

LAGE: Did you have occasion to deal with him in a serious way on any issues?

BEHR: Not really. No, I didn't. Nobody really got very close to Jerry. He didn't like that. He didn't have any good friends that I can recall, even on his staff. J. [Anthony] Tony Kline was probably one of his

closest, who was his legal secretary, who's now a superior court judge. And a very fine fellow. But no, these things happen.

I was very interested in the hospice movement, and it was relatively new to California at the time. I served briefly on the board of the Marin Hospice. So, Jerry Brown got very interested in the hospice movement, and I was very encouraged. I asked whether we couldn't set up a conference and see if we could tell him more about it and answer any questions he had. Which we did, and the most famous hospice in this country was in Connecticut.

We got people from Connecticut and all over the country to have a big conference, around a big table in his office. And he arrived, his eyes sparkling as usual, and he asked the most intelligent questions and showed the most consummate interest, and asked what he could do to help. Everybody went away very encouraged. Time stretched on, and we never heard from him again. And that was typical. His attention span was very short. Reagan may or may not have had any.

I said something very awful about the governor once, and I never had occasion to retract.

LAGE: The governor, Reagan?

BEHR: Reagan, yes. A reporter called me from Washington, he was trying

to get a background story when Reagan was president-designate. He hadn't been sworn in. He said, "Do you know him?" I said, "Well, I'm acquainted with him." "Ever been to his house?" "Oh, four or five times."

And, "What's he like?" "Well, he's a charming host, looks you right in the eye, listens to you intently. Just a very nice man." And we went on this way sparring, and finally this reporter said, "Oh, come on now, quit the so-and-so. Does he think?" [Laughter]

And I paused. By this time, I was as sick of the conversation as he. I said, "If you waded through his deepest thoughts, you'd never get your ankles wet." [Laughter]

That was quoted all across the country. Because it was a quotable remark. My wife, Sally, screamed with delight. She said, "At least we'll never go to Washington!" [Laughter] Anyway.

LAGE: Well, do you have any other anecdotes about some of these dinners with Reagan, or other . . .

BEHR: No. Well, he had a whole string of jokes he told us, most of them very well told. He's a very pleasant man.

LAGE: Just the things you hear about him.

BEHR: That's right; what you see is what you get. Nancy never came to those, but that was understandable.

LAGE: To these dinners with legislators?

BEHR: Yes. He used to take six or eight senators at a time and go through the order, and then start with the assembly. It was a very well done job, he was a very good host.

I remember driving down with him to Leisure Town in Solano County, and we passed some cows and some fence posts. "Well," he said, "I'd like to be out there splitting those fence posts. That's really . . ." you know; he just looked very wistful. And this is how he saw himself; still does. He was the kind of a man who, I'm sure. . . . well, one thing I do know: the only time he became very emotional was when he entertained the younger enlisted men who'd come back from Vietnam. And this was almost more than he could bear, he felt so strongly about them and about what they'd been through, and so forth. And that's been a thread that's run through his whole career.

But I suspect that if a child had a tricycle and fell on the pavement and bloodied his or her knee, Reagan would be the first one with a bandage but would never look at the tricycle to see if it was safe. [Laughter] And that's it. But on a one-on-one basis, he cares, but I don't think he recognizes the need to go wholesale. But he's managed to parlay his image into a great one, I guess. All depending on one's point of view.

LAGE: Right. And Brown was a very different sort?

BEHR: Brown didn't entertain. Brown didn't like to be entertained. He was essentially an unfrocked Jesuit; may still be. But he doesn't have any come-hither to people, really. He's a very unusual man.

Peripheral Canal Compromise, a Mistake

LAGE: But what about the people on his staff, and working with the legislature? Take the Peripheral Canal. Can we dredge that up for a minute? Because he was involved in that, I understood, in getting the compromise.

BEHR: I don't know. There was a compromise, and I recall a little of how it happened to come on with S.B. 346--I couldn't think of it. I've got two or three filing cabinets full of material, and I can't go through them.<sup>1</sup>

LAGE: I know; it's a very complicated issue. But I just wondered if there is an issue where you had some dealings with Brown's governor's office.

BEHR: No, not personally. But what happened, I certainly recall and Sally does too--there were two lobbyists, one from Planning and Conservation League, who was then executive director [Lawrence E. Moss].

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<sup>1</sup>S.B. 346, introduced by Senator Ruben Ayala, 1977-1978 session, authorized construction of the Peripheral Canal.

LAGE: This is after Bill Press?

BEHR: Oh, yes. I'll think of his name in a minute. And John Zierold, the longtime lobbyist for the Sierra Club. They both came to me and said they'd been working out with the administration a compromise on this whole subject of water, and they'd done it. They were delighted with it, and they wanted to tell me about it and wanted me to support it. So I did. I was not bilked, because they were both sincere, but I came very soon after that to realize I'd made a terrible mistake, so I turned about on that.

LAGE: So that was S.B. 346.

BEHR: Yes.

LAGE: And actually, the Sierra Club turned about on that also.

BEHR: Yes, they did. So I got back in the boat, so to speak. I don't know what happened; sometimes the worst things you do, mostly, are done quickly, without sufficient thought or understanding of the implications. And that was one I've always regretted.

LAGE: Well, nothing really came of it, because S.B. 346 died anyway.

BEHR: Well, that's true, but I've been bilked before and will be again, I'm sure, if I keep breathing. But I was disappointed.

LAGE: OK. I'm going to change the tape, but maybe you can talk about that logger's protest next.

BEHR: And then Mendocino woodlands after that.

[End Tape 6, Side B]

[Begin Tape 7, Side A]

North Counties Loggers' Protest, 1975

LAGE: OK. I wanted you to talk about right after the election of '74, and the change of administration, there was a famous logger's protest concerning the people from your district.

BEHR: Well, what happened was this. The timber harvest plans, which are presented by the companies as to how they intend to log in a certain area, are reviewed by the Department of Forestry, the Department of Water Resources, and the Department of Parks and Recreation. These had begun to pile up, and there had been a logjam. The companies were outraged, and they couldn't break that logjam, and there was no real reason for it; it was an administrative foul-up. But it was important, because they could only do a lot of their logging at a certain season, and the season was fast approaching, and they were seeing themselves not out of business, but greatly inconvenienced.

So they decided to send their loggers down to Sacramento to make a protest, so it turned out they let a lot of them loose, and they paid their way down. They came in the big logging trucks, with logs. They circled the Capitol, and then they rallied on the Capitol

steps.

LAGE: Did they involve you in any of this, or appeal to you for assistance?

BEHR: No, not at all. I was completely shocked when I went and looked out and saw this swarm of hardhats. There must have been two or three hundred of them. And they were being talked to by their union leaders, and they were sore as hell, or said to be.

So I went down, and talked to the union leaders, told them who I was. They said they didn't want to give me the mike, because these people were just at the knife edge of riot, and they'd boil right off the pot, and they'd start chainsawing down the trees in the Capitol park and so forth.

So I insisted, because I felt they were my constituents, and there was one thing you don't do is walk away from a confrontation, because then, you know, pretty soon there will be another one. So I insisted, and they said all right and introduced me. Whereupon there were enormous cheers and jeers, and boos, and hard hats flying around . . .

LAGE: They knew your name.

BEHR: They knew my name. [Laughter] I think I was on their hit list. In any event, this took about five minutes to quiet down, and the union leaders said, "Give him a chance," you know, all the kinds of things

you usually hear. So finally they quieted down, and I took the mike and I said, "Well, I've got some good news and some bad news. The bad news is I'm a card-carrying member of the Sierra Club." Well, that started them off for another five minutes, because that up there is the worst thing you can do.

After they quieted down, I said, "Now, here's the good news. You seem to have me outnumbered." And I walked away.

[Laughter] And I learned later that they liked that. They figured that, after all, I got out there and spoke my piece. So I never had much trouble with the loggers on a personal basis, but they certainly didn't like me.

LAGE: They didn't like your views.

BEHR: Didn't like my views.

LAGE: Do you feel they thought you weren't their representative? Did they not come to you to see if you could . . .

BEHR: That's an interesting question. No, they didn't. That has a lot to do with the companies who presumed I wouldn't help them, because they brought me in on a big luncheon during the primary. I told them for forty-five minutes or so where I stood. And I wasn't invited back, and they were all top-flight executives of all the major lumber companies. But they didn't like what they heard. And I suppose

they were working with the administration, but they presumed I wasn't going to help them, that I'd be on the side of the administration--which was far from the fact, because it was just a stupid foul-up.

And I understand later that what happened, Jerry Brown went over and got his Resources Agency people all together and said, "Look, you break that logjam right now. I don't care how you do it, what you do, or . . . but you better do it right now," and he walked away. He gave an ultimatum, which is entirely unlike him. He didn't like this. I don't blame him.

LAGE: What I recall was causing the logjam was the problem of EIRs, applying environmental impact reports to these timber-harvesting plans, which was going to cause much more paperwork. And I think that was the . . .

BEHR: You may be right. I haven't studied it, and I didn't have any notes on it, but . . .

LAGE: It was administrative, but it wasn't just lack of attention.

BEHR: Well, the problem was that the Department of Water Resources and the Fish and Game Department, which was the other one which reviews timber harvest plans, had hardly any people to go out on location to see them. The Department of Forestry has all sorts of

people who can't wait to go out there and approve the plans. And so the plans were partly being slowed down because these other two departments couldn't process them fast enough and get out to see them. But the details of it I never learned.

Resources Agency Secretaries Dedrick, Livermore, and Johnson

LAGE: Did you have many dealings with Claire Dedrick as secretary for resources?

BEHR: I liked Claire, and knew her, and had some dealings with her. Poor Claire; she was in an impossible position, because that Resources Agency is a den of wolves, and they were all male. They couldn't conceive of Claire being there. She really got. . . . she was foredoomed to failure, through no necessary fault of her own.

LAGE: Because of being a woman, you think?

BEHR: Partly; to a large extent. Then she also was subject to being flattered by the logging industry's executives, who came up and told her how wonderful she was, and she'd never had this treatment before. She did enjoy it. So there was some . . .

LAGE: She also got burned in effigy by these loggers. I have a . . .

BEHR: Oh, well, in Del Norte County, they have a fair where they throw axes at a target, and the bull's-eye was her photograph. They're pretty rough men up there. So she had trouble connecting, and she

was not a very effective administrator, although I don't think you can charge her with that, because the Resources Agency is so large with so many departments and each one so entrenched, that I don't think it can be administered. And they don't give the Resources director much of a staff. The director of the Resources Agency maybe has twelve or fourteen persons in total to handle this enormous outreach of various departments. It's just not very possible. They all would complain about that.

But she, I find out now, is the executive director of the State Lands Commission, which is a nice, quiet haven for her. She's a very bright woman.

LAGE: OK. Shall we talk about Mendocino Woodlands?

BEHR: Well, let's talk about the other two Resource people while we're with it. Ike Livermore worked terribly hard. The lights were always burning in the Resources Agency, and everybody knew Ike was there trying to puzzle out what was going to happen next. And Ike was no fool, but I think he was probably addicted to the Carter syndrome: whatever happened was as important as whatever else was happening, and he couldn't delegate things. And he worried. His dear wife never saw him; he was just out there punching all the time. He did excellent work; he probably caused the government to

BEHR: withdraw support from the Dos Rios Dam, he and Rich Wilson, who was a dear friend of his from Covelo, Round Valley. I'm sure he had a significant influence from that standpoint.

But that was not as visible because the cabinet doesn't meet in public. So he was there for eight years and was asked to come with Reagan to Washington in some fairly high post. Maybe it was head of the Department of Interior, I'm not sure. But he'd had it; he wouldn't go.

Now, Huey Johnson, who was--is--a dear friend of mine, was really just right for Jerry Brown. Huey dreams big dreams and schemes big schemes, and tries to put them all together. He's very good at it. But he's a little too philosophical for the kind of practical day-to-day job that has to be done in the Resources Agency.

I'll tell you a funny story about Huey: almost at the end of Jerry Brown's administration, Huey Johnson decided he'd put these wild and scenic rivers into the National Wild and Scenic Rivers, which can be done by going through the secretary of the interior, who then checks with four or five other major departments and has the authority then to declare that the river is in National Wild and Scenic Rivers. Which is terribly important, because then it takes an act of Congress to get it out, and that won't happen. Whereas it has

BEHR: been some real difficulty at that time in the state.

He called up the undersecretary of the interior, who--they were gleeful about it; they were glad to do it--but the problem was money. They had to prepare an environmental impact report. [Laughter] And that had to cover all these rivers, and it was going to be very expensive. Well, I came down to see Huey after this all had happened, and I asked him--he looked very glum--I said, "What's the matter?"

"Well," he said, "I'll tell you what. They didn't have any money in Washington," and I think it was a sizeable sum. So he said, "I asked all my departments to tithe for this," and everybody had to give up 5 percent of whatever it was! [Laughter] On the other hand, there's a Joint Committee on the Budget. The Joint Committee on the Budget requires that if you're going to change a line item in the budget, you have to get permission from the Joint Committee on the Budget, which he either failed or neglected to do. So this was the day he was going to see [Senator] Walter Stiern, who was the chairman of the Joint Budget Committee, and an imposing figure.

I said, "Look, I know Walter, he's a sweet man. Would you like me to go with you?"

"Oh, God, would you just come?" [Laughter] He said, "I know

I was wrong!" And so we went down to see Walter, who looked like a hanging judge sitting behind his desk. I said, "Well . . ." Huey made abject apologies. Walter was being like a stone statue. I said, "Now, Walter, you know that these budget items are moved around without the consent of your committee often. This is the not the first time, it's not a heinous crime."

"Yes," he said, "but not this much!" [Laughter] So he said, "Well, tell you what we'll do. We'll punish you. We will take that money out of the budget for your personnel."

LAGE: That's quite a punishment.

BEHR: Which was quite a punishment. I said to Walter, "Well, now, who are you punishing, the state of California or Huey Johnson? He can't run an agency alone." "Well," Walter said, "it's a very serious matter." So we went out there and got out of there, and Huey still looked very hangdog. I said, "Huey, it's going to be all right. Walter will be very forgiving," which he was, so that worked out.

LAGE: So it did come out positively?

BEHR: Oh, yes.

LAGE: And did the rivers get in the national system?

BEHR: Oh, indeed they did, which was a great step in the right direction. I ever since have been very grateful to Huey, because he took those

risks. See, when he was executive director of the Nature Conservancy, he took incredible risks in acquiring property. The risks were the property wouldn't be taken up by the state or federal government, and they wouldn't get their money back, and their budget would be gone. They'd be stuck with a lot of land they couldn't do anything with. He took those risks for years and years, and he never missed once. His whole region, which covered California, Hawaii, and a couple of other of the western states.

LAGE: So was this because of his shrewdness in . . .

BEHR: I think he was willing to take calculated risks. And I think he was very shrewd. He was able to raise lots of money; he had a wonderful rapport with industry and business and so forth. And he's smart, so I am very high on Huey.

LAGE: Do you think he did a good job keeping the various departments under the agency in line?

BEHR: Well, I think he did. He didn't disturb them, and I don't think you can disturb those departments too much, because they're. . . . except the Park and Rec Department, which is always changing managers. But the big ones like the Department of Forestry you leave alone, they'll get after you. You can only fine-tune them; you can't get rid of anybody.

LAGE: And sometimes they disagree violently with each other.

BEHR: That's true. In fact, like in the Mendocino Woodlands. That's true.

Mendocino Woodlands: Parks and Recreation vs. Department of Forestry

LAGE: Well, now let's do Mendocino Woodlands.

BEHR: All right. I put this bill in in August of 1976.<sup>1</sup> What I did, or tried to do, was to transfer jurisdiction of 720 acres of the Mendocino Woodlands from the Department of Conservation, which is the Department of Forestry, to the Department of Parks and Recreation. Now, this 720 acres comprised three campsites with over 100 buildings, and there's a woodland center and adjacent acreage.

Now, the reason for it was that there had been a nonprofit organization which had leased it since 1949, but it's in the Jackson State Forest, which is used for harvesting timber by the state. It's the only one in the state that harvests its own timber.

They were stuck on this lease with an agreement to maintain this woodland center. It was impossible for them to do it; the center was falling into some significant disrepair.

LAGE: The private group was supposed to maintain it.

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<sup>1</sup>Mendocino Woodlands Outdoor Center Act, 1975-1976 Reg. Sess., Cal. Stat., ch. 1301 (1976).

BEHR: The private group, that's right. So they came to me, and they obviously weren't going to get anywhere with the Department of Forestry, which was completely uninterested in this project; it's not on their agenda. This enormous center had been built by the federal CCC [Civilian Conservation Corps] crews in the late 1930s. It was said to be a favorite of Eleanor Roosevelt's, who went up the Big River to view it. And all the buildings were sturdily built, all redwood, stone, and so forth. But some were in desperate need of repair.

Well, what we wanted to do was to transfer this enclave of 720 acres to the Department of Parks and Recreation, because essentially it was within their jurisdiction. And when the federal government turned over a very large amount of acreage, 5,426 acres, that originally was accepted [by the state] with the understanding and condition that it be used for recreation and park use.

LAGE: This particular acreage that we're talking about?

BEHR: That's correct. And it had dining facilities and overnight camping for 540 persons; it's a beautiful layout. I was up there, of course.

LAGE: But what was the group that had the concession?

BEHR: It was a group that was composed of a number of other groups; it was sort of a . . . Can you turn that off, and I'll tell you what that

group was.

[Interruption] [Editor note: missed during pause in recording: he doesn't have the name of the group which was interested in Mendocino Woodlands. It was composed of the camping groups which used the area.]

It was getting a good deal of use. Well, the Department of Recreation was very pleased about this because it came with an appropriation to repair the buildings, which were in need of it--I think \$175,000, and \$25,000 for a master plan of the property before the repairs were made. But there were a certain number of immediate repairs that were necessary.

The Department of Forestry was strongly opposed to it, and we had a battle that lasted for some time.

LAGE: They didn't want to lose the land within their forest.

BEHR: That's correct, and one of the reasons this group was so upset was that they were constantly closing in with their forestry around areas which they were using for recreation and education, environmental education. They had a lot of schoolchildren up there. This fitted in very well with the whole statewide movement for regional environmental education centers, which I had been much involved with earlier.

The Department of Forestry saw the timber remaining on the property as a resource to be harvested. They viewed the camp as a white elephant to be maintained without state cost on a minimum level. It wasn't winterized, which of course would have greatly increased its use. So we bulled this bill through, and we got it approved.

LAGE: Did each department come down and give their own point of view, rather than an administration point of view in general?

BEHR: That's right.

LAGE: So you had the two conflicting . . .

BEHR: Yes. I had the resident caretaker of the Mendocino Woodlands, I had [William] Bill Kier of the senate Office of Research. I got approval from the Mendocino Board of Supervisors for the transfer. It was the usual fracas.

LAGE: Was it difficult to get through?

BEHR: Yes, it was difficult to get through. I was concerned about getting it through, but finally we did. The woodlands people were a good group to work with, and they knew what they were saying and doing. They'd been running this for a long time. I'm sure if this had been Reagan's administration, we never would have gotten it through and signed by the governor. For two reasons: the Department of

Forestry would have taken precedence, and the money involved was too much. But with Jerry Brown, if you got it there, he was more inclined to sign bills like this. It's a lovely place, very remote. Have you ever been up Big River?

LAGE: No.

BEHR: It goes out of Mendocino. You can canoe all the way, but it's a long way.

LAGE: You should know that before you start.

BEHR: That's for sure.

#### Attempt to Ban Aerial Spraying of Dioxin

LAGE: Now, all I have left on environmental legislation that I've uncovered is that banning of aerial spraying of dioxin. Do you remember how that came up? That was '78.

BEHR: I do remember that exceedingly well. Timber companies were spraying herbicides with dioxin contained in them all over their forests, with the exception of the Pacific Lumber Company, the largest, which wouldn't do it. The purpose was to beat back the understory so that the little trees could come through and get the sunlight. There were other ways of doing it, and dioxin, when it got into the streams, which of course it did, is a cumulative poison. It's said to be the most toxic poison in the world, and at Harvard they'd

developed a test of parts per billion, and the limit of dioxin allowed was five parts per billion.

So I got the--I put the bill in<sup>1</sup>--I got one of the two Harvard professors who'd done the test to come out for cost. I got another Ph.D. who'd been working with Rhesus monkeys in the University of Wisconsin, and those were my two witnesses. They both were absolutely tops, and the gentleman from Wisconsin indicated that Rhesus monkeys at a dose which would be equivalent to one part per billion died in three months.

I also got a doctor to testify, who was in the north coast area, indicating a surprising outbreak of flu and other symptoms, which he had never seen, because it was off-season, just after aerial spraying had taken place.

So I was very upset about this, and I got these fine witnesses. Well, what happened, we got to our Natural Resources and Wildlife Committee, which [Senator John A.] Nejedly chaired, and I put my witnesses on the stand. I tried very hard to get the Harvard gentleman to speak English, [Laughter] but . . .

LAGE: Rather than . . .

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<sup>1</sup>S.B. 1357, 1977-1978 Reg. Sess. (1978).

BEHR: Rather than scientific jargon. But I couldn't succeed, he couldn't break his habit of putting things in long language. I've met doctors like that, too. So he was not very effective. The Ph.D. from Wisconsin was very splendid, and he really laid it across and put it on the line.

Then Dow Chemical [Company] came in with their witnesses. Well, Nejedly, for reasons that I've never found out, decided to let them go on, and they went on, week after week after week, bringing up new witnesses, all of them who swore that this dioxin was so safe that you could drink it and never be harmed. And that if that's not the case, there was no proof it wasn't, and this was such a small amount of dioxin. They got all their toxologists from local counties to come in, the ones that were working for the counties.

And there was just no way to beat it back. And by the time, after four weeks of testimony, once a week for four weeks, nobody remembered my two. They'd done considerable lobbying with the committee, and I lost it there. I never felt good about it, because this shouldn't be done. In Trinity County, which is the most environmental of all the counties up north, they banned the use of this spraying, dioxin, in the national forest. The superintendent of the national forest came down to the district attorney and he said,

"You know perfectly well you've got no jurisdiction over federal land. What if I spray? What will you do?" And the district attorney smiled at him and said, "I'd arrest you." [Laughter] The superintendent backed off. So these kind of things make a difference.

LAGE: Was there supposed to be a danger to fish as well?

BEHR: Oh, yes, clearly. If it got in with fish, it's a cumulative poison, and it very soon does away with them.

LAGE: How did Fish and Game take . . .

BEHR: They were neutral. Fish and Game, they were under Charlie Fullerton, who was a splendid administrator, but not very helpful to me on any of the things I ever did. Except the one, with herring. Other than that, he was a charming person to be with, but not very positive on the environment.

See, they're all for hunters and taking of game, like the mountain lion, which I fought for years. They're all for commercial fishermen, because in the earlier days commercial fishermen ran the Department of Fish and Game. And the ones who are now at the top, like Charlie, who's retired since, can't get over that liaison between commercial fishermen and the Fish and Game Department. So they have a lot of clout.

Anyway, that's more than you want to know.

LAGE: Do you have something to say about Senator Nejedly and how he ran the committee?

BEHR: He ran a good committee, and he had his prejudices, like the rest of us. When we tried to get the bill for the five-cent deposit on cans and bottles through, he had some canning companies in his district in the East Bay, and he killed that bill as sure as anybody ever did, as chairman. And chairmen have great power. They can really make a difference, even now.

LAGE: It sounds as if he did make a difference on this dioxin bill, just the way he ran the hearing.

BEHR: Well, he did. But my suspicion of why he did it is unclear to me. I don't know whether Dow had connections in his district or not. By and large, he was bold as a lion on things that didn't bother his district. You see that sometimes. But he was a good vote for the environment, and a nice man. Old Sierra Clubber. He used to take people across the Sierras in the winter and show them how to make snow caves to survive. He was a real tough article.

#### More on Striped Bass

LAGE: We're back, and we're going to sort of re-do the discussion on the striped bass.

BEHR: Yes. It turns out that originally I put in a bill, Senate Bill 1604, on

BEHR: striped bass, and that bill was put in in 1976, February 17. I put the bill in because there was a poaching ring in San Francisco Bay that was taking these striped bass and selling them to local fish markets. And since 1935, the sale of striped bass has been prohibited; it's been a sports fish.

Well, the reason they got away with this poaching ring--this had been going on for two or three years--was that the commission had passed regulations, that is, the Fish and Game Commission, that you could import striped bass for sale in the state, and the way the fish dealers and brokers from other states got away with this was simply to put a tag on which was only sold to them, and it was attached to the fish before it was imported.

Well, the tag was just a simple little tag, and you could pick up on the waterfront duplicates of these tags five dollars per hundred or so, or less than that. And so this gave an immunity to poaching for striped bass, which at that time were still quite plentiful in the bay.

I got a report from the Marin Rod and Gun Club, an old gentleman who was outraged at what was happening. I called a meeting in San Rafael and brought in representatives from the Department of Fish and Game, the commercial fishermen, sports fishermen, the clubs, and they all agreed this was happening,

including Fish and Game.

[End Tape 7, Side A]

[Begin Tape 7, Side B]

LAGE: Did the commercial fishermen support your efforts also?

BEHR: No, the charter boat fishermen did, and there are lots of charter boats that took people out fishing for striped bass. As a matter of fact, there was an association with 200 of those charter boats in the bay.

LAGE: So we're not talking about the fishermen who sold to markets.

BEHR: No, we're not. I put this bill through, and it got through the senate 22 to 3, and then when it got to the Water Committee on the assembly side, it was held in committee and died. So that was the end of that.

The next year, the next session, I put in another bill on the same subject, Senate Bill 598.<sup>1</sup> We began to marshall more and more strength behind the bill, and by the time we finished marshalling the strength, we had this bill pretty much in hand.

LAGE: Did you marshall the strength among the assemblymen, or among the constituents?

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<sup>1</sup>S.B. 598, 1977-1978 Reg. Sess., Cal. Stat., ch. 882 (1977).

BEHR: Well, the bill had the support from the Marin County Board of Supervisors, and the United Brotherhood of Carpenters and Joiners, who said, "We love to fish for striped bass all around the bay, and we want to endorse your bill." Golden Gate Sport Fishers, party boat vessels. Marin Rod and Gun Club, Southern Pacific Rod and Gun Club, which is a large one composed mostly of oilmen. We got commercial fishermen--the Salmon Trollers Marketing Association, the Western Fishboat Owners Association.

And then we finally came to the great moment when we were facing the Assembly Ways and Means Committee. And we had a party boat captain named Cliff Anfinson, and we presented him to this large, the largest of our committees. He sat at the double rostrum as though he was one of the friends of the assembly, and he was completely at home. He was a great big man and had rolled up his sleeves, and he had enormous beefy forearms.

He started to tell them about striped bass fishing. He'd been a party boat captain for twelve or thirteen years, and his boat was the Bass Tub. He'd always been focusing on stripers, and he'd never had to leave the bay to catch them. "But," he said, pausing and looking sadly up at the ceiling, "in the last two or three years, they're not there. I have to go under the Golden Gate Bridge and out to find

BEHR: them. We've been noticing these poachers going on and on, and we see them getting bigger and bigger boats every year, because that's what they're making from the profits." And he mentioned that he could readily get these tags for practically nothing at any place along the waterfront.

So pretty soon, these assemblymen began to ask him about how he caught stripers, and how big they were, and how many did he get on each trip and so forth. He started to give them a lesson in fishing, and they just leaned over the rostrum, eager to hear him. And he was telling them just as it was. He said, "Now, you know, there are people who know more than I. I've only been on the water for thirteen or fourteen years at this, so you realize that I don't know everything about it. But this is what we do."

So then we also began to put in more testimony about the fact that these fish companies, who ran them all down, were not exploiting stripers. So we proved that all the fish that were being taken and sold to these fish markets were local fish. We talked to Oregon and Washington, and Washington has no stripers. Oregon forbids their export. So you close that market.

And finally, we made it. All the ladies on my staff went out on the Captain Anfinson's charter boat, carrying with them [an engrossed

and enrolled copy of the act] suitably framed. They won all the pools on the boat, came back screaming with delight. It was an amusing and interesting bill, and I think a worthwhile one, because there was no question that. . . . Well, the department was against it all along.

LAGE: Oh, I see. That would be . . .

BEHR: The Department of Fish and Game. They said they had a different system that they were going to experiment with, send these seals out with a serial number, and they were going to be much more difficult to duplicate. But we countered that anyone can duplicate anything, and furthermore, they had no real ability to survey all the fish markets and try to catch these poachers, because they had so few staff. And that it was better just to close this out.

LAGE: So how was it closed out? How did the bill . . .

BEHR: Oh, it simply repealed--it was a very straightforward bill--it repealed the right to import any striped bass into California from now on.

LAGE: Oh, I see, to import it at all.

BEHR: All of it was imported, and then we just cancelled out that section of the law. And so that was the end of the show for the poachers. At one point, one poacher gave up poaching because the fish markets had so many stripers that they wouldn't take any more. We found

that out. Anyway, that was a fun bill to carry.

#### VIII. HEALTH, WELFARE, AND EDUCATION ISSUES

##### Workers' Compensation and Unemployment Insurance for Prisoners

LAGE: Let's move to health, welfare, and education types of issues, where you also were active, even though maybe you are remembered more on the environmental side. You carried a bill to provide unemployment insurance for prisoners.

[Interruption]

BEHR: Yes, this was a companion bill to an easier one that I put through the year before. Actually, on March 20, 1975, I introduced the earlier bill dealing with workers' compensation for prisoners in state prisons.<sup>1</sup> I carried it for the Friends Committee on Legislation. And what was happening was this: in their various workshops in San Quentin Prison and Folsom, they were doing some dangerous things. They had a woodworking shop with band saws and radial saws. They had a slicing machine for carrots and beets and other vegetables. The inmates were getting badly injured, and it turned out that nobody was supervising the safety of these machines because there was no reason to, since there was no workman's compensation.

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<sup>1</sup>S.B. 627, 1975-1976 Reg. Sess., Cal. Stat., ch. 1347 (1976).

So it didn't seem to make much difference. There were a lot of fingers being lost and other injuries, some of them quite permanent. No safeguards on these radial saws and so forth.

So we put this workers' compensation bill in, and we said they'd be entitled to workers' compensation at the end of their sentence, if they had any disabilities, but none while they still were incarcerated. This, of course, then resulted in the state being tagged with extra costs. So they came in, the Department of Industrial Relations, had to come in and check all the equipment to make sure that it was as safe as it would be on the outside. So I put that through, and got it signed to law by the governor.

LAGE: Was that one of the ones that the Friends . . .

BEHR: Yes, that was the first of the two bills at this time that the Friends went for. The second one dealt with unemployment compensation for inmates,<sup>1</sup> and I must say, the concept seemed a little startling to some of my friends, like [Senator] John Briggs, who screamed out on the senate floor, "Welfare for cons!" [Laughter]

But what had been happening was this: if you check the recidivism rate (that's the rate at which inmates return to prison for

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<sup>1</sup>S.B. 224, 1977-1978 Reg. Sess., Cal. Stat., ch. 1149 (1977).

BEHR: both having violated parole and being caught again), they mostly return in the first six months. Sixteen percent of them return. When they return, their average sentence is an additional three years, without benefit of good behavior or anything else.

The reason recidivism was so high, at least we thought, was because they're let out with all sorts of conditions on parole, never to see their parents or friends or their loved ones again, for fear they'd be contaminated; they can't get employment, because they have to confess that they're felons; they're let out with \$150 gate money, so-called, from which is taken the cost of any clothing they wear, if it has to be bought for them. They have no jobs. It used to be that they were let out briefly to find jobs, and then if they found a job, they'd let them out, for good. But that was long ago. So they had to score. They'd use that gate money probably to have a wild party over the weekend, and then it was gone, and there they were destitute. They really weren't qualified to receive any welfare, and so even if they wanted to go straight, it became a choice of going hungry or stealing. So they got caught, perhaps because they were rusty. [Laughter] I'm never sure.

But in any event, what we did was this (and this required a good deal of machinations, because it wasn't a very popular bill; we

had to keep taking amendments to satisfy various parts of the opposition): we said that if an inmate volunteered for employment inside the prison walls and put in double the number of hours that would have given him minimum unemployment compensation if he'd taken a job on the outside, he would then, on being released, be allowed to get the minimum unemployment compensation for six months.

LAGE: Did that unemployment compensation come out of the unemployment compensation fund, which is paid for by employers?

BEHR: Well, it comes out from a separate appropriation, and that was a problem, because we had to put in an appropriation of \$1 million based on the estimates of how many inmates would be released and how much this might cost. So the Department of Finance instantly took a very haughty position that this was out of the question.

LAGE: In the Brown administration.

BEHR: That's right. They gave me a Dear John letter, and we continued on it on the effort to get it through. We finally managed to overwhelm the opposition with endorsements, and I'm trying to find where that sheet is that shows what endorsements we got. Just a moment.

[Pause] I thought I had it here.

LAGE: I'm sure it's somewhere in your very complete files. Where you're

unique, you realize, is that you have these files.

BEHR: Well, that's the result of a last burst of fine staff work that I got. From Bunny Lucheta, I think. [Pause] We can find them later. Anyway, we worked over an answer to the cost, which I thought was somewhat ingenious because you can prove anything with figures. There were going to be 14,000-plus inmates released in '77-'78. Sixteen percent would return to prison within the first year of release. So you multiply the number of inmates by 16 percent, and you get 2,305 inmates that are going to be returned to prison within the first year.

The cost to house one inmate for one year was at that time \$8,600 (it's now \$18,000). So if you multiply the cost to house one inmate by the number who are returning, you come up with this magnificent figure of \$19,823 million. If you indicate--that's for one year, but they're going to stay for an average of three years when they return, so now you're up to almost \$60 million, which at that time would have balanced any budget. So the cost for one returned inmate is \$25,000. So we concluded that if forty-three persons don't return to prison, it would cover the cost of the bill, \$1.1 million. And that's out of a release group of 14,405.

Now, these were the kind of things that probably proved too

much, but we used that . . .

LAGE: Do you think that made a telling argument? Did that help get it through?

BEHR: You never can tell what arguments win, but it probably worked out pretty well. You usually lobby your colleagues on a bill that you care about personally in their offices. That's one advantage you have over lobbyists: if you call, they'll see you. Because they know if they call, you'd better see them. So you have access, and if you want to take the time and make the effort, you can twist a lot of arms in private, and then be surprised when they vote your way. We did that, too.

LAGE: And how about the assembly? Was it more difficult to get to the assembly, or less?

BEHR: By the time we got every group together that was behind this bill, nobody was going to vote against it. We got just about every major group in the state behind it. It took some time, and took some doing, but we got the assembly completely swamped with letters and so forth. The assembly vote kind of showed it. I got 27 to 9 in the senate, and on the assembly side I think we did even better. I'm not sure about the vote there.

LAGE: Anyway, you didn't just squeak through.

BEHR: No, we ran through that one, and overrode the unemployment department. The Employment Development Department, as it was called, was very upset. There was an argument that this was no way to treat that department by grafting on this extra effort. So they were very upset about that, but it didn't help.

LAGE: You mentioned that the Friends were very effective lobbyists. Do you want to say something about their work as lobbyists?

BEHR: Well, I think their work as lobbyists was smashing, not simply because they worked hard at it, but because everybody knew they cared. Everybody knew they weren't being paid, so--Gunterman was their last name. Mr. and Mrs. Gunterman. They were indefatigable, and everybody. . . . they were admired, and the Friends are generally admired. We'd all like to be like some of them. So they were very good, and they'd come back and give you clues as to who was doubtful, and you should see this person, and this is an argument we think has appeal. And they were very knowledgeable on that skill. It was like having two additional senior staff on your staff.

And you've got to have that kind of help, if you're going to make it. The lobbyists are good, and the lobbyists are knowledgeable, but they don't represent any force against the tide of ordinary citizens who vote. The lobbyist can usually see a legislator

once on a given bill. But you can send fifteen consecutive constituents to your colleagues, and they can't refuse constituents. I mean, at their peril, they do.

LAGE: Were the Guntermans instrumental in getting some of these endorsements? Or was that your own staff?

BEHR: I think our staff did most of that. They may have had some liaisons, but we had just about everybody, so it just snowballed its way through the assembly.

#### Writing Legislation

LAGE: What about writing the bill? We haven't really talked about writing bills. Was that something your staff did, or you did?

BEHR: Well, on bills of any size, I liked to write them. Recognizing, however, that any bill that's introduced has to go through the Legislative Counsel, and they will make the changes if they see they should clarify it. Within leg counsel--a very large law firm is what it amounts to--they have specialists in certain fields that you can't match. Other fields, they don't have anybody that you care to see. If you know whom their specialists are, you can get to them and get enormous help. But for the large bills, amendments particularly, Leg Counsel is really the one who does it. And a lot of the legislators give them sort of a letter of intent: "Now this is generally what I

want, so would you shape up a bill along these lines?"

LAGE: What about the committees' staff? I thought the committees' staff people were important in that kind of way?

BEHR: Well, the committees' staff, consultant to committees, make a digest of the bill, a summary, try to point out any weaknesses they see in a bill, and make suggestions for amendments to clarify it. But they don't have the force of legislative analysts. But some of them are splendid, and as you get a consultant who has been in a committee for a long time, particularly a complex committee like I and FI, Insurance and Financial Institutions, you come to depend on them more and more. Because they're working in specialties, with banks and insurance companies, and they've got to outwit the other lobbyists. So consultants are very important.

LAGE: We can get into more detail on that when we get to the insurance.

[End Tape 7, Side B]

[Session 4, January 11, 1989]

[Begin Tape 8, Side A]

Compensation for Victims of Violent Crimes

LAGE: Today we're going to talk about health, welfare, and education issues, and then move on from there. Let's start with that Victims of Violent Crimes bill, 1973.<sup>1</sup>

BEHR: Yes, that was Senate Bill 149. Actually, there had been on the books a Victims of Violent Crimes Bill, but nobody knew about it, nobody was informed about it, and hardly any claims were made against it.

LAGE: So there was a program in place of some kind?

BEHR: There had been a program in place; it was run by the State Board of Control, and probably well run. But policemen were supposed to inform victims of their rights under this bill, and they never did. So, what we did was to revise the whole situation, and particularly make a strong point, that every hospital that is licensed under the state had to display posters in their emergency room, giving the whole story

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<sup>1</sup>S.B. 149, 1973-1974 Reg. Sess., Cal. Stat., ch. 1144 (1973).

about the right to sue, their right to apply.

And then we had the attorney general setting standards for all local law enforcement agencies, requiring them to inform victims of the crimes that they had a right to be reimbursed.

LAGE: And then what about the appropriations?

BEHR: Well, what we did was to make no appropriations, because it was going to be in the budget. So, if there were more claims, the appropriations went directly to the State Board of Control. Now, we didn't give open sesame to the recovery of earnings or the recovery of medical expenses, leaving to the board the consideration of whether the losses created serious financial hardship for the victims. If not, there was no recovery. If so, cash payments were authorized up to \$10,000 for medical and medical-related expenses, up to \$3,000 for rehabilitation of victims for their injuries, and up to another \$10,000 for loss of wages or support, directly or indirectly.

LAGE: Of course, in 1973 that was substantially more than what it seems like today.

BEHR: Yes, a fair amount of money. Then we also got the attorneys off the back of the applicants by setting up a ceiling which was \$500, or not to exceed 10 percent of the amount of the award, whichever was less, for the attorneys. And they were not allowed to demand any

more than this.

Well, what happened is that after the bill became operative, which was July 1, 1974, it started to work. I don't know what amount presently is being required to cover the awards, but I would suppose it must be in the neighborhood of \$15 to \$20 million a year, perhaps much more. There was a hang-up later, because the investigation was turned over under this original bill to the attorney general's office, and they were very slow and delayed the proceedings so much, that I put another bill in which amended this one giving that right to the staff of the Board of Control, and that increased the efficiency of administering that.<sup>1</sup>

I was very much taken with the State Board of Control and the interest they took, the competence they showed, the common sense they continued to display. It's not a very well-known board, but it's completely free of politics.

LAGE: Are they appointed?

BEHR: They are appointed, and they are in charge of determining all claims against the state from any source. So it's an important board, and they did a fine job. This went through without any opposition, this

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<sup>1</sup>S.B. 1032, 1977-1978 Reg. Sess., Cal. Stat., ch. 636 (1977).

bill; practically any opposition. There was nobody who really wanted to take it on, and that's the best kind of a bill to put in, if it does any good. And I think this one did.

LAGE: What brought it to your attention, that this was a need?

BEHR: You know, I've thought about that, and I'm not sure.

LAGE: It's somewhere in my notes, and I just have Evelle [J.] Younger's name. Was he involved in working with you on it?

BEHR: No. I knew Evelle, and he was a nice enough fellow, but I didn't get this from the attorney general or anybody from there, that I can recall. I'm vague about it; I'm not sure.

LAGE: OK.

BEHR: So that was the Victims of Violent Crimes.

Confidentiality of Medical Records--Execution by Judiciary Committee

LAGE: And another interesting one that I ran across, or you pointed out to me, was the bill to keep medical histories secret [1973]. How did that come up?

BEHR: Well, that came up largely because the California Medical Association was becoming increasingly outraged at the lack of confidentiality of their relationships with their patients, and the urgent insistence on the part of the insurance companies that they had the right to know everything, and made that almost a condition to paying off claims.

BEHR: And this information was very sensitive, particularly in the field of psychiatry.

I had a top doctor in psychiatry who gave me twelve or fourteen illustrations of how patients had been permanently ruined by having their medical information moved out to their employers or elsewhere. His name was Dr. Morris Grossman. He was chairman of the Task Force on Confidentiality for the Northern California Psychiatric Society and the American Psychiatric Association. You would think with a moniker like that, that the bill would have had a longer staying power than it did.

We found out some things that apparently shocked some of the doctors, whom you'd think would know about it. For example, there's an organization called the Medical Information Bureau of Boston, which caters to its membership, that includes 700 insurance companies. They had 12 million records on file of medical histories, and the records were growing at the rate of 700,000 a year. This information was pooled by these 700 insurance companies, and they all could call up and draw out whatever they thought they needed--and they wanted as much as they could get.

So the president of the California Medical Association was Dr. Thomas Elmendorf. They were very disturbed, and I think they had

BEHR: a right to be, and I think they still are.

So what the bill did was really a rather modest approach to the growing problems. It stated that, when you had a release of medical information which you thrust at the party, that all the purposes for which the medical information was to be used had to be written out, and the names of all persons to whom it was to be given, or all organizations or anything else, also had to be made clear. And in addition, the authorization could only extend to release of medical information up to the point of the signing of the release, and not as an open sesame to the future.

You'd think that that would not be too serious, and you might think (and perhaps I did at the time) that this was going to be sure to be assigned by the Rules Committee to the Insurance and Financial Institutions Committee, which dealt with insurance. Well, it showed my continuing naivete, because all of these bills were always sent to the Judiciary Committee, and they always were killed instantly. In fact, it was sort of an order of execution when you realized it was going to be assigned to the Judiciary Committee.

And the reason was pretty obvious: since the trial attorneys owned that committee, they had made large contributions to its members, all its members were attorneys, and they all saw alike.

And so this was the funnel through which a bill had to go, if it was going anywhere.

LAGE: But only particular kinds of bills? I don't see how this would affect the trial attorneys too much.

BEHR: Well, it affects them very seriously, because it makes it more difficult for information dealing with injuries to become available. And so the one thing they wanted to keep as wide open as possible was their access to all medical information. So it was automatically sent there and automatically died.

LAGE: I would think they would have objected to this Victims of Violent Crimes, too, when you mentioned a ceiling on attorney's fees.

BEHR: Well, that was pretty small change. I mean, \$10,000 maximum, plus another \$10,000 maximum is so small a case that they're not interested. And it was also an administrative and not a court decision, and they were not interested in that.

But the disguised case histories from the psychiatric profession which we used to demonstrate our points were really scary. It turned out that most of the patients preferred to make their own payments rather than get reimbursed from insurance, for fear that this information would get to their employer. And in fact, some insurance companies insisted that they wouldn't pay a claim unless it

went to their employer, because their employer was paying the premium, not realizing it was a fringe benefit, benefitting the employee and not the employer.

The result of a survey of 9,000 professionals by the insurance agency in Boston, 2,300 doctors answered and it showed most psychiatrists don't respond fully to life insurance inquiries because they feel their relationship with their patients is going to be compromised. So the whole system wasn't working, and the system isn't working now.

LAGE: What was the fate of the bill?

BEHR: Well, it died at once in Judiciary.

LAGE: It didn't get beyond that.

BEHR: No, it didn't. And none of these bills have ever done so. This is not an exception; it's simply proving the rule that certain committees are owned by certain lobbyists.

LAGE: But then the Rules Committee also must have had a bias, since they assigned it to the Judiciary Committee.

BEHR: Well, now, Ann, that had occurred to me. Of course, it's true. It's true, and you'll see this again in several other bills that we'll be talking about this morning, that the Rules Committee has choices, and the Rules Committee makes choices, and the choices are made in

a manner which isn't necessarily logical, but historic. And that's the reason for all this flurry with no-fault insurance. You can sympathize with the insurance industry, as I'll prove to you later on, because they know that no no-fault bill will ever get through the Judiciary, where it will always be assigned. So they are completely frustrated.

LAGE: And you don't think, from your experience in the legislature, that there's any chance of an internal rebalancing of power in the legislature, that would make a change?

BEHR: Very little chance. It's like a parking meter. If the meter doesn't expire, you're legally parked. And that's exactly the way it's been, in terms of certain committees and certain special interests.

LAGE: There was a change in leadership in the senate which you'd expect would loosen things up a little bit.

BEHR: No, there wasn't a change in leadership.

LAGE: Well, shortly before you came.

BEHR: Oh, after Schrade.

LAGE: Right, with Mills coming in. Did that make any effect on the way bills were assigned?

BEHR: No. Schrade was about as far right as one could get, without falling off the world, and Mills was almost equally as liberal on the other side. It didn't disturb the status quo at all.

LAGE: Interesting. Now, why were you approached to take this bill on medical histories? Was it a committee you served on, or interest you'd shown?

BEHR: I don't think so. It was something I just felt was necessary, and I went ahead and did it. Then, I got the approval and the endorsement of the California Medical Association.

LAGE: I see. They didn't come to you.

BEHR: They didn't come to me, and of course, the opposition was the Association of California Insurance Companies, and Farmers Insurance Group, and the trial attorneys.

LAGE: I'm just trying to get at why you picked these particular interests. I understand the environmental ones, because that's your area before and since. But how did particular things come to your attention as being important issues?

BEHR: You know, I don't know the answer to that, at least so far as this bill was concerned. I can give you the answers to some others, but this simply intrigued me, and I decided to take a whirl at it. I had some notion that it would go through, but that was . . .

LAGE: This was fairly early on, '73. Did you try it again later?

BEHR: No. No, there are certain things that are useless to try. Other things that. . . . You really have to play the odds, and you can only carry

about two or three good-sized bills in a given session. Maybe three. And so you have to pick and choose, and in doing so, you have to use some judgment. You may be on the cutting edge of change, and you hope to be, if it's important to you. But if you go beyond that, you probably will stay in office for life, because you haven't really annoyed anyone. The finest and the easiest and the most certain way of staying in office is to be the recipient of the statement that, "Well, I've never heard anything wrong about him," whereupon you are immune from competition.

It's when you start doing things that you start making serious enemies, if you're successful. If not, you're quickly forgiven.

LAGE: The recipe for staying in office.

BEHR: That's true.

LAGE: Well, anything else on that?

BEHR: I think not. It was just a disappointment.

Building a Constituency for Education for High School Mothers

LAGE: We're just kind of moving down the list here; they're not necessarily related, but the next one is the bill on high-school age mothers.

BEHR: Yes. Now, this is a bill that I must say gave me exceptional

pleasure.<sup>1</sup> It was so obviously the thing to do, and it worked. And it worked to some large degree as a result of a rather special woman named Vera Casey. Vera was in charge of this program at the Berkeley High School, and she believed in it, but on top of that, she understood what was necessary to testify to it, and how to put it across.

LAGE: Was there a political sense?

BEHR: She had a beautiful sense of timing, and a real understanding of what was necessary. She was very objective. For example, she said what they were trying to do in the Berkeley High School in terms of these drop-outs, or would-be drop-outs, who were pregnant and never came back after their baby was delivered--she said they were trying to break the welfare cycle, break the repeat pregnancy cycle, help the mothers to become useful citizens, help the high school parent realize that their little infant wasn't just a doll, and getting them to stand tall and know that we do care.

Well, they had a program which was offered out of a large old-fashioned building across from the campus of the high school. It had been going on for three years, and she had seventeen children

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<sup>1</sup>S.B. 1860, 1973-1974 Reg. Sess., Cal. Stat., ch. 1504 (1974).

enrolled in the first year, student parents, and she described to the committee what happened to them. Six had graduated from high school, one was a sophomore at Arizona State, one was working at the local department store, one was married to the father of her child, one was working as a nursery training aide. She took these youngsters back the second year to train the other ones. One was on welfare. But all six had been on welfare when they came back. They had no repeat pregnancies in that first class, and this had been going on for three years now, and they were handling thirty high school student parents and thirty infants and toddlers in the year that she spoke about.

She also had a nice grasp of the size of the problem. She said, "As best we can figure, 8.4 percent of the Berkeley High School girls became mothers last year. In Oakland, one high school gave me the figure of 9+ percent, another said 10 to 11 percent. One school in southern California had 600 pregnant girls enrolled in high school last year; approximately 300 of these are drop-outs this year due to lack of child care."

Well, she really took that committee by storm, and we started to gain organizational support for this bill.

LAGE: What committee would that have been?

BEHR: Natural Resources, I think. No, it couldn't have been Natural Resources. Health and Welfare. [Pause] I'm rather sure it's Health and Welfare, but I don't want to misspeak.

Anyway, we gained some support for this. The State Department of Education came in with a do-pass. The League of Women Voters; Children's Home Society of California; Los Angeles City Unified School District; California PTA [Parent-Teachers Association]; California Federation of Teachers; California Rural Legal Assistance; California Association of Adoption Agencies. And these kept rolling in, particularly from all the large cities--City and County of San Francisco came in; San Diego City Schools. Sacramento County Child Care Commission came in.

So in the end, we'd built up a constituency that was unbeatable. The Children's Lobby was responsible--do you know that group?

LAGE: No.

BEHR: [Donald] Don Fibush was the key figure. He spent years as an unpaid lobbyist for children.

LAGE: Is this the bill number here?

BEHR: S.B. 1860. So we rolled this thing through.

LAGE: Do we have a year on that? '74?

BEHR: '74.

LAGE: Would this have set up program statewide?

BEHR: What this did was to set up a program with \$600,000 or more appropriated, so we had to get a two-thirds vote. We put the program in the hands of the State Board of Education, allowing all high schools who were interested to apply, and let the State Board of Education screen them. It worked very well; in fact, it worked so well that two or three years later the State Department of Finance urged it to be expanded because it was saving the state money in terms of AFDC [Aid to Families with Dependent Children], which pleased me no end, I must say.

Well, Vera Casey died suddenly--well, I guess it wasn't too sudden--of cancer. I've always had a sentimental affection for her. At her funeral, her husband called me up to thank me for carrying the bill. Every year, on the anniversary of her death, he calls me. And that's been fourteen or fifteen years. He's wanted often to come and see me and have lunch or something, and I've always resisted it, because I felt it would really be better to leave it this way. Because he's a very sentimental man, and I'm sentimental too. It might be too much for the both of us.

But anyway, it was a very satisfying bill and is desperately

needed. This is just a drop in the bucket in terms of what should be done. Because this is where you start breaking the welfare cycle, in the largest single welfare program in the state, AFDC. When you get these statistics that I'm sure haven't improved, with some 10 percent of the high school girls getting pregnant every year, you can see what happens.

They have no way. . . . they haven't got their educations, their high school diploma; they almost always keep their children, interestingly enough, and then they have no choice but to go on AFDC. So when that happens, without any training, they can't get a job. If they had training they can't afford child care, so they're literally trapped, and they are consequently being neglected. Often there are repeat pregnancies, which simply compounds the problem. When I last checked on AFDC, which was a long time ago, the mothers had 2.3 children. I kept reminding my colleagues that it wasn't that all of them were one-third pregnant! [Laughter]

LAGE: Was there any controversy getting this through, such as I would expect you might have today with objections to information about birth control? Did that come up?

BEHR: No, it didn't. We didn't emphasize it, but they were required to take two courses when they came back with their baby. One was in

parenting, and the other was in domestic relations, in cooking and  
...

LAGE: Housekeeping.

BEHR: Housekeeping, generally, yes. There's a fancier word for it. But it did include birth control instructions, but there wasn't any problem. I think probably because most of them kept their babies, so the right-to-lifers didn't have the problem of seeing abortions.

LAGE: It was designed for the kids who did keep their babies.

BEHR: That's right.

LAGE: Did you have a right-to-lifers' contingency at that time?

BEHR: Not that I can recall. It sprung up in a very vicious and bigoted way over the last five to ten years. I don't know what we can do about it.

LAGE: They're using a lot of the techniques people used in the sixties for anti-war activities.

BEHR: Yes, sure. Militant action. It's too bad. Well, that's about all on Vera.

LAGE: Was Vera a constituent of yours? Or she was from Berkeley?

BEHR: She was from Berkeley, so she wasn't . .

LAGE: But did she come to you with the request to handle a bill like this?

BEHR: I think she did; I think she was the original one. And then I got Don

Fibush; he became involved. He represented Advocates for Youth, also known as the Children's Lobby.

We got a letter from Caspar Weinberger, at his request, when Cap was head of HEW, indicating the need for instruction for these mothers at the earliest possible age to improve their understanding of what they could expect from their children, which was overblown and resulted in a lot of child abuse.

LAGE: Oh, I see, parenting information.

BEHR: Yes. And this, of course, was offered.

LAGE: Sounds like a very good program. It's still in effect, you say?

BEHR: Oh, yes, it's been going on, and expanding.

LAGE: I wondered how well funded it is to keep up with . . .

BEHR: Not very well funded with this administration, you can be sure of that.

[End Tape 8, Side A]

[Begin Tape 8, Side B]

Drawbacks of Reagan's Mental Health Program

LAGE: I had sent you a clipping [October 11, 1973, San Francisco Chronicle] about a hearing on increasing state compensation to a local health facility, which was a San Rafael hospital--Linda Vista, was it called?

BEHR: Oh, yes.

LAGE: The hearing was before the Senate Select Committee on the Phase-out of State Hospitals.

BEHR: Oh! Yes, well I was much involved in that committee.

LAGE: Let's talk about that a little bit. This was during the Reagan administration, or . . .

BEHR: You betcha. Well, Reagan, under [secretary of Health and Welfare Agency] Earl Brian, came up with a plan to phase out all state mental hospitals, which was very scary to everybody who knew anything about the problem. The concept was sound enough. The concept was to return mental patients who were able to function under medication to their own communities, where they would be picked up, monitored, and given a broader opportunity to function.

The difficulty was that there are a large number of mental patients who are completely unable to function. In addition, there are a large number of profoundly retarded children at Sonoma State Hospital. And there was absolutely no policy in regard to looking after these patients once they'd been released with their medication from these state hospitals.

LAGE: You said they were supposed to be monitored in the local . . .

BEHR: That was the theory; but there was nothing done.

LAGE: No money to the local agencies?

BEHR: No money at all, no plans that were required, no plans that ever developed. They were let go, and they never went back to their own communities because there was no place for them in their own communities. So they were warehoused in room-and-board housing in all the major cities: San Jose was one, San Francisco, Los Angeles, where they . . .

LAGE: Were they given a stipend, or did they use their Social Security disability?

BEHR: They had a stipend, only enough to cover the room and board at these places, just a minimum amount.

Well, we were outraged at this, so there was a joint committee set up under Senator [Alfred E.] Alquist. We went out and held hearings throughout the state asking for testimony and generally inquiring how this was supposed to operate, and what's wrong. We raised such a fuss that they backed off the plan. At least they did on the surface. Now, if you check the number of inmates in state hospitals today, you'll find there's just a small percentage of what was in the hospitals at that time, so this program has been continuing sub rosa. It's counterproductive, it's heartless, and it's creating all sorts of local problems, because local counties are the

counties of last resort in terms of paying for health problems.

And many of these people have serious health problems, mental as well as physical. There are many of them acting in a bizarre manner, and the police don't know what to do with them. They urinate in public, and they generally mumble and grumble, and they scare people. They're probably not dangerous, but nobody knows it. So they wind up in local jails overnight, and so forth. There's no place for them to go.

LAGE: How might this be related to some of the problems we've had with homeless on the streets?

BEHR: Oh, I think it's a very significant percentage of the hard-core homeless. They are the least of us, and they are being given the least possible help, and they have no place to go and no way to get there.

LAGE: On the other hand, was the release at all related to a movement I recall to give mentally ill people more independence, not impose treatment on them?

BEHR: The concept was sound. If the procedure and the structure had been developed and handled for these inmates when they left these institutions, perhaps somebody to act as an ombudsman for them, force them to take their medication, look after them when they got

sick and in trouble, it would be a much more humane and sensible system, made possible because of drugs which, in effect, caused them to act in a fairly normal manner--so long as they took their medication. And nobody was even checking to see they took their medication. It was a crime against humanity.

Anyway, we broke the back of this for a while, but it's still going on, and it's--as you point out--a significant part of the homeless problem.

#### Legislative Relations with the Executive Branch

LAGE: What about Earl Brian? Did you have much relationship with him, or do you have any comments on the way he ran the Health and Welfare Agency?

BEHR: I think he is a man of a kind like the governor, who was well-intentioned but completely oblivious of the human side of things. I had very little use for him. There was a fellow named [ ? ] Carlson, I think, and Carlson was in charge of a significant part of the program. And Tony Beilenson, who was a tough chairman of the Health and Welfare Committee, refused to have him testify unless he was first sworn in.

LAGE: This Carlson?

BEHR: That's right. Tony said, "You know, I've heard so much, I don't

believe you any longer, and would you mind being sworn in so you know that you're testifying under oath?"

LAGE: That's pretty strong.

BEHR: Oh, it was tough, and Tony is very tough. It pleased us all, because it made him a little more cautious. Not that much more honest, though, if I've got the right man.

LAGE: Another man that's mentioned in this article who seemed to have more sympathy with your point of view was the health director, [J. M.] Stubblebine?

BEHR: Oh, James Stubblebine? He came from Marin County. He had a very fine reputation as a psychiatrist, and I think he probably earned it. I had regard for him. I think he was unable to do anything, though, in that administration. But he was a fine man.

LAGE: What would the contact have been between you or your staff and the state Department of Health on issues like this? Was it all just in the formal setting of the hearing, or was there . . .

BEHR: Well, what the Reagan administration did, which was, I suppose, good strategy, was to let bills flow along until they began to look as if they might succeed. And at that stage, they began to determine whether they would accept the bill, or whether it would need an amendment, and how they would tailor it. You began to get hints

from the corner office that that bill was likely to be vetoed . . .

LAGE: This would be from the governor's office?

BEHR: Yes. And that is very discouraging, but it was meant to cause you to start to negotiate with them, and see whether or not you could arrange it with some simple amendment that would take away their concerns. And sometimes they said we could, and sometimes they said we couldn't. Sometimes they said we'd have to. It was my policy never to bargain with them, because you never could tell whether they were going to keep their word anyway. And in consequence, they might have to sign it because it would be more embarrassing than not to sign it.

LAGE: You might be able to put pressure in other ways.

BEHR: That's true. But once you start becoming known as an easy mark, you've lost your currency, and so they just pay no attention to you. And very often, the pressure comes not from the entire administration but from one source, which is flushed out in the cabinet meetings that go over the bills to determine which they will sign and which won't be recommended to the governor.

I had good relationships with some of the departments; Education in particular, with Wilson Riles. The Welfare Department . . . they're so huge, these departments; they're agencies now. It's

very hard to get a determination from the agency what they'll do. Of course, I was very closely connected with the Resources Agency through Ike Livermore, who was head of it. So I could sometimes make some progress there.

LAGE: Of course, that wouldn't necessarily be the governor's policy, it seems. You might know what Livermore would recommend.

BEHR: Well, as a rule, I'm not sure Reagan had many policies. He handled his dealings with the legislature in a very orderly fashion. When a bill became law or came to his desk for a signature, it went through his cabinet, who met without him, as a rule, and they made recommendations on all the bills, and he usually almost always followed those recommendations. He wasn't as stubborn as he became later; he didn't care as much, or didn't seem to.

LAGE: Were there particular people in the governor's office that you dealt with? You say you refused to bargain with them, so maybe you didn't deal with them.

BEHR: No, I didn't. Jerry Brown had a charming lady who was a lobbyist for the governor. B. T. Collins was the lobbyist for the governor as far as the assembly was concerned. But I didn't bargain with them, and I didn't. . . . Tony Kline, who later became a superior court judge--I knew Tony and talked with him on occasion on some bills.

LAGE: Did the Brown administration have a different way of dealing with your office?

BEHR: Yes, it was different. I don't think anybody really knew what Jerry would do on many occasions, and I think on many occasions that included him. He was not very predictable, and he had what I've always felt was a surprisingly short attention span, and he'd lose interest and move onto some other idea.

LAGE: So you wouldn't shape your bills based on what you thought he might do with them.

BEHR: No. I don't think I ever did that with the administration, either one, either Reagan's or Jerry Brown's. I would shape it more on the basis of what was possible in terms of getting through the legislature, because when a bill starts, it's going to be changed. It may be changed for the better, because you can find persons who know more than you do and can point out things. It can easily be changed for the worse. And when you're at a stage where you have to compromise, and you know you have to compromise, you do it at last moment, as little as possible. So you give the other side the feeling they've had a big victory, because they've moved you. But if you're readily movable, you'll be swept off the chessboard right away.

LAGE: Sounds like you gave a lot of thought to the strategies here.

BEHR: Oh, the strategy was it. Yes, and it was fun.

Education for Autistic Children--Key Role of Determined Citizen-  
Activists

LAGE: OK, let's move on . . . Some of these general points will probably come out again as we talk about more things. On this bill on education for autistic children, you told me an amusing story about John Burton's role.

BEHR: Oh, yes.

LAGE: Do we have a date on that, by the way? I didn't find one. Maybe that's something we can fill in.

BEHR: Well, I haven't got the bill; it wasn't mine.

LAGE: Oh, it wasn't your bill? OK.

BEHR: Yes. There was a lady named Kimberly Gund who lived in Novato, and she was the mother of an autistic child. She, like all other mothers of autistic children, faced this as the single most important critical fact of their life. I suppose some of them felt guilty for no reason, but they had to look after this child.

And Kimberly was in charge of the autistic mothers for Marin County. She found John Burton in a bar in Sausalito at a fairly late hour. She had never met him, but he was pointed out to her, and he was apparently underneath a spiral staircase which led to the second

BEHR: floor. And, while I'm sure he was not intoxicated, I'm also sure he wasn't completely sober.

She approached him and started telling him about autistic children, which was the last thing that John wanted to hear about. [Laughter] And one of the many things he didn't know about. And so finally, she said, "You've got to put this bill in." He said, "Madam, look. Talk to my staff, and if they think it's a good bill, I'll be glad to put it in. Just bug off!" [Laughter]

So she talked to the staff. And it was a very good bill. And the purpose of the bill was to take autistic children out of the classrooms for the developmentally disabled, because they were so difficult to handle that once you had an autistic child in a developmentally disabled class, no teacher could handle the class. So the purpose was to take them out of those classes and give them a much lower teacher-to-pupil ratio, one to four or one to five. And there was a lot of money involved, two or three million dollars, to do this.

So John put the bill in. At the time, he was under Bob Moretti's leadership, and the speaker had John as one of his favorite sons--he was chairman of the Assembly Rules Committee--and that bill just whistled right through the assembly.

LAGE: She picked the right person at the right time.

BEHR: Absolutely. Because you know, the speaker can put any bill through his house, anytime, because he has such awesome power over all the members' futures.

So it got through the assembly, and then Burton was elected to Congress, and I was left with the bill and Kimberly Gund and the autistic mothers, who had practically set up shop on the Capitol lawn and lobbied everybody in sight, including the guards and the state policemen. They were inexorable. I thought this bill had no chance.

LAGE: Because of the money?

BEHR: Because of the money. And because this really represented such a small percentage of handicapped children. So I got the bill to the first committee, Health and Welfare Committee, and it was a night hearing, which is always deadly because some members simply just don't show up at night.

All the women were there, and they were all in the audience just breathless. We had a short committee.

LAGE: You mean, not a quorum?

BEHR: We had a quorum, but we didn't have enough to get a majority of votes out of the committee. So I put it to a vote, and we came up one short. I said, "I'd like to put a call on the committee. We'll try

to find that last vote." So when I got in the hall, all the ladies were there weeping. They thought they'd lost. Oh, it was so touching.

And I said, "Look, ladies, we've got one problem. We need one vote, and Alan Short will certainly vote for us. He's an absolute historical figure in this field, but he's been known to drink a good deal lately. [Laughter] There are four or five bars which he frequents. I'll tell you where the bars are, and you split up and bring him in!"

Well, they whooshed out the door, down the corridor. Meanwhile, another member came sauntering up unexpectedly. I forget who it was. I told him about this bill. "Oh, hell," he said, "I'll give you a vote." He didn't know autistic children, I don't think.

So by the time the ladies got back, I had the bill out.

LAGE: Did they come back with Alan Short?

BEHR: No, never found him. Then we got through the Finance Committee by one vote, which was a miracle. And it was a result of their lobbying, because they were hard to refuse. They were like an old Greek chorus: they wept when they were ahead, they wept when they were behind, and it was something.

So finally it got down to the floor of the senate. There they were in the audience, the same crew. There were about twelve,

fourteen, sixteen of them. And this was the final test, and so I put it up to the senate. We came quite a bit short of the needed twenty-seven, and so I put a call on. I spent about an hour and half going around, trying to get my other votes.

LAGE: Getting people to show up?

BEHR: No, not to show up; to either shift their vote or to vote--some of them had abstained. And after about an hour and a half of effort, I got up to twenty-six. I realized that time was running out; you can only put a call on during the session, and then you ask for reconsideration if you don't get the vote. But that's like serving up warmed-over food. You never get back to your original numbers.

So I was at my wit's end, and I talked with George Moscone, whom I was very friendly with, and I was really very fond of. He was a lovely man. I said, "George, I'm at my wit's end. I don't know what to do. I've got twenty-six votes, I need twenty-seven, the house is about to adjourn, and I've got all these ladies here, and we've been through hell. I can't change any more votes."

He said, "Have you talked to [Senator] Howard Way?" I said, "Howard? Are you crazy? Howard is very right-wing. He's one of my dearest friends; he voted no with conviction, and I can't conceive of his changing his vote."

"Well," he said, "why don't you try anyway." I said, "George, give me one good reason." He said, "He has a daughter who teaches developmentally disabled children." I didn't know that.

So I went over to Howard and said, "Howard, you know, I'm in desperate straits, and we're good friends, and I don't want you to do anything against your conscience, but I surely would appreciate it if you'd switch your vote."

"Well," he said, "lift the call; I'll change my vote." Never said anything about his daughter. So it came out.

#### Lobbying the Legislature

LAGE: Goodness. So that was quite a lobbying effort on your part, and on the ladies' part.

BEHR: Oh, yes, it was. And I think if anything, I never failed to try to get as many votes as was possible to get, and I had no hesitation to lobby an hour, an hour and a half, two hours, if I could manage it.

LAGE: How would you approach people?

BEHR: Well, different ways to different people. It all depends. Every bill has its own little hookers on it for people. And some people really . . . . they vote, but there seems to be a feeling on the part of the lay public that every vote is from the heart, and every vote means as much to the person who votes as it would to the constituent who's

lobbying it. This isn't so at all. Probably with any bill of significance, and even smaller bills, 40 percent of the voters don't care whether they vote yes or no. Why should they? Some of these are technical bills they know nothing about, others they have no particular axe to grind.

So you have to know what number care how much about what, because that's an area you don't tamper with, because it's not efficient to do it. You might possibly wangle a vote after two or three hours of effort, but you haven't got that kind of time. So you go for the ones who really don't care first, and if you show them you care, they sometimes come around. Quite often. So long as you don't play the vote-swapping thing, which is done, as you know. "I promise you to vote on your bill if you promise me to vote on mine," that's a felony. There's never been an indictment, but still it's a felony.

LAGE: I had never known it was a felony until you mentioned it.

BEHR: It is a felony. But if they get the idea they're going to be able to bargain with you, that takes a lot of time. That's demeaning to the system, and it's a game that I never played. But they always figure they're building up their good will, and that when they come to you again, you'll remember it. Which is probably human nature. And

you're not giving away much, because most of them don't carry bills anyway, that are worth a damn. [Laughter] So I never bargained for a bill.

LAGE: Well, when you were lobbied by your fellow senators . . .

BEHR: I was no different. I really cared about more things, and I'd probably studied the bills more than some of my colleagues, but I would change my vote on occasion, and I would change them partly because of friendship, if I felt that it was a close vote, and that the bill had no harm in it. And friendship makes a lot of difference. That's what the lobbyists have going for them; they used to have it more than they do now. But they used to have it where a lobbyist had been in his field for ten, twelve, fifteen years; he was a contemporary of all the old-time senators and assemblymen who had the power. And they were good friends. And the lobbyists would use that friendship with telling effect. It's not so any longer; it's been changed. But it is to some degree.

So the lobbyist didn't have to know a lot in the early days; they just had to be good fellows and good friends. And that's the way they garnered their votes. It's not true now.

LAGE: What has changed it?

BEHR: Money, to a large extent. Also, I think, we demand a lot more of

lobbyists than we used to. Lobbyists have to be knowledgeable, and they have to give you an honest answer to an honest question, and if they lose their credibility, they might just as well leave Sacramento.

LAGE: They serve as sources of information.

BEHR: Yes, they do. There's no doubt about it. Most of them are fine.

You get crooked lobbyists working with crooked legislators, and you come out with a crooked bill. And everybody knows it; that bill's not going anywhere. So it really is biting the hand that's fed the legislator.

LAGE: But when you say that money has changed it, that seems like the other end of the spectrum from the statement that now lobbyists are giving us more information. Is it a combination?

BEHR: No, I think that money's changed it for this reason. I think the lobbyists have become much more sophisticated, and we need a lot more knowledge than we used to, perhaps, in those days. But I think that certain committees notoriously have members who will vote 99 percent with the California Teacher's Association, or the CMA [California Medical Association], or the California Insurance Industry, or the trial attorneys. Because that's what keeps them in office, that money. And that is an overriding consideration, [Inaudible].

LAGE: Now, is that more today, do you think, than when you were in

office?

BEHR: Well, I'm not so sure if they were . . .

[End Tape 8, Side B]

[Begin Tape 9, Side A]

LAGE: I think we might have missed your final sentence on that last side

. . .

BEHR: You need so much more money now. When I first ran for the senate, I spent more money in the primaries than anybody in Congress or in the California legislature. It was about \$95,000. That wouldn't buy you a cup of coffee today. Now, in order to run for the assembly, with half the number of constituents, you probably would need, if it's a contested seat, half a million dollars, minimum; perhaps more.

So the whole thing has been increased exponentially, far beyond inflation. And I'm afraid that it's made matters more corruptible. If you're the only person arguing with me, and urging me to vote, I'm likely to be convinced. And you have access, because you're a lobbyist. Our constituents have access, but not in the same sense. So you have an enormous advantage, even though you're not corrupting me, technically. Of course, I could be corruptible.

LAGE: We'll have to be careful when we edit this not to leave any unmeant connotations. Anything else to say on John Burton? I was interested

in your comment that autism was one of many things he knew nothing about.

BEHR: Well, John was not a gifted person, so far as his intelligence was concerned. He knew politics very well, and during this period of time he was, I think, undergoing some problems. He was a very mercurial type, with a very short fuse. I was never one of his admirers. I was a great admirer of his brother Phil [Congressman Phillip S. Burton], who was an unbelievable character.

John went on to Congress, and as you know, he decided not to run again, and now he's back in the assembly. But I never cottoned to him very much; that may have been partly the fact we were so very different. I think it's safe to say he didn't cotton to me, so maybe it was a Mexican draw, if that's not ethnic heresy.

Teacher Tenure Legislation--Power of the California Teachers

LAGE: OK. I came across these bills having to do with teacher tenure. Was that something that was an important issue?

BEHR: Yes, I thought it was a very important issue. I was very privileged to carry these three bills. These three bills came from Marin County, and they came from a group which had been put together probably by [Donald] Don Johnson, who was the superintendent of the Sausalito school district, and almost certainly one of the outstanding

BEHR: superintendents in the state.

He put an employment study committee together in April, 1975, and tied in some marvelous women. He got people from the PTA [Parent-Teachers Association], the League of Women Voters, AAUW [American Association of University Women], school trustees, administrators, and they worked for a couple of years. They identified and put together three bills which I asked to carry, because they were so badly needed.

The first one had to do with new teachers.<sup>1</sup> The law required then that prior to December 15 on the very first year that they taught, after they'd been on the job two months, the supervisor had to meet with the teacher and list all the deficiencies noted, identify how they could be corrected, warn that if they're not corrected in ninety days, legal action will be taken, the teacher will be dismissed if so notified on March 15.

Well, the system was crazy, because this meant that before the completion of a single semester, the decision had to be made to dismiss a teacher who had never taught before, who never had a chance to prove that he or she could teach. It wasn't fair to either

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<sup>1</sup>S.B. 272, 1977-1978 Reg. Sess. (1977).

BEHR: side. And so the teacher had to carry the threat of dismissal for the whole first year she's teaching, or he's teaching, and it's contrary to any other professionals who have a much longer trial term, trial time to learn the job before hanging an axe over their head.

I remember the deputy sheriffs, when they're first hired in Marin County when I was on the board, had six months' grace before they were in jeopardy. Louis [P.] Mountanos, who was the then-sheriff, came in, and said he needed a year minimum to find out about them. Because they could keep their noses clean for six months, but not for a year. So we changed it to a year before they were given tenure.

So what this bill proposed to do was, it made the new teachers interns, which meant that they were free to remain for the full year. On March 15, after they'd taught for a year, the decision was made by the school board, from the advice from the superintendent or principal, as to whether they would be kept an additional year. And if they were hired for the second year, all their rights came into effect, as though they'd been hired from the beginning, and they got tenure, or the equivalent of tenure.

However, if they weren't suitable, in the opinion of the school board, the school board did not renew their commitment. Teachers

had the right to appear before the school board and state their case, the new teachers. There were various safeguards for teachers under the system so that if they weren't accepted, there was no record made of it, and they were never fired. They just were let go. And so it didn't block their career as teachers; didn't help them, but didn't block them. The idea that you can take a teacher who's never taught and strictly from the standpoint of grades that he or she presents from the credentials to the school, and a few letters of recommendation, can determine if that teacher who's never taught is going to be a good teacher, is tommyrot. So that was one bill I carried.

LAGE: So it extended the probation period?

BEHR: That's correct.

LAGE: Was this 1977?

BEHR: Yes, I'm sure it was.

Then the second bill of the series,<sup>1</sup> that's the least important, was a bill which took away from temporary teachers the right to take the first permanent position which came open, if he or she had taught for 75 percent of the school year, prior to the opening that

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<sup>1</sup>S.B. 273, 1977-1978 Reg. Sess. (1977).

was being hired for. We simply did away with that. We did away with it on the basis that usually the vacancies occurred when it was very hard to find other persons to come in and take on the assignment. But the fact that a temporary teacher, who could teach the second grade classes when you had a need for a seventh grade class in social science, would have a right to the position, we felt was wrong. So we did away with that, recognizing that the temporary teacher had a leg up anyway, if he or she was good.

The last one was S.B. 274, and that one had to do with the system of handling the reduction in force in a school, where because of declining enrollment or some other reason, a certain number of teachers had to go. Now, the system there had been set up under which all teachers with the same anniversary dates, meaning they were hired the same year, drew lots to determine who was the lucky winner, if there was only one opening.

LAGE: That's incredible.

BEHR: If there are two, then a second one got in. We changed that around in the bill to insist that the good of the children and the good of the school, was paramount. From teachers with the same anniversary class, the right to make the choice rested with the school board, for the good of the school and the good of the students.

All three were urgently opposed by the teachers association.

LAGE: You'd think in a way those benefitted the older, established teachers.

BEHR: Well, they didn't like them. . . . they didn't trust the opposition, and there was a clear "Them against Us" deal. There was no way we could get them to change their minds. So we went ahead and we got. . . . we didn't go ahead. This group went ahead. They lobbied every single legislator.

LAGE: This group of . . . ?

BEHR: From Marin County. The group that I got the bills from. They got a list of 200 school districts to approve it. And they didn't just stop with the listing of these school districts; they'd had those school districts write to their legislators in every case. And we got enormous support from the PTA, and we got support from California Taxpayers Association. One hundred forty school districts, seven colleges, Association of California School Administrators, California Congress of Parents and Teachers. Opposing us was the California Teachers Association, the United Teachers of Los Angeles, California Federation of Teachers, California Teachers Public Affairs Council. It was quite a task.

LAGE: Did the California Teachers Association have a good deal of power in the legislature?

BEHR: Tremendous. They're probably. . . . at the time, they gave the third largest amounts to the legislators. That's how it was.

We went to the Local Government Committee and got the thing through.

LAGE: Was that the committee that handled the bill, rather than Education?

BEHR: Yes. That's true. I'm trying to confirm that, but I'm sure it was.

[Looks through papers]

Anyway, the end result was that we got 274, the lottery bill, through into law.<sup>1</sup> The other two were killed, quite handily.

LAGE: Despite all the lobbying by your Marin group.

BEHR: Absolutely. I thought that was very unfortunate. Then I learned recently that Gary Hart in the assembly, who really was the best of them, got my 272 through.

LAGE: The same bill?

BEHR: Same bill; he extended the time for the teachers for another half a year before they would qualify. He got it through into law.

LAGE: So times are different nowadays.

BEHR: Well, my daughter told me that. She's on the school board here, the Shoreline Unified School District. So I was pleased about that. But

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<sup>1</sup>S.B. 274, 1977-1978 Reg. Sess., Cal. Stat., ch. 433 (1977).

these three bills were first-class bills and beautifully put together, and I was privileged to carry them, and at least we got one into law. But it was disappointing because the bills were so good.

Assessing the News Media

LAGE: I noticed the Los Angeles Times had an editorial in support of those three bills.

BEHR: Yes, we had the Times, and a lot of other papers too.

LAGE: Would that be something your staff would do--with the media--or this Marin group?

BEHR: Well, with any bills of any importance, we worked the media. And I'd been up and down the state talking to the editorial boards of media, on all the bills that I carried that I cared about.

LAGE: Did you have a good relationship with the Los Angeles Times?

BEHR: Yes. Oh, the L.A. Times was wonderful. You start with them, where you hope to end with the other editorial boards. They know so damn much. And what they do is they get thoroughly briefed by the experts on these bills, and the most research, before you come in. So you don't have to explain everything to them. They have all their questions lined up, and they're deadly. They know just exactly where the weak points are. It's a wonderful editorial board. The others are of questionable character compared to them.

- LAGE: Any in particular that you don't . . .
- BEHR: Well, the two San Diego papers are so right-wing, it was frightening.
- LAGE: But you still tried them.
- BEHR: Oh, you tried them all, sure. The [San Francisco] Chronicle and [San Francisco] Examiner, I always tried them too, and San Jose Mercury [News].
- LAGE: How well informed were the Chronicle editorials?
- BEHR: Medium. It often depends on the issue, too. Sometimes they're very well informed on some issues, and other issues they're at a blank on. But they're always willing to see you, which I think is good.
- LAGE: Just in terms of news coverage--in preparing for your interview, I've looked at newspaper indexes, and the coverage in the Times was much more significant, of your issues, than the Chronicle, many more articles.
- BEHR: Probably because they had a far better correspondent in Sacramento. I forget his name, but he was excellent. They've got more space, and more interest. It's a great newspaper, it really is.
- Controlling the Coroners--Embalming Legislation
- LAGE: On to embalming.
- BEHR: [In dolorous voice] Embalming. [Laughter] That's a funny one.
- LAGE: We need a little comic relief in here.

BEHR: Well, I got this little gem from the coroner of Marin County. His name was Dr. [ ? ] Jindrich. He was a pathologist and a man of very real significance.

Well, he told me that he felt there was a problem in terms of the embalming of bodies by coroners. He said, "It's not a problem that relates to the entire state, but it is a problem that relates peculiarly to Los Angeles County and San Diego County." The problem ran something like this: that these two counties were charging \$100 as a fee for the embalming of everybody whom they had picked up, regardless of whether they had gotten permission for embalming from the family.

Well, this was a real money-maker for the county, because Dr. [Thomas D.] Noguchi, well-known coroner of Los Angeles County who was eventually driven out of office, embalmed 1500 bodies a year.

LAGE: Just that they'd picked up off the streets, or . . .

BEHR: Yes, anybody that they got, that ended up in the morgue. Well, that's \$150,000 at \$100 a crack, which went into the general fund of the county. And this was extracted from the poorest of the poor people; the families of people whom the coroner's office picks up usually have very little money. And there's no reason for embalming.

You can have an open-casket funeral without embalming. The only time when you need embalming is if there's an infectious disease, or if you're sending a body by common carrier to some other location.

So we took them on, and the bill said that unless the family asks for it, that all embalming would be done at the expense of the county. So that really triggered Noguchi. He came up [Laughter], and I got it through the senate. I got it through the senate, and he caught up with me on the assembly side. I think this went to Local Government; I'm sure it did; it had to.

LAGE: This was 1977, too.

BEHR: No, this was '76.

LAGE: Do you have a number there?

BEHR: Sure. [S.B.] 1468.

So he caught up with me on the assembly side, and he could barely speak English; he was Japanese, I guess, a very clever fellow with enormous influence. He's from Los Angeles County, and here I was taking on Los Angeles County for embalming, for God's sake, which is a private matter.

So I didn't get the bill through. I had first tried to get it to Tony Beilenson, because he was a specialist in the field of coroners and funeral directors. He'd been the scourge of the whole industry,

because there had been so many wicked practices. He kept losing, but he didn't mind. He put a bill in three or four years in a row, and in the end, he'd always win. He just would wear them out. But Tony was busy, so I took it.

So, I lost, but the minute the next session started, I put in S.B. 44, which was identical. We started to rally the coroners, and we got various letters from different coroners, and began to . . .

LAGE: Did you find support among other coroners, other than L.A. County?

BEHR: Oh, yes. There was the County of Santa Clara, and Dr. Jindrich went . . . . he was very well known, and he went around and helped, too. And then we tried to get the Los Angeles Funeral Society, and we came up with what turned out to be something that I didn't know, which was very helpful. Embalming is against the Jewish faith, or some parts of the Jewish religion. I made a point of letting everybody know about that, so we won the bill, and it was signed into law.<sup>1</sup>

LAGE: And did Noguchi come up again and lobby?

BEHR: He tried; he tried. But he didn't win the second time, and that was kind of pleasant.

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<sup>1</sup>S.B. 44, 1977-1978 Reg. Sess., Cal. Stat., ch. 893 (1977).

LAGE: Well, you take on a wide range of legislation.

BEHR: Oh, that was what was such fun. There's no single liberal education equivalent to being in the legislature. You're constantly there, sitting four or five or six hours on committees, hearing all the testimony on this wide range of issues, depending on what committee you're on. You know you're going to have to vote, so that gives you some incentive to study it. And very often, you're more educated than educating, because you learn from people who are there to persuade you, and you're learning from both sides. Much more interesting issues than a judge can possibly cover in a lifetime.

So the only risk you run is to come to believe that you're a little expert on all sorts of different things. You've heard it all before; you begin to get a sense of *deja vu*. And you have to fight that, because these things are not the same each year. They have all sorts of nuances. You're also. . . . you've got to keep an open mind, and start changing. But anyhow, I enjoyed it very much.

Tony Bielson and Al Rodda as Committee Chairs

LAGE: You were on the Health and Welfare Committee, and the Education Committee. I wonder if you would talk about Tony Beilenson, who was chairman of Health and Welfare.

BEHR: Well, Tony was the brightest of us. There was a rather daring, and I

think unfortunate, survey made of all the staff members and all the consultants to the committee by a reporter, Patrick somebody. In any event, he asked them who was the smartest in the legislature, who was the dumbest in the legislature, how would you rate so-and-so, and Tony came out number one, quite properly. He was Harvard Law School graduate and a very able guy.

He ran this committee fairly but strictly.

LAGE: What do you mean by strictly?

BEHR: Well, he didn't let people talk out of turn, and he gave everybody a shot at it. He wasn't going to take a whole lot of blarney from witnesses who were just throwing the bull around. And he also was efficient, so you could. . . . being the chairman, to begin with, if you're going to be a really fine chairman, you have to have the gift for it. Then you have to sharpen the gift, and it's a way of moving things to a conclusion in an efficient manner, but not abrasive, and giving everybody an opportunity to have their say, but not overstay their welcome. You have to create an aura of fairness, because if you're not fair, the whole thing starts to fall apart. And this means that as chairman, you can't become as partisan as you are as a member. You've got to try to keep some even-handed role on the hearings.

There are certain ways of handling people that work, and certain ways which are disastrous. Tony had a nice feel for that, and I notice he's gotten a very lush assignment in Congress recently.

LAGE: What's that?

BEHR: I think it's head of the Intelligence Committee for the house. When he went there, he was put on the Rules Committee when he arrived as a freshman congressman. He's a great favorite of mine. [Senator Albert S.] Rodda was . . .

LAGE: Rodda was Education Committee?

BEHR: Oh, yes, and he was sort of known as Mr. Education. Rodda was the man who worried his way into decisions. He always looked as if he was carrying the weight of the world on his shoulders, and I think very often he was, because they took advantage of him. Anything that was to be done, they'd give it to Al; Al would do it. He couldn't say no.

He was a schoolteacher by trade, professor, by background, in the educational field, and was thought to be quite an authority. He had a rather short temper, but there was nothing mean about him. He was a sweet man. He'd been in office too long, probably, to my taste. Everybody held him in the highest regard, and I did too. He wasn't the chairman Tony was. But he was a good chairman.

LAGE: In the way that he'd run the committee, you mean?

BEHR: Yes. I don't think he ran it as well as Tony, but he was a good chairman, and he had [Gerald C.] Jerry Hayward, who was the consultant, and later became the chancellor for the community colleges system. And that was an enormous boon to him, because Hayward was absolutely tops.

LAGE: So the staff members can have quite an effect?

BEHR: Oh, the staff members can make a lot of difference. Then they had a young lady, [ ] Jan Denton, who was an attorney, who sat with the Education Committee. She left that committee, and I later sponsored her for a job as lobbyist for the Resources Agency. And then she later got promoted to head of what used to be the Bureau of Mining in the Resources Agency. Very able lady.

So Rodda had a lot of help.

LAGE: Now, would the committee chairman initiate legislation, as well as take what had been assigned?

BEHR: No. Actually, as a general rule, committee chairmen wouldn't, unless it was perhaps the chairman of the Finance Committee, or Ways and Means, on the assembly side, which had large staffs and could get into complex tax matters. So they had to try and get a committee bill. But we didn't have committee bills. Those are the only bills

you have in Congress, but we didn't have them. We don't now, which is too bad.

LAGE: You think that would work.

BEHR: It would work better than our present system, because in our present system, the good bills drive out the bad bills, and the bad bills drive out good bills, and there are just too many bills floating around. So it's not a very sensible system.

[End Tape 9, Side A]

[Begin Tape 9, Side B]

IX THE INSURANCE AND FINANCIAL INSTITUTIONS COMMITTEE, 1975-1978

Chairing a "Juice" Committee

LAGE: Let's turn to your chairmanship of the Insurance and Financial Institutions Committee. When were you assigned that job, and how did that come about?

BEHR: Well, I was assigned it because [Senator] Clark Bradley, who was an old-time state senator, Republican, had decided not to run again, and that left the chairmanship of the I and FI Committee, as it was known, open. There were two or three committees, maybe two, three, four, I'm not sure how many, a minority, anyway, which were assigned Republican chairmen. This was a very technical committee,

and it's also a juice committee.

LAGE: Explain that a little bit.

BEHR: Well, it means a committee in which, if you sit on it, you're going to get large contributions, which will serve you well when you run again.

LAGE: Is that only if you vote the right way?

BEHR: No, probably not, because the insurance industry and the banking industry have to live with you, regardless of which way you vote. Very often, these industries have technical bills which you're going to vote on, and the likelihood is you're going to vote in favor of a certain percentage of them. So you're going to do very well.

LAGE: So it's a good committee to get on for campaign contributions.

BEHR: It is, yes, and it's kind of scary, because they wanted a chairman who wasn't going to play games.

LAGE: Now, who is "they?"

BEHR: Senate Rules Committee. And they knew I wasn't going to play games, and they knew I was honest. I was available. Have committee, will travel. [Laughter] So I got the chairmanship.

LAGE: Do you do any behind-the-scenes lobbying for a position like that, or did they just come to you and hand it out?

BEHR: I'll tell you an amusing story about that, if you'd like to hear it.

LAGE: Sure.

BEHR: At the end of my tenure, when I was going to retire, [Senator] Alan Robbins came to me. He was on my committee. He said to me, "I've talked with the Senate Rules Committee and I have a majority of the members ready to vote me in as your replacement. If you would simply resign now, you'd give me a little head start."

I had no use for Alan, and so I said, "Well, if you get it in writing from the Rules Committee, I'd be glad to." Well, that held him up, but meanwhile, the fact was he did have a majority. He'd lobbied. He went around to all the lobbyists in the insurance industry and the banking industry, indicating he was going to be the next chairman and shaking them down.

One of them came to me and said, "Look, we can't afford this fellow! We literally can't afford him. I mean, he's doing us in." [Laughter] I said, "Why come to me? Why don't you go to the Rules Committee?"

And by God, they did. And that's the reason he didn't get the chairmanship.

LAGE: They were objecting to all the money they were going to have to give him?

BEHR: That's right. He was greedy. So you ask if people lobby; yes, they

do. And in fact, I think he may be the chairman now. He's a man I have no regard for whatsoever. But people do lobby.

LAGE: But in your case, was it a committee that you sought?

BEHR: No. I just got it.

LAGE: Was it a reward for anything? I don't know where I came across this, a reward for supporting Mills when someone was trying to topple him as the pro tem?

BEHR: Oh, for Jim Mills?

LAGE: Yes.

BEHR: Well, George Zenovich always wandered around smiling with a score card in his hand, saying he had twenty votes to topple Jim Mills, all he needed was one more and he'd take it up. George was a charming fellow, an attorney, got on the district court of appeals, was appointed to it, and he was very smart. But nobody quite trusted George, and George was the reason Jim stayed in office. Jim was not everybody's first choice, but Zenovich was nobody's first choice. [Laughter] So they'd say, "Let's keep him in there, so Zeno doesn't get it."

LAGE: I wonder if Zenovich knew that.

BEHR: I don't know. I wouldn't be surprised. But he was enjoying himself, and he was a wag, and he didn't take things so seriously. He had a

great sense of humor.

LAGE: This is Mills you're talking about?

BEHR: No, Zenovich. So, anyway. And Jim was hard to dislike; he was quite an academic type. He ran a . . . he did a good job. He was quite fair. Now, I don't know why I got the chairmanship, but I took it. And they had a consultant there--his name escapes me--and I was suspicious of him. He had been there too long, and he was much too close to the lobbyists. So I decided to get rid of him, which was my prerogative.

LAGE: Did that happen very often, that the staff would turn over when a new chairman came in?

BEHR: Not on the senate side. More so on the assembly side. It was hard to do, because he was an older man, and he thought this was the end of the world, but it was my committee, and I couldn't tolerate it.

So then I looked around for a new consultant, and I got ahold of a young Ph.D. named Terry [J.] Miller, who was teaching at Davis. Terry was, I don't know, thirty-five at the time, I guess, and lively as a cricket, and very smart, and I don't think a specialist in insurance or banking, but that suited me even more.

So he came, and then there had been a lady named Charlene Mathias, who was divorced from the great Olympian, [Robert]

Mathias. A perfectly charming woman, very stately. So she stayed. After a while, we got her elevated, so instead of just being secretary of the committee, she was the assistant consultant. As time passed by, she went over and became head--is now head of the counterpart committee on the assembly side. She went to law school. Wonderful woman; she must have been about forty at the time.

Anyway, Terry was highly satisfactory, and I relied on him a great deal.

LAGE: So this was one way you dealt with the pressures or . . .

BEHR: Yes. Your consultant can be a great help to you, because if you trust him, he has nothing to do all day long except to learn his business. If he's smart, and Terry was very smart and very hard-working, you began to get smart yourself, through him. So that's very helpful; consultants can be very helpful. Charlene Mathias was good, but she hadn't Terry's background.

LAGE: Did you have a particular way of running the committee, having served on other people's committees for a number of years?

BEHR: Well, I don't know. I did it the way I had done it before; I was chairman of the county board of supervisors. I chaired a lot of other places. I didn't have much to do other than to. . . . I think it's sometimes easier to be chairman than to be on the committee.

We had a lot of these technical bills. It's interesting, because these bills had no public constituency, against them or for them. They're technical.

LAGE: What type of things?

BEHR: Well, I'll give you one example. When you buy a house, and if you make your monthly payments to the bank, and the monthly payments include property taxes and insurance, the bank is in a very happy position. They only have to pay off in equal sums on December 10 and April 10, so far as property taxes are concerned, and once a year as far as insurance is concerned. But they have all this money floating in their favor.

Well, this had been, I suppose, discovered. So there were two or three bills coming to my committee (I knew they'd all reach my committee) determining what percent of interest should be paid by the banks on the float.

LAGE: Paid to the owner of the house?

BEHR: That's correct. Or credited to the owner of the house. And the various percentages. . . . of course, it wasn't for the full amount, the median amount. They ran 4 percent, 6 percent, and higher, on these different bills.

Now, nobody was coming in crying for the poor consumer, but

BEHR: it was a bill that somebody had to see happen. That was where the committee makes a difference, because you are representing the consumer there, even though there are no consumers around, and if there were, they wouldn't understand it, in some instances. Well, I had one of the insurance lobbyists, banking lobbyists, whom I was very fond of. He was a splendid man, and he was trying to educate the banking industry as to what was possible, what was probable, and what was proper in terms of these various bills that we were in charge of.

The banks weren't educable. So they finally said to him, "Look, this one is for 4 percent, and it's coming up before that I and FI committee, and we want you to kill this bill." He tried to explain to them that there were other bills behind it that were going to cost the banking industry a good deal more, and this was the least amount of interest, and what about it. They were absolutely adamant; they said, "That's it. That's your job."

So he came to me and he said, "Look, I'm going to lose my lobbying job if this thing goes through." I said, "Well, what do you want me to do about it?" He said, "I don't know."

I said, "I'll tell you, I'll make a deal with you. You know and I know that higher interests bills are coming through here in the next

month or so. I'll vote against this one, and maybe talk to a friend or two, and maybe we'll kill it." But I said, "By God, the next one, we're all going to vote for."

He said, "Well, that's awfully decent of you, because it will save my bacon." And that's what happened. It cost them 2 percent interest.

LAGE: But he kept his job?

BEHR: He kept his job. So, it was a fun committee, and we finally got into malpractice.

#### Shaping Legislation on Malpractice Insurance

LAGE: Let's talk about malpractice.

BEHR: Well, we had a lot of doctors, and every one of them had an individual answer to the malpractice crisis. I think I can say with assurance not a single answer was sensible. And outside of their profession, I didn't find them very knowledgeable.

LAGE: Does that include the CMA?

BEHR: Oh, yes. The group and individually. I was wandering all over the county, talking to doctors and trying to get some perspective as to what was possible and so forth, with very little success. I remember I went to a meeting of Ob/Gyns [obstetrician/gynecologist]. When I left, there was this line of Porsches and BMWs and so forth, and on

one Porsche there was a handwritten bumper sticker saying, "Don't get pregnant; the legislature's not delivering." [Laughter]

LAGE: That's great.

BEHR: That was kind of cute. So anyway, this bill by Barry Keene went through the assembly, he was my assemblyman . . .

LAGE: Was that the emergency bill? I find reference to kind of an urgency, a temporary solution, and then . . .<sup>1</sup>

BEHR: No, this is the permanent solution. It had gotten through the assembly, been watered down considerably, in terms of what we thought it should be. I got together with Terry Miller in committee, because this was the big bill of the year. I said, "I'll tell you what let's do. Let's get this bill just the way we want it. Really a bill that's going to make a difference." And my colleagues on the committee all agreed.

So we got Barry; Barry never knew what hit him. He came before our committee, and we kept it in that committee for about six weeks. Every week, we'd renew our interest in the bill. We would give him about six to eight amendments every week. We gave him a choice: we said, "These amendments are either going to be author's

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<sup>1</sup>S.B. 1448, 1975-1976 Reg. Sess., Cal. Stat., ch. 152 (1976).

amendments or committee amendments, and that's your choice."

Well, in the end, we put about fifty-five or sixty amendments into it, and put that bill in shape, just the way we wanted it.

LAGE: What were your concerns? In what direction were you trying to move it?

BEHR: Well, we were trying to move it in a way that put a cap on the amount of money that could be recovered in the malpractice suits. We wanted also the money not to be given out in a lump sum, but on a monthly basis or whatever for a time. And there were a number of other restriction on attorneys' fees and so forth that we wanted in there. We wanted to strengthen the bill as far as possible to do some good, and it was a very complex bill. So that was the purpose of all the amendments.

By the time we'd finished, and Barry said, "Sure, that's all right, go ahead, put it in," and Terry Miller was working like a nailer on it. I guess we all were. So finally, after we'd put in sixty or seventy amendments, the bill was as we wanted it, and we voted it out. The bill went from us to Finance, from Finance to the floor of the senate, from the floor of the senate back to concurrence with amendments on the assembly side, and then to the governor for signature, and not a single word was changed from the way we sent it out of our

committee. Which was about time.

I don't know even today how it is that that bill hasn't made more difference in malpractice fees and so forth, insurance fees. It should have significantly reduced malpractice premiums.

LAGE: Was it in the law that they had to be reduced, or just that it limited the recovery?

BEHR: It limited exposure to the extent that the risks were far less, and the premiums should have gone down, but they didn't seem to.

LAGE: Well, then, are we looking at some fault in the insurance industry?

BEHR: Well, I think so. You see, the insurance industry is working on a very difficult problem with malpractice, because it has a long tail. In other words, you may cover a doctor for this year, and this year may result in claims being made ten, fifteen, twenty years down the line. And so they have to do a lot of actuarial work which probably is more inexact than the word would signify. And they have to set aside reserves for this, so that when the blow comes, they've got money set aside to do something about it.

And then I think the trial attorneys have just been inexorable, and they've got every emergency room wired throughout the entire state, and they've got their informants, and the verdicts have gone out of sight. I just don't know.

LAGE: Did the trial attorneys take a big interest in this bill that you were dealing with?

BEHR: Oh, yes. But you see, this escaped Judiciary Committee by some miracle. It was just a miracle, literally. Because no-fault insurance-- which we will come to in a minute, I don't know if we've talked about this--no-fault insurance you'd think would go to the Insurance Committee.

Well, we had interim hearings on no-fault insurance in our committee, from which a new bill emerged. I went to Jim Mills and said, "Look, we've just finished the interim hearing. We are the authorities on no-fault insurance. We expect and hope that you'll send it to us instead of the Judiciary Committee," knowing when it got there it was dead. It died.

LAGE: It went to Judiciary?

BEHR: Oh, yes. So it went. But it's fun to be a chairman, and I don't think the chairmen have anywhere near the authority they had before we got the recorded roll call vote thing. But they still have a lot of authority. For example, they can delay the hearing of a bill; that damn near did me in, Senate Bill 107, the Wild and Scenic Rivers bill. Because, if you'll recall, Randy Collier wouldn't set it in Finance, so he wanted to drive me out of time so the legislative term would

end, and I couldn't get it through the assembly. So you can do all sorts of little tricks.

LAGE: Did the change to two-year sessions have much of an effect?

BEHR: Yes, I think it did. I think probably a negative effect.

LAGE: How is that? Most people consider it a reform.

BEHR: It was meant to be a reform. It was like hell being paved with good intentions. We were following the congressional system of two-year sessions. On the surface, it made complete sense. It gave you more time to develop the bill, and consequently you'd expect that you'd have fewer bills, better developed, to be voted on.

What happened, however, is that in order to get the bills through the two-year session, they kept setting up certain deadlines. The bill had to be out of the policy committee at a certain date in the house of origin. And then it had to be through the Finance Committee in the house of origin, and it had to be out of the house of origin by specified dates. And all of these created enormous pile-ups in bills waiting to be heard. So instead of one or two crises, we had crises every month or so, trying to move all these bills through. Because they'd die if they didn't.

LAGE: So there was more pressure to move along.

BEHR: Much more pressure. Many more night meetings, and I didn't think

nearly as much attention to the bills.

LAGE: You would expect almost the opposite.

BEHR: I think we all did. But it didn't work, and it's not working now.

LAGE: Is there more on malpractice before we go on to no-fault?

BEHR: Not much, really, I don't think.

No-Fault Insurance--Another Victim of the Judiciary Committe

LAGE: OK, let's talk about no-fault. Apparently, there had been a lot of bills introduced. Somewhere I read it was the twenty-fifth time since 1970.

BEHR: Yes. Here's a clipping that doesn't have to do with this bill, Senate Bill 1702, but it does in a way, because it was contemporary, April of 1978. [Senator] John Garamendi sent it to me. It says, "When I presented my no-fault bill before a senate committee of nine attorneys, only one voted in favor of it,' Garamendi explained. 'Now, that fact alone isn't significant, but what I do find interesting, however, is that fourteen witnesses spent three and a half hours explaining the merits of no-fault. The committee was also presented with the favorable results of an exhaustive federal study on no-fault, and the California Trial Lawyers spent a brief ten minutes denouncing the bill as harmful to consumers, but no consumer or anyone else testified against the bill. The committee quickly voted it down."

LAGE: He was referring to an earlier bill that he had . . . ?

BEHR: Same kind of bill. Both no-fault bills closely paralleled each other. And they had Assemblyman Alister McAlister and his bill, too. He was chairman of the Insurance Committee on that side. But I got this bill as a result of this interim hearing on no-fault.

LAGE: How did the interim hearing come about?

BEHR: I set it.

LAGE: You set that up.

BEHR: Yes, in the off-session. We even got a support position from the California Highway Patrol, which came about in the most amusing manner. We had an investigation, a fraud investigation, in the bill the committee set up, to be headed by the California Highway Patrol, which brought them in. It was all a charade.

LAGE: What was all a charade?

BEHR: Well, as soon as it got to the Senate Committee on the Judiciary . . .

LAGE: Oh, I see what you mean.

BEHR: From 1970 to 1977, the consultant for the Senate Committee on the Judiciary listed the history of no-fault insurance. Twenty-four bills from 1970 to 1977 all held in committee, refused concurrence, held in committee, held in this committee, held, held, held. Now, that means that you don't even get a vote. They hear you and say, "Well,

someone moves to hold it in committee."

LAGE: So they don't even go on record.

BEHR: No.

LAGE: So why did you think you were going to make a difference? How did you happen to come up with the twenty-fifth bill?

BEHR: Because I was stupid. [Laughter] I had support on this little mother from all the insurance industry, League of California cities, and so forth, and opposition was the California Trial Lawyers Association, Farmers Insurance and California State Bar. It didn't get anywhere, of course.

LAGE: Did you get much public interest, consumer interest?

BEHR: No. I took this bill from a model bill that had been prepared by the uniform group nationwide . . .

LAGE: So other states had similar legislation.

BEHR: Oh, yes. And in fact, the opposition argued that Michigan--I think it was Michigan--see if I've got the records here. . . . [Pause] Well, I don't seem to find it. But they claimed that the Michigan bill didn't work. I got letters from the governor of Michigan and the insurance commissioner of Michigan indicating that it was working very well and sent them to all my colleagues.

LAGE: Was there any protection in your bill, or any insurance in your bill,

that savings from no-fault would be passed onto the consumer? You mentioned that malpractice insurance reform didn't result in lower premiums.

BEHR: No, it didn't. I think there's been a great deal of misunderstanding about no-fault. I'm not sure it's less expensive, premium-wise. But I think you've got a much bigger bang for the buck. For example, any single accident, single automobile accident, is obviously unrecoverable, but not under no-fault.

LAGE: You mean an accident with only one car involved.

BEHR: That's right. In the second place, if you are in an accident, with a negligence system, you have loss of earnings, you have medical expenses, and you have a period of two to three years in this state before you'll ever get a nickel back, assuming you get an attorney to take the case. Whereas under no-fault, you get all those paid very promptly.

The total amount of the premium dollar which goes out to persons who are insured is infinitely higher with no-fault than with the present insurance system. So that, instead of paying attorneys--other insurance companies' claim attorneys or the tort attorneys, who will probably swallow 40 to 50 percent of every dollar--about 90 percent of that money would now go to the insured. Now, it

wouldn't go in such large sums.

LAGE: You mean, it would go to the insured under no-fault?

BEHR: Under no-fault, that's right. Now, you can sue for negligence under no-fault if the victim suffers an injury resulting in death, serious and permanent disfigurement, serious and permanent injury, or more than 180 continuous days of total disability. You would sue on the same basis as you would otherwise, and that takes care of most of the horrible examples that you hear about no-fault resulting in. The bill paid medical expenses up to \$250,000, work loss up to \$1,400 per month for thirty-six months, and so forth.

But we're never going to get them through the present system in the legislature, and so you can understand. . . . actually, it's very interesting. Here's the consultant to the committee, who was . . .

LAGE: The Judiciary Committee?

BEHR: The Judiciary Committee, indicating that a 1976 Michigan study of premium rates showed "in all cases the rates for bodily injury coverage decreased, but less than the increase in rates for property damage coverage. Department of Transportation study, conclusions of it always were favorable to no-fault. Limited statistics from Massachusetts, Florida, New Jersey and Michigan appear to indicate a substantial reduction in motor vehicle tort litigation cases after

adoption of no-fault. Requires two or three years to be conclusive."

So the system is probably better, but not for the Judiciary Committee.

LAGE: What about the consumer? Do you think the consumer wins out, not just. . . . I mean, the insurance companies are so interested in no-fault.

BEHR: The consumer wins out, according to the Michigan experience, and the other states that have tried no-fault. But the consumer may win out not by a reduction in premiums, but by much more coverage of expenses and prompt payment of them.

[End Tape 9, Side B]

[Begin Tape 10, Side A]

Influence of the Trial Attorneys on the Legislature

LAGE: Do you have further comments on no-fault, or on the power of the trial lawyers?

BEHR: Well, the power of the trial lawyers is simply unbelievable and has to be seen to be understood. Most persons feel that if you have a certain amount of money and you want to influence the legislature, you're just going to spread it around like manna from heaven, and it's going to descend on everybody and make everybody feel well, and that's going to be effective.

But if you have what the trial attorneys have, you really don't do that. You have a lock on the only committee through which any bills of interest are likely to go, and so to work with committee members, however many, all you have to do is to make sure they're on your side, and you're safe, home free. Now, it helps too if you handle the Senate Rules Committee, or the Assembly Rules Committee, and the speaker, and the president pro tem, and throw a little money around that way. But that's how the trial lawyers go about doing things. So you don't need so much money.

LAGE: But if the members really protested, couldn't they make a change? You've made other reforms.

BEHR: The members could make a change, but attorneys are the underbelly of the problem. Attorneys are naturally influenced by attorneys, influenced by the profession they've joined, and if you have a committee exclusively made up of attorneys determining bills of interest to other attorneys, I think the result is pretty much foreordained.

#### Assignment of Bills to Committee

BEHR: It requires not simply nobility of purpose but some modus vivendi in order to make a difference. I think it could happen that the difference would be made overnight if the Rules Committees sent bills

BEHR: to the committees on the same subject as the bills are, but they don't.

For example, the Ag and Water Committee deals with agriculture and water, as you probably know, and all the big and little problems of water. If you're an environmentalist, and you put a bill in, and it's sent to the Ag and Water Committee, there's no reason to show up at all. The bill arrives DOA, dead on arrival. And that's wrong. Committees are meant to have some balance. But most of these committees don't have that kind of balance, and that's a terrible mistake. Maybe the committees should be large, and there should be fewer committees, which would keep a much broader representation in committees, and a much more detailed look-see for the bills. But that hasn't happened.

And it's worse than that, because some of the committees. . . . for example, with my bill to attempt to require prescriptions for hearing aids, hearing problems, before you could get to a hearing-aid dispenser, that created such hob in the Health and Welfare Committee on the assembly side, they set up a special subcommittee to hear it, which meant that now I had to go through two committees instead of one, and the chairman could then put on a subcommittee persons who were either for or against the bill from the outset, so it never would get back to the Health and Welfare

Committee. Proliferations of committees are the bane of good legislation, I think. Just makes it more difficult, and gives more and more chance for fewer and fewer people to do the wrong thing.

LAGE: What about increasing sophistication on the part of public interest lobbyists to start lobbying appointments to the Rules Committee, things like that? Or does that already happen, perhaps?

BEHR: Well, appointments to the Rules Committee are considered to be the private business of the legislature, and I think that this is too bad, but it's the way it's likely to continue. And even the courts, you know, are very leery about getting involved. For example, when Alan Robbins took his seat, it was quite clear from John Harmer's presentation (Harmer was a Republican attorney) that Robbins had never been a resident of the district in which he ran.

LAGE: That Alan Robbins had never . . .

BEHR: Never. And Harmer had all sorts of affidavits and so forth and so on to prove it, and I think it was generally conceded that it was true, that he just picked up a room and had been there once a week or so, and never lived in the district. No court would hear that; it was a political matter, and they wouldn't touch it. So it came to the senate floor, and Robbins received the vote of all the Democrats, and he received the negative vote of all the Republicans, and so he was

seated.

Furthermore, with an ordinance by a county or city, there's a rebuttable presumption that it's legal, so you start with the assumption on the part of the court that it's legal and have to work against it. So there are all sorts of safeguards to political systems. And of course, the reapportionment is a running sore on the body politic, the way that's done. Nothing can be done about that; the courts won't. . . . well, they did intervene that one time. And what they did--it was so complex that they hired a bunch of retired judges to set up the commission to do it themselves. And that was the most botched job that's ever been done.

LAGE: There's no solution?

BEHR: Well, there may not be, I don't know.

LAGE: Any other legislation we should talk about that came out of your Insurance and Financial Institutions Committee?

BEHR: Not that I can think of.

LAGE: OK. Why don't we wind up for the day, and we'll go to property tax reform next time.

BEHR: That will be fine.

[End Tape 10, Side A]

[Session 5, January 19, 1989]

[Begin Tape 11, Side A]

X. PROPERTY TAX REFORM, 1975-1978

Statewide Taxpayers' Revolt

LAGE: We're on to our session on property tax reforms with Peter Behr.

Let's talk about some of the things that led up to the 1978 legislation. You start where you think it's pertinent.

BEHR: Well, during '75, there was clearly a taxpayers' revolt, which was not simply incipient but violent, and not north or south, but statewide. Up in Mendocino County, I remember they were sending tea bags to the assessor, on the basis of the Boston Tea Party, and stating that they would not pay their tax bills when they came. Other places, they simply held them up and burnt them. It was getting quite virulent during the time that [Howard] Jarvis and [Paul] Gann were beginning to come into the public arena.

Interestingly enough, both Jarvis and Gann, who didn't know one another, came up with separate petitions for similar

BEHR: initiatives containing, together, just short of the half a million signatures needed to qualify an initiative for a constitutional amendment. So when they joined hands, they got a million more and filed 1,500,000 signatures. Everybody should have taken warning from this and learned a great deal more about Mr. Jarvis and his peculiar ability to arouse the voters and Gann, who was a quiet but very effective campaigner.

I knew about property taxes, because I was on a board of supervisors for seven years, and we were our own board of assessment appeals. So over that time, we handled well over a thousand, maybe 1,500, protests. I became thoroughly familiar with how the assessors worked and what was happening. And what clearly was happening was this: all assessors' offices, even in the larger cities, were following the exponential rise in homeowners' values in the last, oh, at least three or four years. They were rising statewide at the rate of 2 to 3 percent a month.

Well, now, assessors go into a cyclical assessment procedure, under which they will only assess one-fourth of the real property, or one-third of the property each year. So when they came out with increased assessments, they were over the last three or four years for homeowners, and this represented doubling the assessed valuation, or

in many cases even higher than that. Which, of course, outraged everyone, because they weren't expecting this. They had to pay it all in cash twice a year, and the two times they paid it were April 10, just before income taxes were due, and December 10, the other half, making a merry Christmas present.

Well, many of them simply couldn't afford the increase, and the ones who could afford it were probably equally outraged. About 90 percent of the assessors' time was involved in assessing homeowners, owner-occupied property.

LAGE: Now, why is that, instead of commercial property?

BEHR: Well, in the first place, if you're going to go after commercial property, you're going to need very experienced appraisers; you're going to be talking in large sums of money; you have no comparable values to help you; and you're in for a costly, extended, and doubtful conclusion, because they'll bring in their best appraisers, their best attorneys, and beat you down. Most appraisers' offices, except in a few of the larger cities, have appraisers who are accustomed to appraising something fairly simple. And homeowners were a target because the values of homes were rising faster than the values of any other types of property. So that was another reason.

It was easier to go after the homeowners because they were a

BEHR: defenseless group. I remember over four or five years--well, six or seven years--on the board of supervisors sitting and listening to the protests. Little grey-haired ladies would come in, widows sometimes, and they would say with tears in their eyes, "I can't say I couldn't sell my house for this amount, but I can't afford to pay the taxes, and I don't want to sell my house! I don't know what I can do about it!"

Whereupon, county counsel, quite properly, would be forced to say, "Well, we certainly sympathize, but that's not a legal reason for reducing the valuation, unless we feel you haven't been fairly evaluated." Well now, these ladies would sit there and just look sad. And this happened time and time again. Furthermore, you, as a homeowner, are up against the assessor's office testifying against you, and you're up against county counsel, who is clearly on the side of the county, five members of the board of supervisors, who are interested in obtaining property taxes; it was never a fair contest.

There was one little old widow who came from Sausalito. She had the smallest house on the smallest lot in the whole city, and we grabbed on to that as a reason for doubting the appraisal, because we said, "Where is your comparable?" [Laughter] So she walked away with a reduction. The assessor, [Berthold] Bert Broemmel, whom I was very fond of--I talked to him in the hall a few days later

and he said, "Did you know that little old grey-haired lady?" And I said, "Yes."

He said, "I told my assessor that he had her home too low, and the board of supervisors was really going to spank him. But she double-dipped on us!" [Laughter] Which we were pleased about; it was a small matter.

But I remember one time when the assessor went after the big ranchers in west Marin. Most of their ranches hadn't turned over for forty or fifty years, and so without comparables he was in trouble. And we greatly reduced his recommendations. But the system was taxing something which was tangible, to be sure, and has a value to be sure, but doesn't produce anything. And in consequence, it hits everyone as being a form of unfair tax, especially because homeowners were singled out for special attention.

LAGE: The skyrocketing appraised values must have meant a lot more income at the local level, and what did that go for?

BEHR: Well, when we talk about the local level, you have to realize that the property tax you get in your bill includes the property tax which has been levied by the cities, if you're in a city, by the county, by the school board which you're in, maybe lighting districts, sanitary districts, assessment districts. And so it's a combination, and each of

these agencies puts its own little spin on it. And they're all dying to get more money. So the property tax rate doesn't go down as it should when the assessed valuation goes up because, as we know, what you pay is a combination between the property tax rate, times each hundred dollars of assessed valuation. To make it more amusing or complex, assessed valuation by law is 25 percent of the market value.

Well, I tried to explain all that to a protest meeting in Sausalito, and the assessor was there, and the county administrative officer was there, and we all three took questions and tried to answer them. Nobody understood the explanations; they simply were sore as hell, and they weren't going to take it anymore. So I was very much involved with property taxes and realized the incipient revolt taking place and decided to do something about it, which I tried to do.

S.B. 1375, a New Approach, 1975

LAGE: And where did you begin?

BEHR: Well, I began about five months earlier, in the first of 1976. I conceived a bill called Senate Bill 1375, which I introduced on January 6, 1976. It was an entirely new approach to handling property taxes on owner-occupied property. And I might add that that's the only property that was protested. The only property that

was rising so quickly in value, and it represented on the rolls only about 35 percent of all the property taxes collected, which is interesting. The rest were apartment houses, industry, business, and so forth.

So what I went ahead to do, and did in this bill, was to assess, or allow assessments, only on the value of the land underlying the improvements, which on an average was 38 percent of the total property tax received. I used the 1976 assessment rolls, and then I put a cost-of-living index on the rolls, so that they couldn't go higher than the cost of living increase each successive year.

LAGE: So it would be somewhat frozen at the value of the property in '76

. . .

BEHR: It would be frozen, with an inflationary allowance.

LAGE: But the allowance was not related to housing costs inflation.

BEHR: No. In fact, what happened would be that with this index, which was about 6 percent at the time, next year if the assessed valuation went up 15 percent, 20 percent, 14 percent, or stayed put, it wouldn't make any difference, because you had to adjust your property tax rate in order to make it all come out at only 6 percent more in actual dollars being taken from the property owners.

Well, that was one feature. But then we had a lot of make-up

to do, because that left us 62 percent of the remainder of the property tax which still had to be accounted for. And what we did then was to put a 5 percent sales tax on the purchase of the home, not a capital gains tax, a sales tax. Or, I like to call it a deferred property tax. Now, this raised 40 percent of the remaining percentages.

Now, this 5 percent sales tax--the 40 percent that it would bring in--was based on the interesting statistic that homes in California turn over once every seven years. So, you would have a 40 percent reduction in property taxes for anybody who didn't sell their home in a given year. And that would be six out of every seven property owners, which made them feel very much better.

Furthermore, when they sold it--I talked with a lot of lenders, major lenders in the state. I spent five or six months working this out. They all agreed that the loan would include not just the real estate commission, but the 5 percent tax.

LAGE: So that was described as a tax on the seller; it is really seen more as a tax on the buyer.

BEHR: Well, it probably was a tax on the buyer, because the likelihood is that the seller would increase the price by 5 percent, which represented only a couple of months increase. But it would only

happen once every seven years, statistically. And get it from the buyer, that's quite right. The buyer would go to the lender, the lender would say, "Well, we'll include that." And so if they included it in the normal fashion, only 20 percent of the amount actually had to be paid in cash, or 1 percent [of the total price of the house].

LAGE: As the down payment.

BEHR: As the down payment, and the rest was spread over twenty or thirty years.

Another feature which I never was able to button down on this 5 percent deferred property tax was to permit it to be used as a deduction on the federal income tax.

LAGE: And that would be a seller's deduction?

BEHR: Seller's deduction. That was charged to the seller. So it would be in effect a windfall for the seller, but property taxes are a deduction on your federal income tax, and this new method of collecting taxes wouldn't lose a single dime's tax going to the federal government in deductions. I talked to some of our legislators in Washington, and they agreed that they would put a bill in to make sure that this was regarded as a deferred property tax, and consequently deductible on your income tax.

LAGE: But you had no real guarantee.

BEHR: I had no guarantee, and I never represented it, although I felt sure it would be the case, but I could have been wrong.

LAGE: How did you come up with the idea of that transfer, or sales tax?

BEHR: Well, all of this came about by talking with just about anybody who knew anything about assessments and property taxes, including the legislative analyst [A.] Alan Post, who was a good friend of mine. I got some specialists from the Senate Office of Research. I talked to my colleagues. [Senator] Alan Sieroty was very helpful, a very able man. That's how I came up with it; I mean, it was just a concept, looking for expression.

That still left us another amount, actually 22 percent, that needed still to be collected if there were going to be no reductions in the amount of tax collected from homeowners in the state. In other words, this was a new method of paying your taxes, which shifted considerably the kind of burdens the average homeowner faced. But it didn't require any additional propping up, either from the state government or from the other property owners.

So what I did then was to increase the state's income taxes paid by all homeowners by 22 percent, which sounded quite draconian, but it was another way of making sure that the poorer persons paid less.

LAGE: So the homeowner would have an additional charge . . .

BEHR: Each year, on their state income tax, 22 percent.

LAGE: That might have gotten you into a different stage of the tax revolt.

BEHR: Well, it wasn't liked too much, until I pointed out that the total tax reduction for homeowners who didn't sell their homes ranged from 25 percent to 55 percent each year, and that 55 percent was for the lower-income homeowners, and the 25 percent was for homeowners who might have a million-dollar property. And so it did make quite a difference in that respect. I didn't get much flack on that, recognizing that that 22 percent paid the state was deductible on the federal income tax. So all these things had little ways of coming out.

Now, that's what I did with that, and it was regarded as quite strange.

LAGE: By your fellow . . . ?

BEHR: By all the journalists, all the editorial writers, at least at the beginning. I went around and started to sell it, and held it intact.

LAGE: You did this before you actually started working with it in the legislature?

BEHR: I did. This one, I didn't change at all. I carried that little mother through the senate, through the Finance Committee, and the Rev and Tax Committee, and off the floor of the senate. I had a lot of

difficulty getting it off the floor, but after two hours of lobbying with the help of some of my co-authors, I got it off. Tony Beilenson was amused when he was the chairman, he said, "Oh, here's another good-faith effort to help the poor homeowners." But he voted for it, in the end.

LAGE: Who were your co-authors? Do you remember?

BEHR: Yes, I had them.

LAGE: Was that an important part of getting the bill through, the co-authors you choose?

BEHR: Yes. It makes a difference. [Pause to check records] No, by golly, I didn't have any.

LAGE: Oh, no co-authors on that? You went alone?

BEHR: Yes. I wound up lonely too, but I just threw it out without any co-authors, which I rarely do. That's true, I had none.

LAGE: And it did pass the senate, are you saying?

BEHR: Yes, we got that out of the senate, and it died in the Assembly Rev and Tax committee, and the tombstone reads June 23, 1976.

LAGE: And what was the objection there? Who were the opponents, do you recall?

BEHR: It just died. I never really felt it was given any serious thought or attention. For reasons that are hard to imagine, looking backwards,

nobody seemed very urgently concerned about Jarvis and Gann. They thought, in the first place, that the whole concept was so outlandish that it would never get anywhere. They failed to realize the impetus of the homeowners' revolt, until they went back and campaigned in '76. When they came back from having campaigned in November--June and November, in the primaries--they realized things were in a desperate state and that they were being blamed for them. And so that generated an explosion of bills on every side, in an effort to do something about it.

#### Other Legislative Proposals For Property Tax Reform

BEHR: Everyone had a bill. Now, some of the reason, I guess, of their skepticism about Jarvis's Prop. 13<sup>1</sup> was that Philip Watson had put (he was the assessor of Los Angeles County), he had put the same initiative on the ballot in 1968 and 1972.

LAGE: And they were pretty much the same type of legislation?

BEHR: Sixty-eight was identical. Seventy-two, as I recall, instead of 1 percent, went up to 1 1/2 percent as the maximum that would be charged on the market value of the home. They both were roundly defeated, so they figured, well, here's just one more coming down the

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<sup>1</sup>Property Tax Limitation Initiative, California: Constitution, Article XIII A, passed June 1978.

pike.

But not when they got back. [Thomas] Tom Bradley came in, the mayor of Los Angeles, with a municipal income tax, which was a great favorite of Willie Brown's, who was running Rev and Tax at that time.

LAGE: Was that as a replacement for property tax?

BEHR: A replacement. In fact, Willie Brown wanted it to be a complete replacement for tax rates on homes, not across the board. And that was Bradley's point, too. Nick Petris, my old seatmate, was very much more interested in the poor folk than even other good Democrats. He had a bill to finance property taxes with increasing income taxes for higher income Californians, and that got nowhere. [Assemblyman Daniel E.] Boatwright, who was chairman of Ways and Means, was mostly interested in helping the middle-income homeowners and renters and limiting local spending.

And then you had the governor's tax plan--Jerry Brown came up with \$480 million in rebates to homeowners and renters aged 62 years and older. Well, they were the neediest half of the homeowners, or one-third, but at this stage it was too little, too late. You had to really go across the whole spectrum of the problem, which he didn't understand.

[Assemblyman] Paul Priolo had an interesting Assembly Constitutional Amendment 102 stating "property taxes can only be used for property-related functions," which was charming, except nobody knew what were property-related and what were not.

He was going to go through with that until the counties and cities flooded Sacramento, taking every legislator out to lunch. He had thirty-two co-authors on this in the assembly, and he couldn't get it out of the committee. They were just scared to death.

Rodda had a bill, Al Rodda, called the "Doomsday Bill."

LAGE: It got pretty dramatic, it seems.

BEHR: Well, what he did later on was to put a bill in stating that if 13 passed, here's how much we'll be required to hike the sales tax and income tax to make up for the loss. Across the board, you see. Seven billion dollars in losses was the total amount, the gross amount. So he had a bill that would have put into effect these massive increases in sales taxes and income taxes.

LAGE: So the voters would know what they were getting into.

BEHR: They'd know what they were getting into. And then we kept reminding the voters that it's the individuals, including renters and homeowners, who pay almost all the sales taxes and almost all the income taxes. And in consequence, they could get out of the frying

pan and into the fire if all this money had to be made up. They weren't listening, and I don't blame them. Because we weren't doing anything.

LAGE: What was the role in the legislature of the lobbyist for other taxed groups, I'll call them, like the liquor lobby and the racetrack lobby and oil?

BEHR: Liquor and racetrack are strong little lobbies, looking after a tiny piece of turf, in terms of the total dollars. They historically have always been said to be very powerful, along with the liquor lobby, during Artie Samish days. But they're not the ones that really run the show. You've got the California Teachers Association, California Medical Association, Trial Attorneys Association, and maybe the insurance lobby, which was fairly powerful, and the trial attorneys are preeminent, really.

LAGE: More so than the liquor and racetrack, and oil?

BEHR: I think so. Because they contribute their money on a bull's-eye basis rather than on a shotgun basis. They don't scatter their shots. The trial attorneys throw all their money into the Judiciary Committee, and that's where all the legislation that they were interested in originates and is killed.

LAGE: But did they have any role here in Proposition 13?

BEHR: They didn't. The Real Estate Owners Association could have had, and did indeed, as far as I was concerned; they did me in. But that's later on.

LAGE: But these groups--I must have come across a reference to the fact that these groups of liquor and the racetrack and the oil interests--were worried that if property taxes were restricted, it would be made up with additional taxes on them.

BEHR: No. They were just slobbering with the hope that Jarvis would pass, because they got enormous rebates that they didn't have to account for.

LAGE: Now, how was that?

BEHR: Well, Proposition 13 was a limit of 1 percent on the market value of all property taxes, frozen in terms of 1976 levels. Well, IBM had, for example, their major plant in San Jose. They were coming up with \$10 million for the first year in reduced property taxes, because instead of being 2 1/2 percent of market value, which was about what it was, it now had to be reduced to 1 percent, and so that was a saving for General Electric, saving for the oil industry, saving for business, saving for apartment house owners, which they didn't have to account for.

LAGE: Or pass on.

BEHR: Or pass on, yes. So they were all happy as could be. Now, the only persons who were concerned were the county and city employees and education. They really. . . . the teachers association put up \$1 million against Jarvis. The others don't have any money, and they didn't have any direction, so they just wrung their hands. And that didn't help [Inaudible].

S.B. 1, 1977-1978: "The Only One in Town"

BEHR: So, having gone ahead with this one, I decided that as soon as it died, I'd put it into the next two-year session, which I proceeded to do. So I put S.B. 1 in . . .

LAGE: Was there a reason it got to be S.B. 1?

BEHR: Yes. It was the first bill put into the '77-'78 two-year session. There were a number of consecutive bills. I reserved the space and put it in on December 6, 1976. And I put it in identically to S.B. 1375; I didn't change anything at the time. It stayed in the first committee without having a hearing in accordance with my purpose for over a year. It just was there.

LAGE: You did that deliberately?

BEHR: Deliberately. I did it deliberately first of all because there was an overwhelming percentage of Democrats in both houses. We had a Democratic governor, and all these bills from all these powerful

Democrats were all to be heard. I knew it would have no chance unless these bills somehow wasted away.

And they all wasted away. Everybody wanted their piece of the action, and they weren't ready to compromise with anyone else. And so it was like the calico dog and the cheshire cat who woke up one morning, and they were both dead. They'd eaten each other up.

Finally, the governor said, "Well," (and this was some time later), "the Behr bill is the only one in town." [Laughter]

[End Tape 11, Side A]

[Begin Tape 11, Side B]

BEHR: Now, here's what he [Brown] said, "This concept" (that's mine) "is the only thing that mustered up enough widespread support." This was after it got out of the senate, S.B. 1. "The liberals want one thing, and the conservatives want another, and they have to meet somewhere. Although it's authored by a Republican," he'd be glad to support any author who can come up with a solution. And then he asked the citizens of California to let him know how they thought. He also decided to give me a little trouble by saying he'd like the transfer fee to be decreased to 3 percent, and he had a few other thoughts.

LAGE: At one point, he was quoted as saying that the bill sounded like it

was written on the back of an envelope. I don't know if that's in the article you have there, but I found it in a newspaper article.

BEHR: It could have been. He knew very little about taxes, and he was exceedingly articulate but not necessarily as sensible. But he boosted it, and in fact, the only way S.B. 1 got out of the senate was through lobbying--this is the second time around--by the governor's office, who were on the floor and lobbying too to try and keep it alive.

LAGE: From the news articles, it appeared as if it wasn't going to get out--it was two or three votes short--and then was it the governor's lobbying that . . . ?

BEHR: I think it must have been, because we were on the floor for two or three hours working the floor. I looked around and saw some of the governor's people working, and I realized I had help, and I realized I needed it. So to that extent, I'm indebted to him.

LAGE: And it required a two-thirds vote to pass it?

BEHR: Yes. All bills carrying any appropriations, and this was also an urgency bill. Both of those kinds of bills require two-thirds in both houses on the floors in order to move on. And this was both an urgency bill, and it contained an appropriation. This was a higher hurdle to make than if you just have a bill that doesn't require two-thirds majority. On the other hand, it only requires a majority in the

committees for the bill, so it's not as bad as it sounds. It's in committees where you live or die.

LAGE: Did the California Teachers Association back your bill, or were they against any kind of property tax reform?

BEHR: The Teachers Association were in favor of the bill, but they didn't help. They finally put up \$1 million with a publicity firm in Los Angeles to fight Jarvis. That firm gave up towards the end. This upset them very much. They'd put up \$1 million, and Witter Wagner it was called, I have the name here somewhere. They said, well, it's no use. This was in the last ten days or two weeks.

LAGE: Maybe we should hold off on that, and get you out of the senate. I ran across reference to Citizens Action League. Is that a public group . . .

BEHR: I think it's a right-wing group; I think so. I think probably the cities and counties and so forth were working everybody, because they were in desperate straits. This was the only tax they had to depend upon that was purely their own, property taxes. School boards relied on more than 50 percent of their tax revenue on these property taxes. Community colleges, almost 50 percent. That wasn't so true of the cities and counties, because counties and cities had the sales tax, or part of it. They could also enact other taxes.

So this was really striking at the heart of the local governments, and I debated Jarvis with vigor, at least as long as the audience could listen. I guess it was at the Commonwealth Club; he was telling his jokes, which were pretty crude, and he was willing to say anything, whether it was true or not, that would further his cause. I said to the audience, "I don't think anyone who wants to destroy local government can be All-American." And he rose up and he was as angry as I ever saw him before, because he was a professional; he'd been working on this stuff for twenty or thirty years, generally. But he was something.

#### Howard Jarvis's Background

LAGE: What kind of a background did Jarvis come from?

BEHR: Well, it was an interesting background, very interesting background. He had moved to Los Angeles, but he grew up in Utah. He was the son of a low-paid Utah judge. When he was twenty-one, he bought a six-page weekly newspaper which had no advertising, and he paid \$15,000 for it. He took a suitcase in hand and went to New York and courted national advertisers. In no time, he'd built it up to thirty-two pages, and he started buying other weeklies. He acquired ten others. He sold them in 1925 for \$105,000.

Then he went into politics. He was on the commission to

reform Utah's tax laws, and that launched him onto his lifetime profession. When the war broke out, he provided a technique for demagnetizing, or degaussing, as we called it, ships' hulls so that they wouldn't be detonated by mines. Nine hundred forty-one ships went through that process, and he cleared \$200,000 at the end of the war. He branched his firm into gas heaters and garbage disposals and car coolers. First thing you knew, he had 13,000 employees.

So he wasn't the unknown figure with no background that he was presented to be. When he sold out, he finally got down into the apartment house association in Los Angeles, which was debt-ridden and had 1,100 members. He raised the membership to 8,000 within four years. He was paid only for his gas and meals, and was indefatigable. In August of '76, his group fell 1,400 signatures short of the 500,000 for this [their property tax reform measure] to be on the ballot, which I mentioned before.

LAGE: Did he himself own apartment houses?

BEHR: No. He sold his firm, had enough money to live on for the rest of his life, doubled it, added some more, had no need for money. He wandered around in old shiny clothes. He was trying to sip vodka most of the time when I was with him, but I never saw him vaguely drunk. He was just keeping up his spirits. [Laughter]

LAGE: Did you get a sense of what was his motivation?

BEHR: Well, he hated politicians with a passion. He went so far as to say . . . . and he hated anybody who held public office. He said that he hoped the state runs out of money, so when they fire all these public employees, they can't get paid unemployment compensation. And he sarcastically said, "Well, they're the best educated, best trained, hardest working, so effective, they'll be able to get jobs in a minute." [Laughter] He said things that were not true, but he said them with a conviction that made you wonder, even if you knew better.

LAGE: It is ironic that this struck at local government, which is where the conservatives always put all their hopes.

BEHR: Well, that's true. You see, really what was lacking in fairness was to attempt to reduce property taxes across the board by 1 percent, especially when he represented 8,000 apartment house owners, who were going to get part of this big windfall for no reason. There wasn't a dime in Prop. 13 for renters, not a nickel. If he had just said 1 percent for homeowners, where the only problem was, it would have been not so crazy.

But he also did something else in this Prop. 13 which isn't well remembered, but certainly doesn't need to be reminded to government. He said no new taxes can be approved, either at the

county or the state or the city level, unless two-thirds of the qualified voters, meaning registered voters, approve it in a public election.

Now, two-thirds is not just two-thirds of the people who vote, but two-thirds of all the registered voters.

LAGE: That many don't even turn out.

BEHR: Well, usually it's 40 or 50 percent. So it doubled the ante, and made it impossible to provide any revenue to replace what was lost.

Fortunately, although it wasn't said so at the time, the state had a surplus of \$5 billion. They were claiming \$3 billion, but that wasn't so. It was much more than that. None of us knew it at the time.

LAGE: I thought that was part of the thinking, that there was a big surplus . . .

BEHR: Well, yes, but we didn't think it was going to be that big!

[Laughter] But it was. It was really outrageously large.

But here are some of the things for a moment, if I may, about Prop. 13, which are interesting. It decreased property tax payments to local governments by \$6.4 billion. Then, in doing that, there was \$6.4 billion which can't be deducted from either the state or federal income taxes, which means that the increase of income taxes to the federal government is \$2.2 billion, and that was the biggest single windfall the federal government had ever gotten since the revolution.

And there was nothing to be done about it. Increasing income taxes to the state government was a mere \$300 million. So the net gain was \$3.9 billion to all the property taxpayers after they'd paid their income taxes.

LAGE: That's the further irony, again, of these supporters of local control  
...

BEHR: That's right. And on top of that, the federal government got another little bonus of \$500 million, because there was CETA employment, which was the federal Comprehensive Employment and Training Act, providing federal funds for public service employment. We had 75,000 on the payroll of local government. Fifty thousand jobs were estimated to be cut by local government, which meant that these reimbursements would be reduced by \$500 million. So the federal government got \$2.7 billion worth of the pie, free on board.

Anyway, it was an exciting time. Leo McCarthy was really responsible for my getting it out of the assembly. But it didn't get out before it was so gutted that I didn't care about it much anymore.

#### S.B. 1 Weakened by the Assembly--Influence of the Realtors

LAGE: Well, let's talk about the process of getting S.B. 1 through the assembly. It got out of the senate without any change?

BEHR: It got out of the senate without any change. Then it got to Willie

Brown's Rev and Tax Committee. Now, the day before, or two days before it was heard in Rev and Tax, some 400 to 600 realtors descended on Sacramento and took everybody out to lunch and explained to them that they couldn't stand this transfer tax. They thought it was a threat to their 6 percent real estate commission. That's what I believe. Dugald Gillies was the lobbyist of the California Real Estate Association, and he was a man I came up against often, and hardly ever beat. He was a fabulous lobbyist; knew everybody, and he would give a bill the death by a thousand cuts by objecting to little things all the way through it, and after you fix something he always had one more thing in back of it.

LAGE: So he was a well-prepared lobbyist.

BEHR: Oh, immensely well-prepared; very able man, there was no question about it. But he did me in, because when I got to Rev and Tax, they took out the 5 percent sales tax.

LAGE: Now, do you have to agree when they take it out?

BEHR: Well, you either agree, or you drop the bill. You have no choice. It was not an author's amendment; it was an amendment by the committee. I had to get through the committee. So they took that out; then they took out the personal income tax. So then they had a shell they were working with.

LAGE: So they took out the chance to make up the income?

BEHR: That's correct. And then they threw in about \$1.2 billion from the surplus. By this time, we were giving some assistance to the lowest homeowners, and also all the renters, fifty dollars each, which is not very much.

The end result was that the bill only reduced property taxes by 30 percent across the board, instead of up to 55 percent. We were working against Jarvis-Gann, which was gathering steam, and which had an overall reduction of 57 percent. I could see perfectly well that the 30 percent wasn't going to do it, and I had to wince even more because what I had in mind--as I mentioned here, I guess it's mentioned in this press release by the governor--I was going to eliminate the income tax surcharge of 20 percent. Keep the 5 percent sales tax, the deferred property tax, and make up the income from 20 percent surcharge on the state income tax, but go beyond that, which I could readily do with that money, because the total amount attributable to property tax paid by homeowners was only \$1.1 billion.

So I could take personal income tax of 22 percent, of the total property taxes. \$220 million is 20 percent of the \$1.1 billion, so I could have put in \$220 million to replace the personal income tax,

and put in another \$100 million, or \$150 million, which would be a total of \$350 million, and I would have been able to have said to any property tax payer, which was my intention, "Look at your property tax bill and realize that you can divide it by two, and that's the maximum you're going to have to pay." And I could have done it for far less, but they threw a billion, two hundred million dollars from the surplus into this. I didn't need that much to have something that I could compete with. I didn't get it. I was deeply distressed, but there was nothing I could do.

LAGE: What was Leo McCarthy's role in all this, as speaker of the assembly?

BEHR: He was the one who got it off the assembly floor.

LAGE: After it had been . . .

BEHR: And this was the last bill that was enacted in the two-year session, as well as being the first bill that was introduced.<sup>1</sup> And the last night is hectic beyond belief, and when midnight strikes, everything has to stop because it's the end of the year, or the end of the session. And only the speaker can get a bill through there if anybody wants to object, because he has the power. And Leo was a brick, and he got it through. As he did with my S.B. 107; we were very close.

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<sup>1</sup>S.B. 1, 1977-1978 Reg. Sess., Cal. Stat., ch. 24 (1978).

Campaign against Prop. 13 and for Prop. 8

BEHR: So then we started out on the crusade to persuade the voters that this was a more sensible solution. We really had a very weak vehicle to do it with, 30 percent [reduction in taxes] against 57 percent. Furthermore, on the ballot, it would only be constitutional amendment number eight, which didn't tell anything about anything except to allow the split roll.

LAGE: And this we haven't really made clear. You were getting through the legislation, but you needed a constitutional amendment for the . . .

BEHR: Well, what had happened was that there was a constitutional amendment by [Senator Jerome] Jerry Smith allowing the split roll . . .

LAGE: Which means . . .

BEHR: The split roll means that you can change. . . you can have a different system of evaluating one type of property over another type of property. You can increase the assessed valuation, for example, of commercial property, or you can reduce the assessed valuation of homeowner's property, but you need a constitutional amendment to do it. Jerry Smith had put that one through. We tailor-made. . . . we amended our bill so that it would conform, and we could use that A.C.A. [Assembly Constitutional Amendment] 8.

But A.C.A. 8 didn't tell anything to the voters in the voters' pamphlet. My bill was clearly too complex to explain to them in open hearings. They weren't interested, and I don't blame them. They wanted results; they didn't want the technical problems that we hoped to overcome. But we were late.

LAGE: When was the last day of the session, when S.B. 1 actually passed?

BEHR: It was signed March 3, 1978.

LAGE: So you had until June.

BEHR: And that's all we had. We had to start, not from a running start, because nobody knew it was going to get through.

LAGE: And who coordinated the campaign? Was there a . . .

BEHR: Oh, the campaign?

LAGE: For Prop. 8?

BEHR: I don't think anybody did. In fact, we had, as we approached doomsday, this was June 6, I think, we didn't know it, but we suspected it. . . . well, Leo and I knew it. [We had] more than modest defections by all the legislators, because they were all coming up for election, at least half the senate and all of the assembly. And some of them got smart and realized, "Well, the hell with this! I'm not going to fight this." And then they would try to bargain with Jarvis as to what he would offer them if they offered him their

support.

LAGE: Gave him a lot of power, didn't it?

BEHR: Boy, he surely had it. He became a folk hero. People cheered when he came up. And the cruder he became, the more they cheered, because he was telling it just like they wanted to. And they couldn't . . . they just savored it. And he wasn't afraid of anybody, you know, he was an older man. He said some outrageous things, but I never . . .

LAGE: What was it like to be on the podium with him?

BEHR: Well, I enjoyed it, because I like that kind of business, but it was pretty tough if you were not used to it, because he would say all sorts of things about you.

LAGE: Personal attacks?

BEHR: Oh, of course. Absolutely. And good ones. Of course, I gave them back too. [Laughter] But the problem became worse, because here's Phil Watson, who's missed out twice on trying to do the same things, he was clearly in favor of Prop. 13, but he was the assessor of Los Angeles County. He announced just before the election that assessments would go up as much as 100 percent after the June election.

LAGE: That's a helpful . . .

BEHR: It was very helpful, because that's the largest single county in the state. He had his following. But that didn't help us. But what was interesting--and I pulled it out because it's hard to believe looking back--the polls, which people pay so much attention to today, didn't indicate this was going to happen at all. So someone must have been lulled into a sense of security by them. Here's the California poll, my old friend Field. "Nearly even split on Proposition 13 now," by Mervin D. Field: April 12--here about four out of five persons say they're aware of Proposition 13, while in February only 56 percent were aware. Twenty-seven percent say they're in favor; 25 percent say they're opposed. The rest are undecided.

Now, that's just one survey, but there was another one by the L.A. Times, a poll of 1,348 voting age Californians, 35 percent solidly in favor of the ballot measure, 27 percent firmly opposed, the remaining 38 percent undecided. And this was along the same time, March 27, 1978. So I don't know where the pollsters went to, but it was pretty clear to us that wherever we went, the pollsters hadn't been. Because in the last two or three weeks, we weren't allowed to speak, Leo and I. We went together as sort of a lonely pair throughout the state, and of course we appeared on television and so forth. But if it was a live audience, they hooted us out of the hall.

We couldn't speak. And there was nothing which the moderator could do to quiet them, and they were . . .

LAGE: What kind of groups were you appearing in front of?

BEHR: Well, you name it, we were there!

LAGE: You mean local clubs, service clubs . . .

BEHR: Local clubs, local organizations. One was the Commonwealth Club; they didn't scream us out, but they certainly enjoyed Jarvis. Then we had a big one in South San Francisco, we had one in Stockton, we were in L.A. two or three times. I appeared before the Los Angeles County Board of Supervisors--Los Angeles City Council, I guess it was. They came out against Prop. 13--not all of them, but most of them. Peter Schabarum came out in favor of it; he used to be an assemblyman. They all had their own ideas, but it was quite a contest.

We lost, and I think we would have lost, to be truthful, even if my bill hadn't been gutted, if I'd been able to do what I felt was sensible. People were so hateful of government at any level that they were voting against government as well as in favor of Prop. 13.

LAGE: What do you attribute that to?

BEHR: Well, I attribute it to the fact that there were so many homeowners throughout the state who were bleeding through the pores at the

increases in the property taxes . . .

LAGE: But does that account for the hatred of government?

BEHR: Yes, because we were supposed to do something about it, and we didn't. And we had had plenty of time to do it. We became all mixed up. Everybody's ego was involved, everybody thought they had the best bill, and nobody wanted to vote for anybody else's bill. And they didn't really understand the nature of the crisis, and nobody took any leadership role. The governor was very weak. After S.B. 1 passed--it was a night session when we finally got it off the assembly floor--and he came out of his office, surrounded by reporters, it was the greatest thing since sliced bread, and he was going to campaign vigorously for it. And the governor meant it. No one could doubt his sincerity, but he didn't do a damn thing. I don't think he liked to do that kind of thing. He would rather be a lonely philosopher. So he didn't help.

LAGE: Did anyone else help? Leo McCarthy you've mentioned.

BEHR: Leo McCarthy was a brick; he worked like a nailer. I can't really think of many more. There was somebody from the California Taxpayers Association who was excellent, and he came along and helped. But as far as the counties were concerned, and the cities, we got no help.

LAGE: What about the university?

BEHR: Well, the university: I'm glad you mentioned that. Here you've got Milton Friedman, the great Milton Friedman, the Nobel Prize winner. Arthur Laffer of the Laffer curve. They both, on April 14, 1978, "admitting Jarvis-Gann had weaknesses," endorsed it, because "it would effectively put some kind of a lid on government power to tax and spend." That gave a certain plausibility to this thing, which it didn't deserve, and I've never felt good about them.

LAGE: I guess I was thinking also of the University of California, which would have, I would assume, seen itself as being threatened by Prop. 13.

BEHR: They didn't get property taxes. They're completely financed by the state. Now, UCLA came out with statistics that were quite damaging and proved very accurate in terms of the results if Prop. 13 passed. So they, I guess, should be given some credit for that. But they were not much help in the campaign. There wasn't any campaign; that's what probably everyone misunderstood. They got it free on board. There's a good reason; with the dismal ending of S.B. 1, I was hard-pressed to support it. I would never have supported Prop. 13. But S.B. 1 wasn't really worthy of support.

LAGE: After it had been gutted.

BEHR: After it had been gutted. The governor called a special session, which people don't remember, for the expressed purpose of property tax reform.

[End Tape 11, Side B]

[Begin Tape 12, Side A]

LAGE: Now, when was this special session?

BEHR: It was the 1977-78 two-year session, and it was the first extraordinary session, and it began in January '78, so it was very late. I put this bill in, the same bill I had going through the legislature, into the special session, on January 10, 1978. The special session lasted through February 28, because I amended S.B. 1 in the special session, as I amended S.B. 1 in the regular session.

LAGE: So they were going on concurrently? This is getting complicated.

BEHR: It was concurrent. It was just an effort to highlight it. So it showed that Brown was getting nervous himself. But it didn't do any good.

LAGE: Is there more to say about the campaign or about Jarvis? What about Gann? Was he not as visible?

BEHR: Gann was not visible. He was a retired realtor living in Sacramento. He was a good nuts-and-bolts man, and he must have been a very good organizer, because he'd almost gotten it through on his own, his petition. And so as soon as the two of them realized they'd both

failed by very little, they got together. Gann was a much more polite, retiring gentleman, and a much more trustworthy person. He didn't speak casually. And I rather liked him. He was a colorless kind of fellow, but I guess Jarvis had color for both of them.

Passage of Prop. 13 and Long-Range Consequences

BEHR: Anyway, there was nothing to be done. And I don't have the final results.

LAGE: I have them here. Prop. 13 won 65 percent to 35 percent.

BEHR: That's about what I remember.

LAGE: And Prop. 8 lost 53 percent to 47 percent.

BEHR: So you see, if you're going to do anything later, you're going to have to get another constitutional amendment like 8 allowing the split roll through, and that's got to go through with a two-thirds vote in the legislature. It shouldn't be hard, but local government never recovered from Prop. 13, not just starvation of money that didn't come, but rather because whenever a higher jurisdiction sends money to a lower jurisdiction, higher from the standpoint of being higher on the totem pole, but not of the higher quality. The federal government sends money to the state government, all sorts of strings attached, so they can only spend it just as it's prescribed at the time it's sent down.

Well, that's what happened after Prop. 13. We sent money at the state level to the local governments, and the first time we did it, we specified that no firemen or policemen could be fired throughout the state. That was sacrosanct. And so all the softer things like libraries and recreation and parks and so forth, were made to suffer doubly, because they didn't count, compared to law and order.

I don't think local government has ever been restored to independence. Curiously enough, because of the completely improper way in which it's required to assess under 13, the total percentage of property taxes which are now being paid by homeowners is probably the same percentage as the percentage that was being paid before Jarvis-Gann.

LAGE: The percentage paid vis-a-vis all property taxes?

BEHR: That's correct. Because if property turns over every seven years, it's been longer than that, it means that most property is being assessed at the higher level.

LAGE: Whereas the commercial property is not; it hasn't turned over.

BEHR: No, and it hasn't turned over for another good reason (people didn't realize this; we tried to point it out): if it's held by a corporation, there is no way, unless the corporation sells that piece of property, that it's going to be legal to reassess and increase its value. Now, it's

not just the big corporations you think of, like General Electric and Pacific Telephone and so forth, (although the utilities are handled differently by the board of equalization); office buildings, commercial buildings, restaurants, almost anything you can name, are in corporate ownership, and so even if you sell the stock, you're not necessarily selling the property. And if you're selling the property, you may be selling it at the old value, and the new value is something in between. So this has put a complete blanket of immunity over the reassessing and increasing the value of property owned by corporations. They're not sold on the market.

LAGE: So there's that inequity.

BEHR: So there's that inequity, and it's a very real one.

LAGE: And then the inequity that was highlighted by the supreme court yesterday.

BEHR: Oh, yes. That's so patently unconstitutional that it shocked me that it's taken this long to even reach the U.S. Supreme Court. If you have two homes, identical in size and location, same yards, same landscaping, next to one another; one is listed on the rolls of the '75-76 assessment period, the other has recently been sold, so that this one that has recently been sold will get property taxes increased by two or perhaps two and a half, or three times as much as the other

one, out of the pure circumstance of it's being sold, not the circumstance that it has greater value.

LAGE: Or that it gets any more service.

BEHR: Or that it gets more service, that's right. So that's been patently unconstitutional, and I guess you asked me before, why hasn't this come up before the U.S. Supreme Court? Well, you notice the one that came up was a corporate one; that coal company was angry as could be at the vast increase in assessed valuation of its property vis-a-vis others next to it.

LAGE: This was in another state.

BEHR: This was another state; yes, one of the southern states. But who is interested and able to finance the long, slow, tedious, and doubtful approach to the United States Supreme Court? Homeowners can't do it; I mean, you can't find a homeowner or homeowners' association that's going to be able to put up \$100,000, \$150,000, \$200,000 to do it. All the other property is sitting smug, smiling on the sidelines. Certainly the cities and counties theoretically might, but they've got other things to do, and they can't afford the extra cost of lawsuits. They don't get reimbursed by the state except in these criminal lawsuits.

So when you look around to find the kind of plaintiff that is

able financially and willing emotionally to take this long, slow journey, you look in vain. That's one of the reasons I guess that it's never been taken up. And of course, it could have been taken up after the state supreme court rubber-stamped it, with the exception of Rose Bird. Why they ever did it is a matter that may be of no importance, although I find it quite inconceivable as an attorney.

LAGE: That they would have found it legal?

BEHR: That's right.

LAGE: Do you have any insight into why they might have?

BEHR: Well, I guess if you think it's a pit bull, you're going to let it sleep, or it's going to wake up and bite you. And this is a pit bull of a thing, and it would have created enormous discombobulation. I guess they just ducked it. Now, that's not very judicial, and that may not be the truth, but that's what you're asking, and that's what I think.

But then, you should have gone from there, you can get directly to the U.S. Supreme Court, on a writ of certiorari, to be sure, which means the court may or may not take it. It's not hard to file a petition for a writ of certiorari in the U.S. Supreme Court. I've done that.

LAGE: Would it have been the state that would have done that?

BEHR: It would be the appellant, or the losing party, at the state supreme court level. Because this is a matter of constitutional law, and it may well be that you. . . . no, you have to ask their permission and get it. But that's easy to do, it doesn't cost very much; I've done it. I lost, too. [Laughter] But it wasn't such an effort. But somebody was unwilling to do what should have been done. Now, at that time, with that Supreme Court, who knows what would have happened. They probably wouldn't have. . . . they might not have accepted it.

LAGE: Wouldn't have heard it?

BEHR: Wouldn't have heard it, yes. But now, it's open sesame. I can't believe with that big hint, saying "This doesn't really refer to Proposition 13, even though it may look exactly like it; we're not making that decision."! [Laughter] They're reaching out for it.

Later, I was asked to go up to Alberta, Canada, to lecture on Prop. 13, and I couldn't imagine why. What happened is that--this is a little off the subject but it is amusing--what happened is that the provinces of Canada own all oil and exact royalties for any oil being taken out of the ground. The federal government doesn't get a nickel. Alberta's been pocketing loot for years. It had a total population at the time of 3 1/2 million, and it had as large a surplus as the state of California! They were scared to death that somebody

was going to rip it off, and they put it into a heritage fund for the future.

The first thing they did was to appropriate and send out enough money to liquidate all debts of all local governments throughout the province, and that was just . . .

LAGE: This was a response to Prop. 13?

BEHR: I think so. So they asked me to come up and tell them about Prop. 13, which I did. They swore they'd pay my fee in dollars, but I wound up with Canadian dollars, which were something less. It was an interesting trip.

LAGE: Did you have any role in the legislative bail-out after Prop. 13?

BEHR: I didn't have much to do with it. I guess I was tired out. [Laughter]

## XI. RETIREMENT FROM THE STATE SENATE, 1978

### Decision to Retire after Eight Years

LAGE: I want to talk about why you decided not to run again, and what effect that might have had on your role with S.B. 1?

BEHR: Well, taking those in order, I looked around me, having been there almost eight years, and saw some perfectly wonderful people who had been there longer--eight, twelve, fourteen, eighteen years. In neither house could I feel that they were as interested in why they

were sent, as in how they could stay. And they settled back into a life that seemed more routine and more comfortable. They did their daily chores, but none of them came through with any creative legislation that I can remember. And they had a sense of déjà vu; they'd seen it all.

The concept that if you don't have some seasoned seniority around, things will have no historic continuity and go to pieces, has never caught me as being actually factual. I think if you go into the legislature, particularly if you've been in local office, if at the end of two years you haven't found your way around and know what to do, they've sent the wrong person. And after a while, it's a very hard job. People don't seem to realize how many days you have to spend, most weekends and so forth; you really don't have a vacation, although you're not entirely in session all the time. But then we have interim hearings and so forth. It's very strenuous.

So I decided that eight years was enough and simply found I wanted to do something else. I never regretted it.

LAGE: Did you have plans for other political activities? You weren't thinking about Congress or . . . ?

BEHR: No, I couldn't. I started when I was forty-one in my first elected office, which is a pretty slow start, when you think about it. At the

time, I was sixty-two or sixty-three, sixty-three I think. And at that point, it's not sensible to think of higher, more distant office. Not higher; more distant.

LAGE: That's a good way of describing it.

BEHR: Besides, there were no openings, so there was no reason to have any regrets, which I wouldn't have had. There is a great deal of good fortune, if you're making a career in politics, to being lucky. Now, you have to be able to accept the luck when it comes along. In other words, if an opening takes place, or you can push your way into an opening, that's not necessarily lucky, but it has a lot of luck involved in it. If there's an opening, then you've got an open seat, that's luck. If you push your way into an opening, and succeed, that's probably greater luck. But you've got to be willing to take those kinds of risks. And you ought to start young. Wonderful things can be done, and there's a lot of excitement in doing them. It's the best liberal education around, no question, if you want to be educated.

LAGE: I had a question about something I ran across in one of your newspaper interviews; I think you mentioned that at one time you had thought of changing parties.

BEHR: Oh, I did have that feeling from time to time. It grew on me. Yet, I

never wanted to be driven out of the party, I never felt that. . . . I thought if I had changed parties, I would have been giving up on my belief as to what the party should become. Which was perhaps not very realistic. And then every time I decided to shift, the Democratic party did something I didn't like. [Laughter]

LAGE: Were there particular things that you thought of as being Republican that you identified with?

BEHR: Damn few. [Laughter] Very few. But don't forget: I was in nonpartisan office for eleven years. Now, nonpartisan office, of course, by law is a requirement for local government. In a county the size of Marin County, and of course a little city like Mill Valley, where I served, it's still nonpartisan to the extent that I didn't know whether my colleagues were Republicans or Democrats, and I couldn't care less. They didn't act on either basis.

Now, that's not true with the large cities, as we both know, Los Angeles, San Francisco, San Jose, San Diego. But by law, it's still true. But that's where you find persons who are more likely to move on. I came to believe there were an awful lot of local officials, local elected officials, who are performing a service which they enjoy, and which is compatible with a full-time job, not at the board of supervisors level, but at city level, small city level. They're at least

equal to or across the board a cut above the persons you find in Sacramento, with some glorious exceptions in Sacramento, because obviously there are persons of significance there, I think.

Quality, Corruption, Socializing, and Hubris in Sacramento

LAGE: But in general, are you saying that you found the level of the quality of the legislators not to be as high as you had wished?

BEHR: In Sacramento?

LAGE: Yes.

BEHR: Oh, I think the quality was below what I would have hoped for, with the exceptions that I have noted. There are some who are real dead-heads, and it was no use attempting to educate them. At the most, they were trainable.

LAGE: Were they on the take, or just not that bright?

BEHR: Oh, no. Some were on the take, I'm sure. But I think the number of members on the take is very small. Maybe three to five, at the maximum, in the senate. In the assembly I didn't know as well. And in addition, we knew whom they were, and so if they put bills in, those bills had a terrible mountain to climb and usually collapsed before they reached the top. Everybody knew that they were tainted; the authors were tainted. And so those authors never got the bills through. So that was a form of checkmate. It takes two to tango,

somebody to corrupt somebody and somebody who could be corrupted. But there were a few that I had my suspicions about.

LAGE: How about. . . say more about that, if you want.

BEHR: No.

LAGE: Was there a lot of socialization among the legislators, and with lobbyists and other groups, and how important was it?

BEHR: I think it was important, more so in the assembly than in the senate. But important. There was the group that met down at Frank Fat's, I'm told, but I didn't participate much. At least once or twice a week, including lobbyists. They'd play cards. That's one way of moving money from one pocket to the other, which was almost completely immune from discovery.

LAGE: Gambling?

BEHR: Gambling. You and I gamble; I'm on the take. I obviously know you're not, but you're willing to give. I have an excellent night, and you have a big bad night; your luck just doesn't work. I'm pleased as punch, but we both know how it happened. We're not talking about it.

Another way, of course, which is even more immune from discovery is if you're an attorney. Lobbyists come to you. They're interested not in your knowledge as a legislator or whatever you do

up there, but they've come to admire your particular specialty, and need your legal advice, and were wondering if you would be interested in receiving a small retainer--not enough to bother you--from them, because they want to be very ethical. Something like maybe \$75 or \$100 a month. Now, they won't bother you, they say, but when they have legal questions to ask, they just need a little time, just want to telephone, and you know whom they are and all this.

Well, that's a tender trap, but when it snaps, it will never let you go. A year from then, it will be \$250. A year from then, it will be \$300 to \$500. It's a form of being blackmailed that once you start you can never recover from. So that's the reason why some persons think that the legislators should be paid full-time and not allowed to take honoraria, which is the third way, of course. And there's something in it. I think it should be full-time, but I don't think the dollars are going to make the difference. If you're corrupt, you always want more. So the fact that you have less isn't as relevant as it seems to an honest person who figures, "My god, if they gave me \$25,000 a year, I'd get along very nicely and enjoy it." It's not the same.

LAGE: So it seems you were aware of these . . .

BEHR: I was aware, because after a little time, you get a feel. And  
[Inaudible].

LAGE: You can see who the lucky gamblers are.

BEHR: Yes, but you can't wander around being suspicious and expect to  
make out. And you haven't got the time or the interest in becoming  
a television district attorney or detective. So you simply are inclined  
to ostracize them from your company, have as little to do as possible  
with them. But there were very, very few.

LAGE: Any broad statements about how you might have changed in your  
methods or your outlook over those eight years? Or do you think  
we've . . .

BEHR: I think we've covered that. I do believe this, though, and I may have  
said it also. If you've been in local elective office for a certain length  
of time, you've gotten your A.B. degree. And then you go into the  
legislature and maybe get a masters, or maybe in time a Ph.D., or  
maybe you don't get anything. But I'll tell you, you arrive with an  
enormous head start over persons who haven't been in the local  
arena, and you arrive with an understanding that God made you just  
a simple person and not a simpleton, and that you're really not the  
hotshot you may think you would be if you hadn't had the chance of  
getting that behind you, with constituents who will look you in the

BEHR: eye and tell you exactly how they feel. You've got no place to run from them in local office.

So that's one thing I've seen. The people who don't have any background in local office come in and feel. . . . they're treated like little kings. Have I told you about this? You drive into the underground garage first day. Everybody in the garage knows who you are, they've studied your photographs. "Oh, Mr. So-and-so, come, let me take your car. Thank you very much." And then you move toward the bank of elevators, and they say, "Oh, Mr. So-and-so, please, that's for the general public. There's a special elevator for legislators over here." And there's a charming little black girl and she makes you feel good all the way up to your floor. And then you get to your office; all your staff is there at your pleasure; you can just let them go anytime. They've got to be nice to you.

The lobbyists obviously, it's their job to be nice. They're very pleased with you, even if you vote against them. They're playing the odds, you know. They're not only playing one bill, like some constituents. And when your constituents come, you have a title. You meet them on your ground, not theirs. You've got a staff that will screen out the more difficult ones, and so you can live in sort of a cone of silence, if you want to. And everything is meant to

enhance the illusion that you're quite an important person, as long as you have the vote.

The day after you lose your office, nobody seems to quite remember who you are. It's that amusing. You're thrown away. But it's very hard if you haven't had some background locally, especially if you're younger and ambitious, to keep a grip on yourself and realize that you are a servant of the people.

LAGE: Once you said you weren't going to run, which you announced quite a bit in advance, did that affect your power?

BEHR: No, not so long as I had a vote. I did it quite a bit in advance because I think that's the only fair thing to do, so you don't have a wild last-minute scramble for office. I think there are a lot of people who are very worthy to replace you, and they ought to have a decent chance to get a campaign together and see what you want to do. So that was the reason I did that.

LAGE: And Barry Keene immediately--there was comment about Barry Keene immediately announcing that he was running for your seat. Was he given a little prior warning, or . . .

BEHR: Oh, no. But if you're a hungry (this has nothing to do with Barry), but if you're a hungry pig, you want to be first at the trough.

[Laughter]

LAGE: You don't mean that personally?

BEHR: No, I like Barry.

Teaching at UC's Graduate School of Public Policy

LAGE: Well, shall we talk about what happened when you did lose your vote? What have you done since then?

BEHR: Well, I taught several times at Berkeley, I was attached to the Graduate School of Public Policy and assisted teaching there. I enjoy that very much. Well, I was appointed something, and paid quite generously, and I gave two courses for undergraduates, in a course which I created. That's when you think it's better than the usual. What I did was, I took the question of what influences the ability to win or lose a bill in the legislature, and I brought down to talk to my class a whole smorgasbord of persons whom, in my judgment, make a difference. I brought down legislative counsel, I brought down the lobbyist for the governor, I brought down the lobbyist for the Resources Agency, I brought three lobbyists for private interests, each of whom had different approaches to lobbying. I brought down committee consultants, two committee consultants. I brought down somebody from the Senate Office of Research, and I also brought several of my colleagues down, and the reward for them was only that I'd pay for their lunch.

And they all came down with pleasure, and I made it clear that --I had about ninety students in the first course, it was a lecture course--I made it clear to them that I wanted them to talk for about twenty minutes and spend the rest of the two hours answering questions. It was a two-hour session, twice a week. I think that was a fun course.

LAGE: Did the students have a lively interest?

BEHR: They had a lively interest and an exceptional collective knowledge of everything. It was a political science course. I was describing my S.B. 1, I guess it was this very bill, and somebody said, "No, Senator Behr, that's not correct!" He was right!

[End Tape 12, Side A]

[Begin Tape 12, Side B]

BEHR: The second time I gave it, I realized the students were starving for office hours, because it's a big, large, impersonal arena, so I pared the number by making the requirements more difficult. But even so, this was very little help, so I expanded my office hours to two or three hours every time I was there. They all lined up, and it was very worthwhile. But it was also very enervating because I had to drive from Inverness to the campus in Berkeley every day, and two hours of teaching, and office hours. It was more than I wanted to

continue, so I only did that for a couple of terms, but I did enjoy it.

More Service to the Environment and Education

BEHR: Then I went out, and I did something called the Environmental Bill of Rights. Did you ever hear of that?

LAGE: Yes.

BEHR: Well, I got this concept of trying to put by initiative into the constitution an environmental bill of rights.

LAGE: Into the federal or state?

BEHR: State. Not a new idea; five or six states had done it. And while it doesn't have much immediate effect, I think over time it has an accumulative value. I sat down with [Environmental Defense Fund director Thomas] Tom Graff and [Chairman, Friends of the Earth] David Brower.

LAGE: [Sierra Club executive director] Michael McCloskey at all? I know he'd been interested in that.

BEHR: No, not Mike. And then I had another man named David Abelson, who was director of the Planning and Conservation League at the time. And several others; we all got together and put it together. I started off with a short working paper on the idea.

Then I went around to get endorsements. I got endorsements from every environmental organization, which wasn't too difficult to

do, except for the Sierra Club. I had to meet four or five committees before I finally got their endorsement. But then nobody did anything, and that was my own fault, because I hadn't really realized the kind of structure needed. So I fell far short of the signatures needed.

LAGE: Would this have taken an initiative?

BEHR: Initiative. We were going to put it in the state constitution. So it required a large number of signatures, and I got 155,000 or so and went all over the state talking about it. But it was a major disappointment to me.

LAGE: That you didn't have enough backup support, is that the case?

BEHR: I thought I knew how to run a campaign; I didn't, I found out. I had no money, and of course, you need some money. Everybody said it was a nice idea, but it didn't really grab hold. Perhaps the timing was wrong, I don't know. So that took up some time.

Then I chaired a statewide commission on the state funding of credit and noncredit courses at community colleges. A great battle, which was quite technical, involved what courses would get credit, meaning subvention from the state, and what courses would not get credit, as far as the state was concerned. And we must have had about seven or eight meetings around the state on that one. We

came out with a report which is gathering dust someplace.

LAGE: Did it have any effect?

BEHR: I don't think so. I learned a lot about it, but it wasn't [Laughter].

LAGE: Another part of the liberal education.

BEHR: It was that. Then, I chaired a citizens' committee on Forest Service practices. Huey Johnson was an old friend of mine, still is, and he was chairman of the Resources Agency. He asked if I'd serve, and he had Ike Livermore on the committee, and he had representatives from the major forest products companies, across the line.

LAGE: Was it Forest Service, or . . .

BEHR: Federal Forest Service. So, I got up there, and we had Larry [E.] Moss--do you remember Larry?

LAGE: Yes.

BEHR: Smart fellow. Fortunately, he was hired as executive director of the committee. So we had hearings in Sacramento, five or six or seven. Larry was working like a dog and knew as much about it as anybody there. I wanted Ike Livermore to be chairman. But Huey took me aside and said I'd have to be chairman. [Laughter]

We put a pretty good report together. We had a retired representative from the U.S. Forest Service. It was sort of against the interest of the major timber companies, and a couple of their

representatives balked. I had to . . .

LAGE: You had their representatives on your committee.

BEHR: Yes, on the committee. And I wanted a unanimous report. But I wasn't going to get it without a little ruse. [Laughter] So I said, "Well, you know, we have to send this with a covering letter to the governor, and we'll put your objections into the covering letter." And they bought it. [Laughter] So it came out unanimous. But after about a couple of weeks, oh, they were sore as Kilkenny cats, but it was too late.

LAGE: And who wrote the covering letter?

BEHR: Well, we wrote it, and we gave all their objections, because nobody saw the covering letter, which was the point.

Then I've been interested in the Marin Conservation League, and I was president of that for two successive years [1984-1986], a couple of years ago.

San Francisco Foundation Trustee

BEHR: And I've been on the [Board of Trustees of the] San Francisco Foundation for nine years, and I've got just one more year to go. Which took us all through the tumultuous troubles with the [Beryl Hamilton] Buck litigation, which I strongly opposed. Wrote a detailed memo that has never seen the light of day to my colleagues,

telling them it was wrong and why, all of which proved true.

After the settlement we had the difficult task of having a national search for a new executive director because Martin Paley resigned. It was an exhaustive and exhausting search, but I'm sure we chose the best candidate.

LAGE: Did you choose somebody who was a national figure, or did you end up with a local person?

BEHR: We ended up with a gentleman named [Robert M.] Bob Fisher, who took over the John F. Kennedy University . . .

LAGE: In Contra Costa?

BEHR: Contra Costa County. It was insolvent, and over a period of nine or ten years he built up an endowment, increased the enrollment, in fact, put the whole thing on a going basis. He had a degree from Harvard, which I didn't hold against him. Also a law degree from Harvard. He had a Ph.D. from the University of London in economics. Bob taught in the School of Criminology at Berkeley for a while. He also took a couple of years off as a professional race car driver. He became head of the National Association of Race Car Drivers, and won several other very important races. He said it was boring in the end, but he made his mark there. He'd done a little bit of everything, went back up to head up the largest YMCA in the

world in New York City, where he lasted only a year, but I think that was a pretty gallant effort.

So anyway, we are pleased with him. Oh, he also was mayor of Orinda for some years.

LAGE: My goodness; he is impressive.

BEHR: He had a broad background, yes.

LAGE: Have you travelled much?

BEHR: Yes. We were in Africa on a safari. We went to Australia and New Zealand with a Smith College group, the president was resigning, and she was an Australian, so we got a lot of insight from that. Sally and I drove around Spain and Portugal one year. We've been down to Mexico three or four times. Went down to Belize, a rather remote part of Belize for a trip, which was fun. We love to snorkel, and we went to Fiji and Tahiti and Hawaii. In fact, we've been a lot of places since 1978. London, England, and Scotland, Ireland, Canada, and to the Caribbean twice.

LAGE: They all sound like more fun than Sacramento.

BEHR: Well, the trips are much more fun. But a trip is fun because you come back. It's not just the fact you've had a trip. You come back, and then you realize how nice it is to be home.

Controversy over the Buck Trust

LAGE: Is there more that we should remark on from the Buck Trust controversy, particularly as it might relate to the state?

BEHR: Oh. Well, perhaps, perhaps not. We'll try it briefly. The attorney general is in charge of supervising all charitable organizations throughout the state. Consequently, when we filed a petition for instructions--it was called cy pres, but what it really means is we believe that the purposes of the trust can no longer be met, and we're asking the court, first of all, to instruct us as to whether this is true, and if it is true, then what is the nearest we may come to fulfilling the intent of the trust in a different way. We were trying to siphon off some of this large income to our other four constituent Bay Area counties that make up the community trust.

When you do this, you come in direct conflict with the north star of guidelines, which state that you are above all obliged if possible to fulfill the precise intent of the trustor. This is the north star of your direction; you better keep to it. It was my argument that there was no reason on earth why, with the broad nature of the provisions in the trust, we couldn't continue to make grants profitably in Marin County. I had a fall-back position. I said in time, you may exhaust opportunities but certainly not yet. We haven't been in it

long enough.

LAGE: Were you the only member of the board that took that position?

BEHR: No, but I was the lead member. [Richard] Dick Madden, chairman of Potlatch Corporation, who lives in Ross, went with me. But we were seven members, and so there were four in favor, one abstention with a conflict of interest, [Hamilton W.] Whit Budge, and two against.

LAGE: Why did he have a conflict of interest?

BEHR: Because he represented the trustee banks. They held the money and were investing it, and he felt that was a conflict. So he abstained.

LAGE: Was it coincidence that the Marin County members of the board opposed the suit?

BEHR: Oh, I think it was coincidental. I had a covering letter on my memo indicating that I might be accused of conflict of interest, and I could understand why, because I had always been a resident of Marin County. On the other hand, I assured them that my loyalty to the foundation was what I held as my primary duty, since I was a member of the board, to vote on it. And then explained in eight or ten pages, single spaced, why this would be a disaster. And essentially what was going to happen.

I said it was not the law that's so troublesome, among other things. I said, "We're going to all be subpoenaed to testify. We're

going to have to explain why we voted yes on all the various grants we made, or why we should have voted no. So if you're going to do that, then we're going to be impeaching our own votes. Moreover, we're going to be ruining our staff who made the recommendations for them, so we're going to be placed in a completely impossible position."

LAGE: Because they would be looking at each grant you made in Marin County.

BEHR: Sure, and explain what was wrong with this one, and what was wrong with that. Well, if it was wrong, why did you vote for it? Wouldn't you vote for it today, and so forth. We would be cut to ribbons. And of course, we were.

LAGE: Did your memo have effect? Was this discussed in great detail on the board?

BEHR: No, it didn't. I sent it out too late, I think, though I'd been talking of this for six or seven months. I sent it out more to defend my own positions on a firm basis than to try to influence anybody. But by then, it was too late.

I think, in hindsight, it's very hard to understand why we took that kind of heat, because we had a right to petition for cy pres. We never made a grant outside of the county, we never, in fact, violated

the intent.

LAGE: You just more or less investigated the possibility.

BEHR: We had the right to ask the court for its opinion on this, but it looked to be, by the time the county got finished, as though we were clearly trying to slip a fast one over them. And we got a difficult judge.

LAGE: How did that affect it?

BEHR: Homer Thompson. Well, it made it completely unpredictable, and in the end what happened was that he cy presed, personally, a large part of the trust income by his own order, to this Institute on Aging and the other two.

LAGE: He made the decisions himself?

BEHR: He made the decisions himself, at a time when there was no board of trustees, because we'd resigned and the new Marin County board hadn't been appointed to the community trust. So it was in my opinion inexplicable and a likely violation of the law of trusts. But by that time we had signed off on the trust, \$420 million worth . . .

LAGE: Why did you need to sign off, if you were only inquiring whether you could change . . . ?

BEHR: He kept trying to arbitrate a bargain between the parties. It became very clear in the bargaining that he was forcing us to make all the

concessions. And pretty soon, compromises had been offered which gave less and less to us, and we realized that it was more trouble than it was worth, if we were going to accept all the conditions, to hold the money. It was bound to do a lot more harm to the county, so we just did away with it.

The board had changed considerably by then, though. A lot of the old members weren't there. In fact, the last of the members except for myself who voted on this left us just a week ago.

LAGE: So there is a big turnover.

BEHR: Oh, yes. But it was very hairy. I was deposed for two full days, and there was such a mixed bag in terms of my answers under oath that neither side wanted to use it in the trial.

LAGE: What you said could have supported either side?

BEHR: Well, some of it supported one, and some supported the other. So each of the attorneys stipulated that each would read the part that they thought was favorable to them, and I never was called. I was the only one they didn't call.

LAGE: What did you have to say favorable to the idea of sharing the wealth [with other Bay Area counties]?

BEHR: Not very much; not very much. It was premature, I felt. But that was a lot of work, a lot of time, a lot of meetings, and a lot of

conflict. Although I never lost my friendships with other members of the board. They understood how I felt. I didn't try to rub it in as things got worse and worse. Didn't have to.

LAGE: No, you didn't. What about the role of the attorney general? You mentioned that he had . . .

BEHR: The role of the attorney general--originally we were talking with several of his staff. Carol Kwan was one of them, and another one was a Greek man [Kornblum] who lives in Novato. The report back from our spokesmen was that the attorney general was favorable, and he was with us in this. And my memo said that I thought that was not the case; there was no reason on earth to believe it, and if the attorney general himself hasn't said it, the staff couldn't speak for him. The likelihood is that he'd be against this, which he turned out to be. That was one reason they went into it, one of many.

LAGE: One reason was that they had this indication of the attorney general's support?

BEHR: Yes. You see, you've got a foundation that's forty years old now, San Francisco Foundation, and it's been the biggest show in town. It's been guided by and made in part by the old guard in San Francisco. And they're wonderful people, but most of the grants were being made in San Francisco in any event. About 90 percent of the money

came from San Francisco donors. So all of a sudden, with this nice little foundation--it wasn't so darn small; we still had \$160 million in assets after we gave up the Buck Trust--we were given this jewel of a trust. Well, at the time, it was \$250 million, I think.

Well, it completely discombobulated the San Francisco Foundation, and they had to expand. They didn't really know how to expand this fast, which is often the case with nonprofits. It's just like finding somebody in the desert who is so parched, you don't pour a pitcher of water down their mouth. You wet their lips or something, but you don't pour a pitcher on them.

And so, it was very, very disturbing to these old-time members that we were spending more money and thinking more and having a larger staff because of these Marin County outlanders who were so wealthy they didn't need it.

LAGE: And they probably didn't have as many ties to the Marin organizations.

BEHR: They didn't have ties to the new groups over in Marin; no, they had none. And Martin Paley, I think, who was the longtime executive director, fostered this feeling. And so two or three of them got together, and they sent Martin off on an exploratory to some prominent philosophers in the foundation world back East, big names.

He came back quite convinced by them that this was the thing to do. It was a selective kind of philosophy, and I said, "Well, philosophers don't make very good witnesses. These people have got nothing to lose. Of course they're going to be nice to you, and maybe they believe it. But this is grist for the university world, not something with which to win a trial."

Gradually, we kept being nudged in this direction and encouraged by our own attorneys, so when the vote was taken, it was somewhat predetermined. And then some of these members had been wheeled around in baby carriages next to each other, and they knew each other exceptionally well.

LAGE: Members of the board?

BEHR: Yes. And I was considered quite an outlander.

LAGE: Now, you were appointed by a judge?

BEHR: Every member of our board is appointed by an appointing authority.

We had the president of Stanford, the president of the University of California, the head of the United Crusade, the head of the League of Women Voters in San Francisco, and we had the Ninth Circuit judge, chief judge of the Ninth Circuit Court, who appointed me. And I think we had. . . . I don't know whether the San Francisco Chamber of Commerce has an appointment, I'm not sure. But the persons who

happen to be in that position when a vacancy occurs make the appointment.

LAGE: That's a fairly diverse group. You wouldn't expect them just to pick the old-line San Franciscans.

BEHR: No, but here's the problem. You give a very busy person in a very important position an ancillary job, and he or she suddenly says, "Oh my gosh, what's this? I'd better appoint somebody on the board? I don't know anything about this!" Well, then pretty soon he's kind of floundering around; he wants to do the right thing, but he doesn't want to spend a lifetime trying to figure out who's the best person. Doesn't know anything about the board, so they almost have to come to the board to ask what they have cooking. And what's the composition of the membership? They want somebody in a minority, or they're short of women; they want a balanced board.

LAGE: Someone from Marin.

BEHR: And they want somebody who's compatible, and that's always a grand wish, you know. So, the board probably--though I'm not sure of this --members of the board give a little help to the judge--well, here are three or five, any one of which we'd be pleased to have on our board. Well, you know, nomination is tantamount to election.

LAGE: Were you ever made to feel like an outsider?

BEHR: Oh, no, they were all very warm. We only meet once a month, and we have a retreat for a few days. And unless you have something like the Buck trial or a national search, it's not too arduous. So I enjoyed it, still do. This year I'm going to finish up ten years on the board. You are presented with a silver plate.

LAGE: Well, you will have earned it.

OK. Can you think of any other words of wisdom we should add?

BEHR: No, I think we've covered things very well.

LAGE: I do too. I'm pleased with it.

[End Tape 12, Side B]