

California State Archives
State Government Oral History Program

Oral History Interview

with

Bion Milton Gregory

Deputy Legislative Counsel of California 1968-1970
Chief Counsel, California Senate Committee on Judiciary 1971-1976
Legislative Counsel of California 1976-2001

February 11, 23 and March 2, 8, 17, 2004,
Sacramento, California

By Paul Ferrell
Oral History Program
Center for California Studies
California State University, Sacramento

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None.

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INTERVIEW HISTORY

Interviewer/Editor:

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Interview Time and Place

February 11, 2004
Gregory's office in Sacramento, California
Session of one and one-half hours

February 23, 2004
Gregory's office in Sacramento, California
Session of one and one-half hours

March 2, 2004
Gregory's office in Sacramento, California
Session of two hours

March 8, 2004
Gregory's office in Sacramento, California
Session of one and one-half hours

March 17, 2004
Gregory's office in Sacramento, California
Session of one hour

Transcribing/Editing

Deborah Lattimore and TechniType transcribed the interview audiotapes. Paul Ferrell checked the verbatim manuscript of the interview against the original tape recordings, edited for punctuation, paragraphing, and spelling. Ferrell prepared the table of contents, biographical summary, and interview history.

Bion Gregory reviewed the verbatim transcript and returned it with minor corrections and clarifications. He also verified dates and proper names.

Tape and Interview Records

The original tape recordings of the interview are in the university archives at CSU, Sacramento. Master tapes are preserved at the California State Archives.

BIOGRAPHICAL SUMMARY

Bion Milton Gregory was born in Sacramento, California on June 29, 1940. He attended public schools and graduated from Grant Union High School in 1958. He earned a degree in Political Science in 1962 from Stanford University and his law degree in 1968 from Hastings College of Law. From 1962 to 1965 he served in the United States Navy as a communications officer.

He was Deputy Legislative Counsel for two years beginning in 1968. In 1971 he became Chief Counsel to the Senate Judiciary Committee and served for nearly six years. Gregory became Legislative Counsel of California in 1976 and remained at that post until 2001, making him the longest serving Legislative Counsel in California's history.

As Legislative Counsel he worked with governors and legislators providing legal opinions on proposed and existing legislation. He oversaw a great expansion of the Legislative Counsel's Office and enormous technological change. They went from typewriters to mainframe computers and today it operates an Internet information system that allows lawmakers and the general public to see the daily progress of bills as they move through the Legislature.

Gregory's long career in state government began with the growth of the full-time Legislature and ended in the era of term limits. From his unique position in state government he helped to solve problems, settle disputes and keep state government running smoothly.

[Session 1, February 11, 2004]

[Begin Tape 1, Side A]

FERRELL: Today is February 11th, 2004. This interview is with Bion Gregory for the State Government Oral History Program. My name is Paul Ferrell, and we are in Mr. Gregory's office, just a few blocks from the State Capitol Building here in Sacramento, California.

Mr. Gregory, you've had a long career in state government, but currently you're in the private center as a partner in the law firm Nossaman, Guthner, Knox & Elliott. You retired from state government in [2001]. You were the Legislative Counsel longer than anybody else, from 1976 until 2001. But before that, you were Chief Counsel to the California Senate Committee on the Judiciary. You were, before that, deputy in the Legislative Counsel's office.

Before that you went to Hastings College of [the] Law. You had some time in the Navy, and before the Navy, you went to Stanford [University], and before that, there was high school, Grant Union High

School, and Del Paso Junior High School. You went to Hagginwood Grammar School.

Your date of birth is in June in 1940, and your father is Bion Gregory, Bion Ray Gregory. He was an attorney. Your mother is Jeanette Renee Gregory. Now, I thought that would be a good place to go ahead and start. Tell me a little bit about your parents and what influence they might have had in the way your life went, your career you chose, these kind of things.

GREGORY: Actually, let's back up a little bit to my grandfather, who was Bion Samuel Gregory. He was a graduate of Hastings in 1893, so we've had lawyers in the family for a long period of time. He didn't practice law till later. He actually went to Hawaii and then ran a mercantile company in Hawaii. Then when grandmother's health was bad, they needed a drier climate, they went to Mexico. When he was in Mexico, he owned a cattle ranch in San Luis Potosi and some islands in the Gulf of Tehuantepec, where he raised cocoa. He lived in Mexico City.

When the revolution of 1910 came along, they confiscated all the lands. My father was living down there at the time, of course, with Grandpa. My grandmother had died in childbirth, giving birth to a girl, in Mexico City, and so he sent my father and his two brothers to Santa Rosa to live with relatives, and he stayed behind to try and save the land, which

was not possible. In fact, he had to disguise himself as an Englishman because they were shooting Americans on sight at that point in time.

He eventually came back to San Francisco, and the boys were all living in San Francisco, and he opened up a law practice in San Francisco and was doing fairly well and was heavily invested in the stock market. Then, of course, the crash of 1929 came along, and all those stocks went south. I still have possession of the stock certificates from those companies, which would make nice wallpaper, but have no value at the present time.

But he continued in practice, and, in the meantime, my dad—this, of course, was now we're in the depression era—was working at Wilson's Candy Factory during the day, and he was going to Golden Gate Law School at night to get his law degree. He graduated and passed the bar, and he went into practice with Grandpa in the Flood Building on Market Street.

The times were very difficult, and in 1935 they created...and I'm maybe a little bit off on the name, but I think it's the Industrial Welfare Commission or something, but essentially it was a commission to provide unemployment benefits to the folks who were not working in California. They were hiring referees, and that seemed like a good opportunity to Dad. It was a steady income and so forth, so he applied and got one of the positions, which was here in Sacramento.

So he then moved to Sacramento in 1935. By that time, he had met Mother in San Francisco and they had gotten married, so they moved to Sacramento. In fact, he told me his first office was up in the upper reaches of the State Capitol, and all they had was orange crates and boards across orange crates as the desks, and all these files were even filed in orange crates, had been accumulating as they started this particular commission up and so forth. So they started their life in Sacramento in 1935.

I was born in 1940. I never knew my grandfather personally because he had died, medical malpractice, in about 1937.

So Dad stayed in that position until, I think, roughly, around 1948 when he became the hearing officer for the State Personnel Board, which in those days was just one position. Today they have multiple hearing officers. That was a fascinating time for me, because I was in grammar school at the time, and I was a good student, so what they would do is they would take me out of class, and we would travel throughout the State of California. Father's job required him to hold hearings when there was disciplinary action brought against an employee and the employee wanted to contest the disciplinary action. Of course, there were state facilities throughout the State of California, and at that time there were, of course, many mental hospitals throughout the State of California. They have

subsequently been closed, but at that time there were quite a number of them.

So Dad and Mom and I would get in our 1940 Dodge, and we would travel throughout the State of California as he would hold these hearings. So for me it was sort of a living history of what you normally get in the fourth grade where you learn California history, because we saw all the entire mission system and so forth as we traveled all the way from Eureka and Yreka in the North all the way down to San Diego, El Centro in the South.

In, I believe it was the election of 1952, there was a series of scandals involving the Board of Equalization that handed out liquor licenses in those days, and essentially what was happening was that there was a lot of graft and corruption and they were selling liquor licenses. One of the members of the Board of Equalization, in fact, Bonelli was, I think, I believe, indicted, but he fled to Mexico and never came back. As a little sidelight, he used to send [Edmund G.] "Pat" Brown a Christmas card each year to annoy Pat Brown, because Pat Brown was the Attorney General at one time, and, of course, subsequently became the Governor. But they never got him back from Mexico.

That led to a removal of the authority from the Board of Equalization to grant liquor licenses and the establishment of the Department of Alcoholic Beverage Control. It was done by a ballot

proposition, and I'm not sure it was an initiative. It might have been done by the Legislature, but it was on the ballot, and I believe the year was 1952. So the department was created, and my dad then became the first principal counsel for the department. That's the top legal position for that department, and he served in that department for the rest of his career in state service. During that period of time in the 1960s, he was actually the deputy director for a couple of years, but he retired in 1969 from that position.

Mother, during that period of time, was the traditional homemaker; she didn't work outside the home. She just kept the home going and so forth. So during that period of time, obviously, I witnessed Dad being an attorney in those different roles as a hearing officer for the Personnel Board and then as the principal counsel for the Department of Alcoholic Beverage Control.

I don't know when I made a conscious decision I was going to become a lawyer. It was just something that just seemed sort of natural for me to do, and so it was just sort of the thought in my mind was that eventually I would go to law school. So during that period of time, as you indicated, Dad had actually designed the house that I was raised in.

They were living in the Woodlake area of North Sacramento when I was born, renting a house, and then the other house was being built. It was finished in 1941, and they moved in the eve of Pearl Harbor, so it was

easy to remember exactly when they moved in. That's the area that I was born and raised in, which was sort of a semi-rural area out in the north area of Sacramento. I do remember when I was young growing up, it's near McClellan Air Force Base, and it was on Del Paso Boulevard, and so there was a lot of traffic. In those days, that was sort of the main road to McClellan Air Force Base, and so there were a lot of soldiers and sailors that would pass by.

I specifically remember the celebration on V-J Day, because one of Dad's friends had brought a fire siren from one of the fire departments and actually was rigged so it could run off normal electricity. They plugged that in the front-porch light so when you threw the switch of the front porch light, the siren would ring, and they sort of threw open the door. All sorts of soldiers and sailors and whatever just came in, and they just had a big party, and it was a big celebration. I was, of course, five years old at the time, running around, just enjoying the scenery, and, of course, I ended up by the end of the evening with a lot of soldiers' caps, sailors' caps, neckties, and things of that sort that they were giving me. So at least I was old enough to remember that particular celebration.

I went to, as I said, McClellan Grammar School and then on to Del Paso Junior High School, which was seventh through the ninth grades in those days. They've since collapsed the systems. They don't have that in that district anymore.

Then on to Grant High School, and Grant High School was an incredibly great high school back in those days. I mean, it's a good high school today, too, but they had some remarkable teachers back in those days. In my class there were three of us admitted to Stanford and quite a number admitted to UC [University of California] Berkeley and so forth out of that class of 1958 at Grant High.

FERRELL: At Stanford, you went on to study political science. Did you get an interest in that while you were in high school?

GREGORY: Politics was always sort of an interest. I was active in the Junior Statesmen organization. I served as the state controller for that organization at that time, so politics was sort of an interest of mine.

At Stanford, I started off in political science, and then I always had done good on the pure science subjects. So about a year into Stanford, I decided, with no input from anybody, just somehow it seemed like a good idea, that maybe I ought to get an engineering degree, because if I wanted to practice law, that if I did patent or trademark law or something of that sort, I'd have this foundation.

So I actually shifted after my first year and started in civil engineering. It took me two go-arounds to pass CE-100, which is statics, which is you just take a beam and put it across two points and figure what the loads are. So the first time around, I didn't get a passing grade in that class, and the next time around, I got a C. And then I took dynamics,

which is, again, figuring loads and whatever when things are moving, and I had difficulty getting through that. So the message became very clear that I wasn't going to be very successful as an engineer, so I actually just went back to political science and finished in political science at Stanford in 1962.

FERRELL: Going back to high school a little bit, I'm curious about influence of teachers and what you did there. Did you get involved in sports or any kind of clubs or anything like that?

GREGORY: Well, I was the rally chairman there, which organized the rallies, things of that sort. As I said, I was a member of the Junior Statesmen there, which were chapters in each of the schools. In fact, I'm still active with that organization. I'm on the board of directors of the Junior Statesmen Foundation, which is a national organization, and of course, they have in local conventions and state conventions and things of that sort.

I didn't play any of the main sports. I was on the golf team. I was either the number two or number three guy on the golf team, depending on how well or poorly I was playing at any particular point in time. I was fairly active, as I say, in school. I can't recall some of the other clubs I was a member of, but I'm sure there were others that I was a member of at that particular point in time.

FERRELL: I've noticed that you're on the board on the trustees of the Junior Statesmen Foundation. You're on the board of advisors for the YMCA Model Legislature Board.

GREGORY: Right.

FERRELL: Obviously, you think these are important. You like to help or influence high school kids.

GREGORY: I think it's very important to get high school students involved very early with the political process. As we know, in our country there's quite a bit of cynicism with respect to the political process, and if we get people involved in the political process and they understand it, then I think it helps people, it helps reduce that level of cynicism, and we need to get more people involved in the political process.

So that's the aspect, and although I'm actually today no longer a member of the YMCA board, I was there all during when I was Legislative Counsel. I was a member of that particular board. So each has their own different kind of program and, obviously, it's tied to the YMCA, and they have a whole different program as to how they put their thing together. The YMCA is more a program that culminates in one big event when they come to Sacramento each year and they have the model legislature. Actually, it's model legislature and court now. They actually have a Supreme Court component to it and things of that sort, whereas the Junior Statesmen is a little different focus. But the bottom line is, they all

have folks that are learning what the legislative process is all about, debating issues among each other, and things of that sort, and learning the dynamics of how people interrelate with each another and resolve complex issues.

FERRELL: I can see how—you were traveling with your father in his business, and you were visiting the Capitol, seeing him on the job, and, clearly, you think that's a pretty good idea to...

GREGORY: Yes. Of course, he didn't work in the Capitol at that time, but being a Sacramentan, I did have occasion to visit the Capitol and see how it operated and so forth. At least with Dad, I was traveling throughout the state, so I saw the various state facilities and things of that sort and got a sense of the vastness of the state and what state government looks like and all the different types of facilities. I mean, obviously, the prison system was not something that I visited, because that's a closed one, but almost every other one I had occasion to see, because like, for example, if Dad held a hearing in one of the state hospitals, we would just go and park the car on the state hospital grounds or whatever, and he'd go off and hold the hearing for an hour or two.

Actually, these facilities, most of them had very lovely settings, and Mom and I would just sort of have a picnic or sit in the car and relax and enjoy ourselves until his hearing was over, and then we'd be off to the

next location. So I was actually a percipient witness, as we would say in the law, to what was happening.

FERRELL: Another thing you're involved with, with the Sacramento County Bar Association, is the Sacramento Law Foundation, and it's a nonprofit corporation and it supports some interesting things, again involving high school students, Hiram Johnson High School Police Department Law Academy Scholarship Program and the Elk Grove High School Mock Trial Championship Team.

GREGORY: Right.

FERRELL: What is that? The students play the role of the judge and attorneys?

GREGORY: Yes, right. Again, from a perspective of giving folks a better understanding of how the court system operates, because, again, that's one of these big mysteries that people don't understand, and if you don't understand something, you tend not to appreciate it. But we try and get kids involved early in that and so forth, even at the high school level. There's always been mock courts, obviously, at law school levels, and to some extent in the college level, although there is more of a debating team aspect, but we try and show the kids exactly how this operates by having mock courts.

What we do is, is a situation where the kids play the role of the attorneys, and to the extent that they would even have witnesses and whatever, the kids would even be the witnesses. And then we would have

lawyers and judges in the community act as the judges, so the kids would be arguing their case before lawyers and judges, so they get a sense of what it takes to form your arguments and what it takes to debate the other side and bring points before the court and whatever. And then, of course, the lawyers and judges would then, of course, render a decision, but also then critique their performance. So they get, again, an appreciation of what happens down here at the county courthouse.

But the Law Foundation, we don't give huge grants, because we don't have a huge amount of money. We're always, like everybody else in life, trying to raise money to support these things. But to the extent that we can give a five-hundred-dollar grant here or a thousand-dollar grant here to either produce the materials that people need or somehow otherwise provide support for these organizations, we do.

There's also a larger thing called the Center for Youth [Citizenship]. There we provide several thousands of dollars each year, and that is a multi-high school organization that, again, does the same thing that you had talked about, but it basically has a very elaborate moot court program that these young people participate in.

FERRELL: So, high school you were involved in a few things, the Junior Statesmen Foundation, golf, and other things. Part of the Junior Statesmen Foundation is debating, organized debates, or summer programs.

GREGORY: Right.

FERRELL: I guess that must have been pretty educational for you.

GREGORY: It was. And actually, another aspect of the Junior Statesmen Foundation that we run, the Foundation actually is sort of a fundraising arm that sort of helps support the Junior State. But the thing about the Junior State is that it's actually run by the students, so all the local chapters are run by the students. They collect their own dues. They decide how to spend their own dues.

And then there's a thing called the Junior State, which is organized into regions in states, and where, again, these students are responsible for their own finances. The Foundation is there just to support them. We actually provide the national staff that supports these, but the kids make all the decisions as to what programs they're going to do and collecting the funding for them.

One thing that the Foundation does do is run a summer school, and the summer school has been run for many, many decades. In 1957, I went to the Junior Statesmen summer school, which then was held at the UC Santa Barbara campus, which was brand new in those days. They'd just built the library. We got to use the library. We were living in old Quonset huts that had been leftover from some military base at one particular point in time. In fact, this past year we had a reunion of the 1957 summer school class. It was the first reunion we've had, so it was interesting to get

together after forty-five-plus, forty-six years, I guess, 2003, to get together and renew old acquaintances and things of that sort.

But that's a very intensive four-to-six week—I forget the exact period of time—thing where there's classes, you have to write speeches, give them before your classmates, things of that. It's a very intense civics kinds of program. And today the Foundation runs them at...there's one at Stanford, there's one at Georgetown [University], there's one at Duke [University], there's one at Yale [University], I think there's one in Austin, Texas, and I think there may be another one that I'm forgetting at this time. So they've gone from having just only one back in at least 1957 to almost a half a dozen of them across the country, and they're all wildly popular. We have a huge number of kids that apply to get into these summer schools.

FERRELL: Your grandfather and your father are both attorneys. You went to Stanford and you started studying other subjects. You were into...was it engineering?

GREGORY: I started, yes. I had an abortive career in engineering. Never ask me to design anything.

FERRELL: I'm curious about what your father thought about that. Did he voice an opinion on that? Were you free to pursue anything, or did he kind of nudge you towards being an attorney?

GREGORY: No, they never really voiced any... I mean, it was just always sort of assumed that I was going to go into law school. I actually sort of interrupted that process, which caused consternation in the family. After a couple of years at Stanford, I looked ahead and said that it just didn't seem really exciting to go four years of Stanford and then go three years of law school, that I'd like to have a break in between.

So I went and I talked to the naval ROTC staff there and asked.... Because normally what you do if you're a Naval ROTC... And there's two versions of it. There's the one that Naval ROTC is paying your way through college. That was a four years of college and then you have four more years of commitment after college, in the Navy. And then there's another version, the reserve side of it, where they give you a monthly stipend, but it's relatively modest. I think it was thirty dollars a month or something like that, and you have a two-year commitment in the Navy at the end.

You normally do that during all your four years, but I went and asked them whether or not it's possible to double up, since I already was nearing the end of my sophomore year, to double up the classes, and then you normally take your midshipman cruise between your junior and your senior year, but then take my midshipman cruise after I had graduated from Stanford. And they said, yes, that was doable.

So in those days the age of majority was twenty-one, and you couldn't join the armed forces without the permission of your parents, so I went back home and I proposed this to my parents. They were not entirely thrilled about the thing and so forth, but I was serious enough about it that I told them that if they didn't want to sign the papers, then it was my plan to drop out of Stanford for a year, which then I would have been twenty-one and then I'd be able to legally sign myself. I think they felt that that was not a desirable thing to do, and so they signed the papers.

So what I did my last two years at Stanford was essentially take all four years of the ROTC program, and then after I graduated from Stanford in 1962, instead of either going into the Navy, I had to go out for my midshipman cruise. So I went down to San Diego and spent, I forget, a month or two on the USS *Agerholm*, DD-826, which was a fascinating thing because it had just come back from the South Pacific, where it had fired a nuclear depth charge.

The ship had been redone. They call it a FRAM program, Fleet Rehabilitation and Modernization, and it had been changed from its World War II configuration to the more modern configuration.

FERRELL: This is a destroyer?

GREGORY: This is a destroyer. And one thing it had amidships on it, was what they call ASROC [anti-submarine rocket], which is basically it could either launch a torpedo or a nuclear depth charge by virtue of a rocket. So the

idea was to fire the nuclear depth charge or the torpedo out many, many yards away from the ship. It then would be released by parachute, drop into the water, and, of course, either the torpedo would go hunt the submarine or the nuclear depth charge would explode and, of course, blow the submarine apart. So they had gone out on an exercise, the first and, as far as I know, the only time the destroyer had fired one of these things down in the South Pacific. As they recounted to me, they had fired the thing, of course, at the maximum range, and all the crew was required to be below decks and there were very few people above decks, and those that were, of course, had goggles, you know, because they didn't know exactly what was going to happen.

Well, evidently, the depth charge went off with such force that it blew the ship sideways through the water and with such force that it opened all the circuit breakers in the ship. So they had to basically bring the ship back to life again. In talking to the folks, it was sort of like an experience that none of them wanted to go through again. But they said it probably definitely would have wiped out any submarine that was anywhere's near that particular vicinity [Laughter].

FERRELL: I think it was, is it, Admiral Rickenbacher, he's called the father of the . . .

GREGORY: Rickover. Admiral [Hyman George] Rickover, right.

FERRELL: Father of atomic military, really, not just the Navy.

GREGORY: Well, actually, the submarine.

FERRELL: He's the submarine guy.

GREGORY: He's the submarine guy, yes. He was the one that did the submarines.

FERRELL: That's brilliant thinking, though. World War II was won with the aircraft carrier and the atomic bomb, and instead of going into that, he went to submarines, and I guess he was proven right.

GREGORY: Right. And validated also because of the nuclear aspect. One of my ROTC classmates at Stanford went back and interviewed with him. Rickover personally interviewed, at that time, every officer that wanted to serve in submarines he personally interviewed. He would do weird things, because he wanted to test your reaction. He had a chair in his office where the legs were uneven. He wouldn't do the same thing for every person. Sometimes he'd walk in and he would have his fly open because he wanted to see whether or not the person would actually mention it.

But this one, he asked the person about whether or not he had a girlfriend, and he said yes. He said, "Well, does she love you?"

"Well, yes, she loves me."

He said, "How do you know she loves you?" And he really worked him over on that, to get him try to explain why he felt that this girl loved him. In fact, actually sent him back and said, "Well, you go back and think about that and call me and let me know, again, why you think she loves you," or something of that sort. But he would really play these what we today would call mind games with these people.

But I think what he was doing was trying to test, because, I mean, obviously, when these folks go out in these patrols, I mean, once they leave the harbor, then they submerge, and they're submerged now for months at a time. I'm not sure exactly what, how long their deployments are, but it's a long period of time you're submerged and you're in very close quarters with people. I think he was testing to see how these people would operate under adversity and stress and things of that sort. So he was quite a legend. Back in those days, he was quite a legend.

FERRELL: Yes. I did a little bit of research on him a few years ago, a really interesting subject, the submarines, the launchers and the hunters, but we shouldn't talk about that.

GREGORY: Right, we can get off subject on that.

FERRELL: Yes. We're going off on things [Laughter]. But I want to talk about what you did in the Navy. I know you ended up on the [USS] *George Mackenzie*.

GREGORY: Well, that's an interesting story, too. I got orders to the USS *George K. Mackenzie*, DD-836, and flew out to.... It was homeported in Yokosuka, Japan, which is a big naval base in Tokyo Bay, and so they flew me out there, and I joined the ship in August of 1962. Within a relatively short period of time, and I'd have to look at the dates to figure this out and so forth, but we had the Cuban Missile Crisis, and they sent us out to patrol the straits between the two northern islands of Japan—I think it was

Honshu and Hokkaido, if I remember the names of the islands correctly—to patrol that strait to keep track of any Russian submarines that would be coming through, because, if you look at the map, Vladivostok is up in the Sea of Japan, and so any Russian submarines, the shortest distance for them to get out to the Pacific Ocean is to come through that passage.

We actually did spot a couple of them coming through, just by sonar. They weren't on the surface, but we tracked them. So we did that. We came back, and then the ship was going back.

I talked about this FRAM process earlier. When I first joined the ship, it had its old World War II configuration, which is three five-inch mounts, two forward and one aft, five forty-millimeter mounts, those old things you see in the movies with the guns firing and so forth, you know, in antiaircraft usages. The only thing that they had upgraded was the torpedo tubes. Instead of having the old long torpedo tubes, they had the more shorter tubes and the shorter torpedoes, and also they no longer had the depth-charge racks on the stern of the ship, the fantail of the ship, where they used to have the old depth-charge racks. Those have been taken off.

But it was going around to Brooklyn to be FRAM'ed and then this, of course, is a whole yearlong process. So I had orders to go to another destroyer, and so we came back, sailed, came back across the Pacific, stopped in Hawaii, and then arrived in San Diego. And when we arrived

in San Diego, the destroyer that I was supposed to report to in about thirty or sixty days was actually in the harbor. So I went over and I saw the commanding officer of the destroyer. At that time I was the assistant communications officer onboard the *Mackenzie*. I was an ensign, very junior in grade.

He said that they already had two more officers than they had billets for, and I was going to be the third one. He didn't know what he was going to do with me. The ship was going to Portland [Oregon] to train reserves, and that didn't strike me as being particularly exciting. My thought of joining the Navy and sitting in Portland for the next year and a half or year and three-quarters and training reserves was not exactly my idea of naval service.

So I had learned enough by that time, and I came back, and so I had called the Bureau of Personnel and said, "If you'll send me to communications school in Newport and electronics school in Great Lakes, and then back to the *Mackenzie* as a communications officer, I'll extend for a year." We had one of those wonderful conversations with folks where it was sort of like, "Are you the person to whom I'm talking?" And they kept saying, "We don't know you'll do that."

I said, "Well, send me the orders, and I'll agree to it." So finally the captain got involved, and he sent the Bureau of Personnel a message saying, "Gregory will do this." So they came back and offered me that set

of orders, and I agreed to extend for a year, which, of course, didn't make my parents any happier that the two-year obligation was now three.

The ship sailed through the Panama Canal. We passed all the ships that were coming back from Cuba. All the Pacific Fleet ships that had been sent through into the Caribbean because of the Cuban Missile Crisis, we passed. We were heading east, and, of course, they were all heading west as we went through the canal.

Got to Brooklyn in December of '62. My school didn't start till March of that year, so I stayed on the ship as we started.... Essentially what they did was they decommissioned the ship. We moved off to the bachelor officers' quarters, because they started tearing the ship totally apart.

In March of that year, I went to communications school, communications officers' school at Newport, Rhode Island, and I was there for a couple of months and finished that school and then went to electronic officers' school at Great Lakes, at the Great Lakes Naval Training Center, which is approximately thirty miles north of Chicago, and I went there for three months.

Then what they had done was they gave me temporary duty to a ship, and it turned out that the destroyer was in the Mediterranean. So then the acting commanding officer of the ship, who was a former executive officer, thought that was sort of stupid, and so he tried to get the

Bureau of Personnel to change the orders, which, of course, in their infinite wisdom they never did. And so in August of that year, I think it was August or September, I flew over to Europe, and by the time they flew me over.... Because the ship was coming back to the East Coast, it was part of the group that they rotated—the Second and the Sixth Fleets. They sent ships out on deployments, and they bring them back, and the ship was coming back.

Well, by the time they got me out to Majorca [Spain] where the turnover was going to be between the group coming back and the group coming in, they got me there too late to catch the ship. So the ship sailed back to the United States without me. So I went back to Naples [Italy], and they said, “Well, what do you want to do now?”

By that time I had a girlfriend who was actually in Austria at that time. I said, “Well, since I’m here, what I’d like to do would be to get temporary duty on another destroyer and then get thirty days of leave and then go back to the U.S.”

So they did. They put me on what was then called DDG, it was a guided missile frigate, which was relatively new back in those days, and they took me up to Toulon, France, which is where the ship was. It was an interesting tour of duty, because the ship left there, went around to Bari, Italy, which is on the southeastern coast of Italy, which was actually a jumping-off place for the crusades, and we opened a trade fair. Then we

went up to Venice and we were in Venice for four days, and that was fine, because the executive officer then, after some initial confrontation, took a liking to me. He had gotten married in Venice, so he knew a lot of these little neat places to go in Venice, and we spent some time there.

Then we went out in fleet exercises and then ended up in Beirut, Lebanon, where I got myself a passport issued, flew back to Naples and got thirty days' leave. So I went up to Bregenz, Austria, which is on the western end of Austria, and visited my gal friend, and then took the train back to Frankfurt and flew back to the U.S. and got back thirty days later than I should have if I'd had my regular set of orders [Laughter].

So I was back definitely by November, because I was on my ship on the day that JFK [President John F. Kennedy] was assassinated. I think all of us, of course, remember where we were that day, and, of course, I was on the ship. We had actually been recommissioned by that time, so we actually were an official naval vessel again, but we didn't have anything onboard. We didn't have any ammunition onboard. We had nothing, and, of course, no one knew what was happening when that happened. Of course, it was the afternoon there in New York when all the things were happening in Dallas.

But anyway, shortly thereafter, we sailed out of New York Harbor, got reprovisioned, refueled, stopped at the ammo depot and got all our ammo put onboard, and then came back through the canal again up to

Long Beach [California] and went through refresher training in Long Beach. I went down to San Diego and got trained as an aircraft controller. I was a communications officer, but also could control combat aircraft.

Got that training, and then we always knew we were going back to the Yokosuka, to be homeported again, and so we did. We went back to the Yokosuka and were homeported in Yokosuka. We got back in there, roughly, I would say, about May of '64.

Then one thing that they did, they sent us on a patrol, that just sort of links into an historical footnote, was the fact that when they reconfigured the ship, as I had indicated earlier, the *Agerholm* was in the same class, and what they did on the after part of the ship was they put a helo deck. Another thing they were going to do eventually, which I don't know if they ever did, I don't think they did, was they were going to have remote-controlled helos that could carry your either depth charges or torpedoes. Again, the idea was to detect a submarine long before it was close enough to do damage to you, so you could then send something out there to get the submarine before it got to you or after the carrier group that you were guarding. So we had this helo deck on the back.

So what they did was, they decided they were going to send us on an intelligence patrol, and so they got an intelligence group, and they put their sort of like a cargo box you would see today, but like a half-sized cargo box on our deck and lashed it down. A lot of us had to get top

secret clearances. They brought in the FBI or whatever, I can't remember, came onboard and we had to even fill out more forms than we ever filled out in our life, and they investigated us and whatever.

Then they sent us off to Vladivostok [USSR], and what they did was they sent us off, we went through the Sea of Japan, and once we got to the Sea of Japan, we went totally dark, and what that means, there was no electronic transmissions at all. We shut our radar down. We shut our radios down. We shut everything down. And we actually got to the three-mile limit off Vladivostok without the Russians finding us.

Of course, they never let us into the box on the deck. Whatever the guys were doing back there, we can only surmise. But it's our understanding what they were doing is listening to all the Russian communications going on and measuring the Russian radars and things of that sort, because you can actually tell if a radar has found you or not by its frequency shifts and things of that sort.

But we got up there to the three-mile limit, which, of course, is what we recognize. The Russians, of course, claimed a twelve-mile limit, which presented some interesting issues. And then, of course, we lit off everything when we hit the three-mile limit. Of course, we turned, or we didn't go inside the three-mile limit, and, of course, all hell broke loose at that point in time. The next thing you know, there's planes overhead. They sent a frigate out to harass us, and all that kind of stuff. So for the

next few days, we played one of these wonderful cat-and-mouse games with the Russians. Of course, they're demanding we get out to the twelve-mile limit. We're telling them we're within the international waters in the three-mile limit.

So they tried to put themselves in situations where they'd be on a collision course with us and things of that sort. It was an interesting few days to watch their operation, because they always had a plainclothes guy on the bridge of the ship, which was the Communist Party officer, who was always on their ships to make sure that the discipline was adhered to, party-wise.

On the way up there, I convinced the captain to let me rig some of my whip antennas. We had normal thirty-five-foot whip antennas, but we had our old rat guards. And so what I did, I had our folks put the rat guards so that when it looks like the antenna came up and went out like this and came up and went out like this, and then we had the folks weld a . . .

FERRELL: So you'd say it went out about twelve inches.

GREGORY: Yes. I don't know if you've ever seen a rat guard, but a rat guard is a cone that's put on the hawser of a ship so that the rats can't come in. So it's sort of a cylinder that's shaped like this.

So what I did was I turned them back to back and so it came up, and then it was this metal thing that went out, and then we put duct tape

around it. So it looked like it was just part of the antenna, so then it would come back in again, because what you do is, in a situation like this for intelligence purposes, you take pictures of the other guy and, of course, you analyze them to see what new equipment they've got, what are they doing now, and things of that sort and so forth.

FERRELL: So you were just showing them some new equipment.

GREGORY: I showed them. I'm still wondering how long it took them to figure out that this was just a whip antenna with rat guards on it.

Then we took a metal garbage can and took an arm with two little balls that came out and welded that to a front stanchion, so they could see something different up there [Laughter].

So it was interesting. It was an interesting time.

FERRELL: Let me flip this over.

[Begin Tape 1, Side B]

FERRELL: Cat-and-mouse games off of Vladivostok.

GREGORY: Off of Vladivostok, right. So anyway, after that mission, we returned to Keelung, which is a northern port in Taiwan, and we met the [USS] *Maddox*.

FERRELL: The *Maddox*, okay, that . . .

GREGORY: I told you there was going to be some interesting sideline on this. We met the *Maddox*, and we turned the intelligence group over to the *Maddox*. In other words, they took the box off our deck and put it on the *Maddox*. It

was the same class ship that we were. The *Maddox* was not in very good shape engineering-wise and electronic-wise, in the sense that it had a lot of equipment that was down. There was a debate, I understand, for a while. I mean, I was at that time the communications officer, but I mean, I wasn't privy to what the captains were talking about or whatever. But we heard that there was some dialogue as to whether or not they would send the *Maddox* on her mission or have us actually execute the *Maddox's* mission.

The word that I got was that what they felt was, was that since we had not seen our dependents for such a long period of time now, this is now the end of July of 1964, and we had left, I think at about May, and, as I say, we were homeported. When you're homeported, they move all your dependents over to your homeport. So the folks who had not seen their dependents for a period of time, they said, "Well, let's send the *Mackenzie* back to Yokosuka, and we'll send the *Maddox*." But what they did was they allowed the *Maddox* to come onboard, and basically remove... a lot of the things in particular, like in my area in the communications area, are modular. So what they allowed the *Maddox* to do was essentially take working modules out of my equipment and leave me their module, which wasn't working [Laughter], and take that over to their ship, to quickly bring them up as whatever level they could bring them up to.

So we went back to Yokosuka with our electronics officers or electronics technicians trying to madly repair this stuff, and, in fact, one of

our radars wasn't working. I can't recall which one. It might have been the air search radar was not working, again because they had taken parts out of that and so forth.

We got back in Yokosuka, and I'd have to look at the calendar to refresh my recollection, but it was the night.... Well, the day before, the afternoon before the infamous night.

FERRELL: "The infamous night" being the Gulf of Tonkin incident.

GREGORY: Right, right, but the first night.

So, anyway, the captain—and this will make sense later on—he put the duty section over to paint the ship. So they painted the ship, the hull of the ship, and over the side of the ship. They painted the hull of the ship and the hull, repainted the hull numbers and whatever. Those of us who didn't have duty got to go on leave, liberty, so we all went off and had a wonderful time. I think curfew was either midnight or one o'clock and, of course, didn't come back until right at that particular moment.

But I recall that at sometime in the early hours of the morning, like maybe three a.m., my radiomen were bouncing me. "Mr. Gregory, come to the radio shack right away." And I go up there, and they've been ripping pieces of paper off the teletype from the *Maddox*, screaming that she's under attack by North Vietnamese P.T. boats. So it was interesting to witness all of that traffic and, of course, Washington trying to figure out what's happening, and seeing the traffic going back and forth.

Anyway, the next morning they ordered us out at flank speed to the South China Sea, because they were marshalling all the forces they could in the Far East, because you have the group that was homeported there, and then you have a group that will be deployed over, like, for six or nine months at a time and then would go back to the Pacific Coast. And so they have to get their hands on all the ships they could that were right there at that moment.

We, of course, had only come in the afternoon before, so we were totally unprovisioned. So the supply officers had to go the warehouse with these trucks, and they just came back. And so as we sailed out of Tokyo Bay, it looked like a tramp steamer, because they didn't have a chance to store everything below decks at that time. So everything was just piled on top of the deck and, of course, they had run the fuel barges alongside and pumped the fuel in, and off we went, still trying to repair our electronic gear and things of that sort [Laughter].

On the way down, we ran through the leading edge of a typhoon that was cutting across between the Philippines and Taiwan. It's the only time in my Navy career that actually I've seen green water go over the deck, the bridge of a ship, you know, totally lost daylight. You just wondered one of these times if you were just going to come out of some of those troughs you were going through.

So we finally get down there. Of course, in the meantime, the *Maddox* had exited the Gulf of Tonkin, and the [USS] *Turner Joy*, who was close by, evidently joined up with the *Maddox*, and they both sailed back in and allegedly were attacked again and so forth. And of course, that led to the, as we know, the long history of the Gulf of Tonkin in the Vietnam War or—I just came back from a trip to Vietnam and Cambodia—as they call it there, the American War.

And so we arrived down there, and everything was in total state of confusion, as you can well imagine. They told us to operate pursuant to a certain op order, operations order. We couldn't find it. It turned out to be a top secret operations order that had only been used in experimental fleet exercises, so they had to send a helicopter around to drop a copy of the order to each of the ships so we could even find out what it was like.

We were put in charge of guarding the [USS] *Oklahoma City*, which was a cruiser, which was the command ship for all the forces down there, and they had all the forces dispersed, because, I mean, no one knew what was happening. Hainan Island, which has a huge Chinese air base on it and so forth, of course, hung down there in that area, and no one knew where the Red Chinese were, what was happening at that time.

After a few days, the *Oklahoma City* left us, and so they have these what we call these F-52Fs, or we call them stoofs. They're antisubmarine planes that have these very powerful searchlights, and they would come

roaring across the water, and they would hit you with the searchlight. And the next thing you know, we were reported as an unidentified contact, because, unbeknownst to us, our hull numbers had washed off on the way up [Laughter].

Remember I told the captain had sent folks over to paint the ship. Well, the typhoon had ended up obliterating the hull numbers, so instead of seeing the big 836, they didn't see anything, and even though our silhouette doesn't look anything like other than an American destroyer, the pilot was reporting us. So [we are] yelling that it's not unidentified, it's us. It was just total chaos, and it was pretty much chaos for a long period of time.

I was there. We escorted the first group of the amphibious force that landed the first marines at Da Nang. I think that was back in March or April of 1965. And so we were pretty much, the rest of the time, we were down in that particular area. We went down one time to escort some carriers who were coming around from the Sixth Fleet to join us, you know, that came through the Straits of Malacca, past Singapore and around that area to join us, whatever.

And then in August of 1965, my three years' tour of duty was up, and I actually.... What I wanted to do was really extend my Navy career, and actually I wanted.... They called them the tiger boats at that time.

These [were] the boats like John Kerry actually served his military service on. But they were recruiting at that point for those boats.

But I had a commitment to my parents I would come back to law school. I had gotten engaged to the girl I had mentioned, in Austria, and she was coming to San Francisco. So it was sort of like I sort of had all these commitments to come back to San Francisco and go to law school. I had applied to Hastings in the fall of 1964, and Hastings in those times had a thing where they took your grade-point average and your LSAT score, and if you met a certain threshold, then you got admitted automatically. Today, of course, they have the more traditional waiting until the spring and so forth.

And so actually I had gotten... I think my letter was the first or second week in December or something like that, that admitted me to Hastings and said, "Send us a hundred dollars, you're in." So, of course, I sent them a hundred dollars.

An interesting sidelight, a week later I get called to the captain's cabin, and the captain proudly informs me that the Navy is offering me a commission. I was a naval reserve, right? They were offering me a commission in the regular Navy, which is a great honor. I never applied for it. I mean, obviously he just did it by review of records and things of that sort, and they informed the captain. He had been in the Navy since

World War II. He actually came out of minesweeps back off Korea. So he'd been a longtime naval officer.

I appreciated the honor, but I was going to law school, which, of course, just totally crushed... he just couldn't believe that someone would turn down a commission in the regular Navy. One of my shipmates, actually one of the officers, actually did go off and do the boats at that time. So in my mind, free of the other influences, I probably would have done that, because it was something I was desirous of doing.

But in August of '65, I did get out and did come back and started at Hastings in September of 1965.

FERRELL: I'm just curious, you just recently returned from a trip to Vietnam?

GREGORY: Yes.

FERRELL: Back in '65, did you visit Saigon?

GREGORY: No. I only saw Vietnam from the deck of my destroyer. I was not onshore at all.

FERRELL: I'll bet that would have been a pretty dramatic change from 1965 to 2004.

GREGORY: It would have had to have been, because I know that one of the things we did do when I was homeported over there was, you would go in for a week at a time in Hong Kong, and you'd be the station ship in Hong Kong, and I know that my last view of Hong Kong was 1965. The next time I saw Hong Kong was a personal trip in 1989, and it had radically changed. And

then I just saw Hong Kong again now just this January of 2004, and it has radically changed again.

As I said, in '65 the tallest bank on the island of Hong Kong was the Bank of China. When I came back in '89, the tallest building was the Bank of China. The only difference was when I left; it was the three- or four-story old monolithic stone Bank of China. In '89, it was the seventy- [story] I.M. Pei needle tower that soared over the island. And right now when you go back to there, you can still see the I.M. Pei tower, but it's obscured by other buildings. It's that radical of a change in Hong Kong.

So, looking at Saigon, I can see that some things would remain the same. I mean, obviously the opera house there. You can see certain things of a vintage that people would recognize, but then you can also see all the new modern construction, the hotel we were staying in, and the new modern hotels that were there and things of that sort.

FERRELL: So, you finish your service in the Navy, and you chose not to accept a commission as an officer, and to go back to school.

GREGORY: In the regular Navy, right.

FERRELL: In the regular Navy.

GREGORY: Right.

FERRELL: And you went on to Hastings.

GREGORY: Right.

FERRELL: How was Hastings?

GREGORY: Well, you know, Hastings was... it was fine. It was a traditional law school experience at that time. We had the advantage at that time of having the "Sixty-Five Club." What that meant was that many law schools, they had this idea that once you're sixty-five years of age, you're gone, automatic retirement, maybe sixty or sixty-five, you're out of their law school.

Dean [David E.] Snodgrass, who, actually, I didn't have the benefit of him, he had passed away or left shortly before I started, and so we had Dean [Arthur M.] Sammis. But he had started the "Sixty-Five Club," where he invited all his professors to come and teach at Hastings, and so the faculty at Hastings in those days were all these esteemed professors who had written all these books and had written the casebooks and written the hornbooks and all of these things. So, for example, we had [William L.] Prosser in torts. He came a little bit before sixty-five, he was over in Boalt Hall [UC Berkeley] across the Bay and got in some beef with them and decided he was leaving early, so he came to Hastings. He was in his early sixties.

But we had [Rollin] Perkins in criminal law, [Richard] Powell in real property, and these just all eminent names of that particular era and so forth teaching us at Hastings; [George] Osborne in mortgages, and it just goes on and on and on. So it just was a great experience.

Hastings was undergoing a transformation at that time. They were building a new building behind us. We were in the so-called old building, old building for that era. Hastings had had several locations in San Francisco, but had been in this particular location on Golden Gate and McAllister for quite a period of time, and they were building, essentially doubling the size of the school.

The sixties was a time when a lot of people were going to law school, probably because there was a greater interest in law. You'd had the civil right activities in the early part of the sixties, or it was still going on in 1965, of course. You had some people probably realistically looking to avoid going to war, although in '65 that wasn't that much of a factor yet. We really weren't in a draft, a big draft situation at that point in time. It certainly was a little bit later.

And so we in Hastings at that time had morning sessions and afternoon sessions, which sort of, my understanding, violates the ABA, American Bar Association, guidelines, because the idea is they want you to go to school all day and not work. So I was in the morning session in a class. We had a huge class. We had over four hundred kids in the law school, which was huge for Hastings. Hastings was then, and I think may still be, the largest law school west of the Mississippi.

Of course, the ratio of students to library facilities was not what they wanted and things of that sort, but that was all going to be rectified

when the new building came on line, which was actually the year after I graduated from Hastings. In fact, they moved our last year one month to create a longer summer in '68 so they would have time to break through the walls and connect the two buildings and wouldn't have that going on, of course, when the students were going there.

So it was the traditional law school experience. I mean, you marched in, it was the old professor casebook, study the case, come and recite, what lesson did you learn, kind of situation. Compared to the current law school today where people have all sorts of clinicals and do externships and do all sorts of things, the sixties was still pretty much the old classical mode for law school.

So I started Hastings my first year, and I think I was an above-average student. I recall getting a very good grade in torts from Prosser, and I was probably in the upper half of the class, I would say. So, I mean, I wasn't somebody who was in the top 10 percent of the class, I didn't do Law Review or anything of that sort. My grades actually improved throughout my time. In fact, actually, if I had reversed my law school experience, I probably would have been in Law Review, because I think I was in the top 10 percent my last year and ultimately ended up in the top quarter of the class, because my grades improved steadily throughout the process.

FERRELL: Currently I'm working on an oral history project where I talk to veterans. I've talked to about a dozen World War II veterans, and it seemed like every one of them that I've talked to, they took advantage of the G.I. Bill. They went to college, and they said their military experience helped them in college. They learned self-discipline, and they thought they were better students because of the experience.

GREGORY: It's interesting, we had a number of folks at Hastings that had had prior military experience. In fact, one sat next to me, but he was just a courier in the military because actually he was a swimming star, and they wanted him to swim more than do anything else. So his job was being a courier in between swimming for the Navy. But we actually had a number of folks off destroyers in my class, I mean totally by accident. I mean, just that's just the way it was.

I think it was, to me, just a different attitude. There was a discipline, but we had already been out there, and we already sort of knew ... I think we sort of knew that we all wanted to do law school, finish law school, be lawyers, be good lawyers, and all that kind of stuff. But if it didn't happen, if we didn't make it through law school, there was always a feeling that we've already shown we can do something, so we could go out and do something else.

It appeared to be different than the ones that had come out from undergraduate school that basically if you didn't make it through law

school, it was like the world is over, because they'd never had any life's experiences. They hadn't been out.... I mean, the ones I'd talked to were officers, so the officers had been commanding divisions and things of that sort and so forth, and so they'd been tested. I mean, nothing tests you more than commanding a group of enlisted men, because they have nothing better to do in life except to try and figure out all the angles and test you as a military officer [Laughter]. It's just part of the game, and that's fine, because, I mean, it's a good experience for both of you. You both end up growing out of the experience.

So it was just a different attitude, I think, of those of us who had actually done the military service between the undergraduate and law school. And, yes, I mean, obviously there was a little more discipline, although by the time you get to law school, even those coming from undergraduate days, I mean, they seemed to be fairly disciplined themselves, but they seemed to be in the library with more sweat coming out of their brows than those of us who had already been through the military experience.

FERRELL: So it did have an effect.

GREGORY: Yes, but I'd . . .

FERRELL: You'd seen the world as well. I mean, even as a child, you'd traveled all over California, and you'd been to Europe, you'd been to Asia.

GREGORY: Right. Right. And I'd sailed in all four fleets. In fact, actually, there's nothing as rank in the wardroom as the junior ensign. You're called the George ensign. The most junior ensign is called George, and so you sit at the end of the table, you have no rank at all, right? And so we had this kid come out, Murphy, who was actually my assistant, came out of the military academy. And, of course, you're sitting around the wardroom, and you're all spinning sea stories. You're talking about this liberty and what you did here and this and that, whatever, and, of course, if you're brand new in the service, you don't have too much to add.

So one day we're doing this, and so Murphy starts telling the story about this naval officer he heard who had this really weird set of orders, and he describes it, and we're all sort of sitting there snickering. And one of my fellow officers says, "Well, would you like to meet that guy?"

He says, "Yeah."

"Well, he's sitting right next to you." And I don't know how that story, this whole story.... Actually, this story that I gave you is a much longer story and a much funnier story, but it's not something we're going to spend a lot of time in as to exactly how all that happened and missed the ship. It's a neat story and so forth.

So, yes, I say that basically I sailed in all four fleets, because I did, because at the time I was in the Mediterranean I was in the Sixth Fleet and, of course, the time my fleet was on the East Coast was in the Second

Fleet. So I've basically, as you say, have seen the Far East and Europe and whatever. I've seen the part of the world where the toilets flush and the part where it doesn't flush, which is less of a thing today, but it certainly was a more stark contrast back in those days [Laughter]. So I think there was a different attitude.

I worked for Brobeck, Phleger & Harrison, unfortunately, the firm that blew up about a year or so ago. It was back then the second largest law firm in San Francisco. The largest law firm at that time was Pillsbury, Madison & Sutro, and I think they had something like, roughly, 120 lawyers, and Brobeck at that time was the second largest law firm with about, oh, I think, sixty-five to seventy lawyers or something of that sort.

FERRELL: That's where you were working?

GREGORY: Right. I was working in the afternoon, which was not something the ABA really wanted you to do, because, for a three-year school like Hastings, they want you to be a full-time student. But essentially I was working, I think, three to four hours every afternoon for Brobeck, just doing miscellaneous chores for them, you know, filing papers, running things here, and doing things like that. There was a group of us that did that for Brobeck.

But it was fascinating, because you got into a law firm, you saw how people operated. They didn't really have law clerks per se at that particular point in time, so it was the closest one got to looking and seeing

what real lawyers got to do. A number of the folks graded the bar exams, and so I got to carry the bar exams back to the state bar and watch that aspect of it.

FERRELL: Did you carry your own exam back?

GREGORY: No, this was before my own exam. I used to read the answers, and over a while, you get to figure out what the question is. If you read enough answers, you can figure out what the question is. But these are ones they'd already graded.

In fact, I remember once carrying one back, and it had 100 on the grading sheet. So I had to find that one. So I dug that one out and read it. It was interesting because the person who had done it had written... most people were writing like three or four pages, and this person had written like a page and a half, and he didn't have a complete sentence in the entire page and a half. But it was just like it was a corporate law question, and so it was like, use of car, *ultra vires*, which means unlawful use of car. So what they must have done was they.... Because when they talk about the dynamics of folks grading these bar exams, they end up with like only maybe a minute or a minute and a half reading your blue book, because when you go through and figure out how many they were grading at that point in time, and at that time the bar was only essay. Later on it got a multi-state aspect of multiple choice and then it got a practice thing. But in those days, it was two and a half days of nothing but essays.

FERRELL: Two and a half days?

GREGORY: Two and a half days of nothing but essays, and every [half] day you got five questions, and you'd have to answer four out of five every session. There were certain subjects you knew were going to be on the exam for sure, and then there was other optional ones that would show up, like wills or community property or estate and gift and things of that sort.

This was a corporate law question, but the person.... Obviously it may have been two or three in the morning when this exam was being read, but the person must have hit every issue that was in that question with at least a cryptic response that the reader of reading that thing said, "That person knows the issues and knows what the answers is, even though there's not a complete sentence on it."

But that was fascinating, because Brobeck, Phleger & Harrison was the old-time law firm. When I first went to work for them, none of the attorneys had business cards, because they felt that that was unprofessional. When you got off in 111 Sutter Street on the main floor of the law firm, there was nothing that told you where you were, just these two gals sitting behind these wood panels. They had the Crocker Estate, they had Wells Fargo Bank. I mean, the second biggest law firm, they had a huge number of very large prestigious clients, and the building wasn't even air conditioned. In San Francisco, it's not a make-or-break thing and so forth. But that's where they were.

And it changed. Part of it changed when in the summer of 1967 I came up and I worked in Legislative Counsel's Office, because I was always coming back to Sacramento. So I got a job in Legislative Counsel's Office in '67, and when I went back in the fall of '67, my last year, and got off to go to work for them again. The door opened, all of a sudden I was overwhelmed by the smell of leather, because in that summer, Herman Phleger, who was still alive, had gone out and he had bought oriental rugs, real leather furniture, real brass ashtrays.

And then when you look down and saw where the two gals are behind the windows or whatever, for the first time in nice brass letters, very high class, Brobeck, Phleger & Harrison. And then they allowed the attorneys to actually have business cards for the first time. That was the summer of 1967.

FERRELL: So in earlier days, that was traditional?

GREGORY: I don't know, because I didn't talk to anybody who, say, was from Pillsbury or some of the other major law firms, to see whether or not that was strictly just the culture *only* at Brobeck or not. I don't think Brobeck was so radical. It might have been just that was just the tradition.

Remember, in those days you didn't have lawyer advertising. You looked in the Yellow Pages and all you saw was one-liners. It was viewed as unseemly to advertise yourself, and, in fact, there were even some rules of professional conduct dealing with advertising that were very restrictive and things of that sort, again, back in this particular era. And with a firm

like Brobeck, I mean, you really didn't need to go to promote yourself that much back in those days.

[Session 2, February 23, 2004]

[Tape 1, Side B]

FERRELL: OK. Now, we got up to 1967, and you got started in the Legislative Counsel's Office. What were you doing there?

GREGORY: Well, first of all, I wasn't even aware the Legislative Counsel's Office existed until it was about the spring of 1967. I'd always intended to come back and practice in Sacramento, and there was a notice that appeared on the bulletin board down at Hastings that said there was these summer positions available in the Legislative Counsel's Office.

So, as I think I indicated earlier, my father was an attorney for the state at that time, so I called him and asked him what the Legislative Counsel's Office is, was or is, and he told me that it was the one that did all the legal work for the Legislature. So that sounded sort of interesting, and so I put in an application and came up to Sacramento and interviewed the chief deputy at that time, Bernard Cyesla.

They offered me a position for the summer, and so I came to Sacramento and I worked in the office during the summer as, you can call it an intern or assistant or something of that sort. But they had us doing a variety of legal work. By then, of course, all the bills had been introduced in the Legislature, so they had us drafting amendments to the bills, and then depending on our capabilities, which on mine they seemed to be pleased with, they actually had us drafting some minor legal opinions, not, of course, for our own signature, because we were not admitted as lawyers yet, but for signatures of other attorneys in the office.

At the end of the summer, they offered me a position if I wanted to come back and work for them after I finished my third year of law school. So I went back to Hastings for my third year and worked for Brobeck that last year. Graduated in June. I had not come up to Sacramento to interview anybody, and nobody from Sacramento had come down interviewing me at Hastings. So I thought, well, that it would be good to go back and go to work for the Legislative Counsel's Office, because at that point in time a lot of people stayed only maybe a year or two and then left and went elsewhere.

So I went and I took the bar examination in that summer of 1968, and after a couple weeks of just jumping in my car and driving around the state to stretch my legs, I came up and started to work for the Legislative

Counsel's Office. So I probably got here probably around August or September of 1968.

FERRELL: What was the experience like, the bar examination?

GREGORY: Well, the bar examination was, of course, a grueling experience. In those days, the exam consisted solely of essay questions, two and a half days of essay questions. Every morning and every afternoon you were given five questions of which you had to answer four of them, and so at the end of two and a half days, you were just happy that it was over with.

Since they were essay questions, nothing could be mechanically graded; the readers had to read everything. The bar results took a long time to come out. In fact, in my year, the results didn't come out until sometime in, I think, December. Up until then, people were sworn in before the Supreme Court. It held two sessions to do that, one in San Francisco and one in Los Angeles. But in 1968 was the first year they changed that, and they had the swearing-in ceremonies held before the Courts of Appeal of the state, which there were five districts, and there is one here in Sacramento. But they couldn't make all the arrangements, and particularly it was a holiday season, so we didn't get sworn in till the first week of January of 1969. So we were sworn into the California Bar before the Court of Appeal here in Sacramento, and we then all walked down the street to the federal courthouse and got sworn into the federal district court here in Sacramento.

So it was an experience that everybody has to go through, of course, to become a practicing lawyer in the state, but you're happy when it's over with. In fact, I actually took two bar review courses. I took the traditional one, which is one where you study subject matter areas, and they go over contracts and torts and property and all these subjects that you have to write about on the bar exam, and then on Saturday I took a writing course, and the writing course was given by, it was called the Sax and Yee, two local attorneys in San Francisco. It sort of analyzes the exam and then tells you from an analytical standpoint what the bar examiners will be looking for on particular questions. So that was all day Saturday. So Sunday was really the only day I had off, because the other five days you were going to the other bar review course.

But I felt very confident by the time I finished, because it turned out that this Saturday course was populated by people who had failed the bar the first time, so I was actually sitting there listening to the folks who had failed the bar the first time, and so I had a pretty good sense of what the problems were with the folks that had failed the bar the first time.

So actually, when I finished the two and a half days of the bar exam, I felt fairly confident that I had passed the exam, although we had to wait, obviously, many, many months to do that.

FERRELL: How does that work? If you fail, you can take it again and again and again?

GREGORY: You can take it again and again and again. There's no limit. In fact, there was a recent article in one of the legal newspapers of some fellow who had taken it, I think, and I'm not exaggerating, I think it was about forty-seven times, which meant he'd been taking it twice a year for, what, twenty-three, twenty-four years [Laughter]. Needless to say, he was a little bit older at this point in time, but he had finally passed it. And I think the article said his son actually was a lawyer who had passed the exam within the normal period of time, and so his son became a lawyer before he did.

But, yes, there are stories of those that do that, although statistically speaking, if you look at the statistics of people who have failed the bar, their percentages drop over time. So that's sort of unusual. If you fail the bar more than once or twice, particularly more than three times, the odds of you passing are very, very remote.

So I started probably August, September. By then the session was over. The 1968 session of the Legislature had finished at that time. In those days, the Legislature met in annual session. In fact, '68 was historic in the sense that in 1966 the people had passed a ballot proposition that had changed the Legislature from a so-called part-time legislature to a full-time legislature. Prior to that time, the Legislature met in regular session in odd-numbered years, which meant that they could handle any kind of legislation that the Legislature could handle, plus they did a budget in the odd-numbered year. But in the even-numbered years, they would

meet only for a budget session, which meant that they would handle only a budget in the even-numbered years.

Sometimes if there was something that was urgent that needed to be addressed, the Governor would call a special session to run concurrently with that budget session, and they could then take up matters inside that special session, but limited only to the call of whatever that special session was all about.

But in 1966, they had this on the ballot, and actually one of the major impetuses of doing this, in fact, was to raise the pay of the members. Up until 1966, the members' pay was five hundred dollars a month, so six thousand dollars a year, and there had been a variety of different measures over the years to try and increase the pay of the members, but they had not been successful. So the Legislature had come up with this constitutional amendment that would increase the members' pay to sixteen thousand dollars a year and then move the Legislature to a full-time legislature where they would meet every year in regular session. So that meant in the even-numbered years they were meeting in regular session, just not a budget session.

That was passed in 1966, so the first even-numbered year after that was 1968. So in '68, they had the first of their so-called regular sessions. In those days, the Legislature convened the first Monday after January 1st, and then there was no limit on how long it could run. But in those days,

they didn't take an Easter recess and they just kept on going until they finished up, which was generally sometime in July.

Of course, the fiscal year in the state is July 1st, and so the budget was always aimed at July 1st. They would get the budget done and then they would finish up their other work. By then, bills had been passed to the second house, and the second house would consider them and send them back to the first house if they made changes in them, and then they would pretty much wrap up, as I said, latter part of July, first weekend in August each year.

So by the time I came back in 1968, it was finished. So the first session that I was involved in, the first regular session, was the 1969 session. When I came up in '68, of course, Ronald Reagan was the Governor. Jesse Unruh was the Speaker at that time.

There was quite a dramatic change in the Assembly. In the elections of 1968, the Republicans actually won more seats in the Assembly than the Democrats. Not by a large margin; I believe it was only by one, one member. But that was enough to organize the house.

So Bob Monagan became the Speaker of the Assembly in 1969 and, actually, for two years, 1969, 1970, at which time the Democrats in the '70 election came back and took over the Assembly. But for two years, in 1969, 1970, Bob Monagan from Tracy in San Joaquin County was the Speaker of the Assembly.

FERRELL: John Mockler referred to him as “Bob the brief.”

GREGORY: Well, it’s two years, but up until we had term limits it probably was Bob the brief, because Jesse Unruh, of course, had been the Speaker since the early sixties and through ’68.

FERRELL: Jesse Unruh, he’s a pretty interesting character, and they say, I think, he’s called the father of the modern legislature, big changes in the Legislature. Did you have much contact with him when you were there?

GREGORY: I didn’t have much contact directly with Unruh. In fact, actually, I really had no contact with Unruh other than observing him from being in the building and so forth. I was either working there during the summer of ’67 as an intern; of course, you wouldn’t have had any contact with Legislative Counsel’s Office, and then coming back in ’68 as a junior deputy in the office, you wouldn’t have much contact with the speaker.

But he did definitely professionalize the Legislature, because prior to the latter part of the sixties, there were, first of all, very few professional staff attached to the committees of the Legislature. And by talking to the Legislative Counsels, the more senior folks had been around for ten or twenty or thirty years by the time I came to work there... I shouldn’t say ten or twenty years. I don’t want to get too carried away. Most of the time, the only staffers interacting with the committee if they had interim hearings or whatever was somebody from the Legislative

Counsel's Office itself. They wouldn't have any consultant to the committee.

The Legislative Counsel's Office is actually prohibited by law from either urging or opposing legislation, which means they don't really get involved in the policy aspects. They don't recommend policy to the members. To the extent that they had any staff that was appended to the committees, oftentimes the staff was located in the district office of the member; they were not physically here in the Sacramento.

But in the latter part of the sixties, that changed, and in the Assembly Jesse Unruh brought staff onboard to staff the committee. So I know that in the committees that I worked with, which was primarily what was then called the Criminal Procedure Committee in the Assembly and the Judiciary Committee in the Assembly, each of them had one or more consultants attached to those committees, and they were physically here in Sacramento.

It was traditional for a number of the committees to have, during the hearings, a member of the Legislative Counsel's Office sitting at the committee hearing for the purpose of advising them on legal matters, not policy matters. And also there to be able to take any amendments to bills as the committee was debating the measures and so forth. So actually, I sat with both of those committees during the 1969 and '70 time frame.

FERRELL: What were those two committees?

GREGORY: The Assembly Criminal Procedure Committee and the Assembly Judiciary Committee.

[Begin Tape 2, Side A]

FERRELL: We're starting with two of the committees there.

GREGORY: That's correct.

FERRELL: Criminal and Justice, both in the assembly.

GREGORY: Both in the Assembly, right.

The rule that lasted for quite a period of time, in 1971, as I said, the Democrats had retaken control of the Assembly, and Bob Moretti was elected the Speaker of the Assembly, and Bob served in that position until 1974, at which time he decided he wanted to run for governor. There had been quite a number of speakers who have run for governor with a total lack of success. Jesse Unruh ran against Ronald Reagan in 1970 and didn't prevail. In fact, I can't recall if he even survived the primary, quite frankly, in 1970.

FERRELL: He did, yes.

GREGORY: Did he?

FERRELL: But he lost, a big loss.

GREGORY: He lost, a big loss, right. And then Moretti decided he was going to take a run for governor in '74. Of course, at that period of time then Reagan was just stepping down, and Moretti did not survive the primary, if I recall correctly.

FERRELL: [Edmund G.] “Jerry” Brown [Jr.] edged him out there.

GREGORY: Anyway, and, of course, once you decide you’re going to run for statewide office, all the jousting suddenly becomes from people who want to succeed you, arguing that “You need to step down, and we need to elect a new Speaker because your attention is going to be diverted elsewhere. You’re going to be thinking about running statewide. So we need to have somebody’s who’s focusing on the legislature.”

So in the middle of 1974, there was a contested fight to replace Moretti, between Leo McCarthy and Willie Brown [Jr.], both out of San Francisco. Leo McCarthy won that particular fight, and so he became the Speaker in ’74, and he served until 1980. At the end of the 1970s, there was an insurgency that rose up against him led by Howard Berman, the so-called Waxman-Berman machine, although I think Waxman might have gone to Congress by that time.

But there was a bitter fight that went on. They tried to unseat Leo. Now, it wasn’t a Republican-Democratic thing, because [the] Democrats still had control of the Assembly, in fact, I think, by a fairly good margin. But that carried over after the 1980 elections.

In fact, there were some things in the 1980 elections that they actually, based on that particular speakership fight, had some Democrats running against Democrats in the primary, based on who their allegiance was as far as who they wanted as speaker, which was sort of unheard of

because normally you don't have one member of a party taking on another member of a party in a primary. But actually, at least, I think I recall at least one member losing his seat because of that.

But anyway, when they reconvened in '81, there was the fight was still going on, and Willie Brown was able to put together a coalition of essentially a bunch of the McCarthy Democrats and the Republicans then led by Carol Hallett. That was enough votes to make him the speaker, and so that was his first year as the speaker.

Up until that point in time on the staffing of the committees, it was pretty much sort of the rule that even if the chair of the committee changed in the assembly—and actually the Senate had a fairly similar kind of tradition—that the staff didn't change. So the staff was viewed as sort of a more of a professional kind of situation, as opposed to the member's personal staff that if the member left office, they pretty much assumed that they were going to be out of a job, although many members who were fairly smart kept people like secretaries and so forth, because many times their longtime secretary would know that district and would know who the mayor of a city is or a councilperson or things of that sort. So some savvy ones kept sort of the secretarial positions there intact, but changed, of course, their personal staff.

But Willie Brown was the first one that sort of broke that tradition, and I can't recall which one he did first. But there were two consultants

that had been there a long time: Dave Dorr, who was the consultant to the Revenue and Taxation Committee, and was not only an expert in taxation matters; and Tom Willoughby, who was the consultant to the Local Government Committee. And, again, [he] had been there for a long period of time in the Local Government Committee and really understood local government matters.

But Willie allowed, if my recollection serves me right, I think, allowed Terry Goggin, who was chair of the Revenue and Taxation Committee, to fire Dorr. That was sort of the first door that was opened as far as changing the professional staff, and then subsequently allowed somebody else to fire Tom Willoughby. Those were the first times when you had people who'd been there for I don't know how many years at that point in time, but a long time, to change the committee staff. And since that time, there's been at least no restriction on changing the committee staff if you got a new chair of the committee.

Now, there are committees over there where people have served quite a number of years as a committee staff person, but there's also been a lot of changes, particularly with their term limits nowadays. So I just bring that up, the history of the speakers up, in the context of the issue of the professionalism of the legislature.

FERRELL: But these changes, these changes were partisan changes?

GREGORY: Actually, they were not. Goggin was a Democrat. The Democrats have held the Assembly throughout the sixties, except for the two years that Monagan was the Speaker in '69 and '70, and except for the one year that Curt Pringle was the Speaker in 1996. And other than that, the Democrats have held the thing. So these chairs that the committees were talking about were all Democratic chairs. Terry Goggin was a Democrat from, I think, San Bernardino, and I can't recall the issue with the Local Government Committee, who that particular individual was. These were not where you changed parties.

Now, when Curt Pringle became the Speaker in 1996, there was a wholesale change in all the committee staff, part of which, from my particular opinion, was related back to the 1980s when Willie allowed the change of these two people, because that sort of started a belief, whether it was true or not, that the staff really was sort of partisan, because if one Democrat could bounce somebody who had been there ten or fifteen years and replace them with somebody themselves and whatever. So over a period of a time it became more of a perception that the staff really was more aligned with the party that had the committee, whereas during the seventies, that really wasn't the case. The staff was not perceived in that manner. They were perceived as professionals just doing a job, making recommendations to be accepted or rejected by the members of the committee.

But up until, of course, Proposition 13, which we'll get to at some other time at a later time and so forth, the Legislature was more of a... I don't know if the word *clubby* was correct, but, I mean, they tended to get along with each other on more of an evenhanded bipartisan basis until later on. So by the time we got to the nineties, there clearly was a perception, if not a reality, that many of the staff were very partisan as far as doing their work and making their recommendations and so forth.

So when Pringle became the Speaker in '96, the Republicans, of course, took over all the committees at that point in time, and I can't sit here and tell you that there wasn't one Democratic chair, but I don't recall who that would have been, if it even existed. And they did literally sweep out all the committee staff that had served under the Democrats, and brought in their own staff.

Now, that presented problems, because over the years under the Democratic rule of Willie Brown, because he'd been the Speaker up until that point in time, until we went through the Speaker du jour era, of the year right before Pringle, where we had Doris Allen for a while and Brian Setencich for a while. But Willie had pretty much held down the amount of money that the Republicans could spend on their staff. So although there was, generally speaking, a Republican consultant for each committee, that's all they had was one for each committee, and I think even some had to cover a couple of committees.

So the Republicans didn't have a huge bench to draw from, because on the Democratic side, for example, there might be committees that have two to three or four consultants on the majority side and only one on the minority side. And depending on the workload of the committee, one person couldn't do the whole job, so you had a lot of inexperience.

I had some interaction with some of the staffs on the committees, and you had a lot of very brand-new people on the job, and it was very difficult, because they didn't really understand in many respects the historical background of a lot of legislation or areas of law or things of that sort and so forth. So that lasted for, again, one year.

In '96 elections, of course, the Democrats came and there was a dramatic change in number of seats and clearly took over the Assembly, and then that meant that they were going to then appoint all the committee chairs, so then all those Republicans lost their jobs, and then the Democratic staff came onboard. Now, some of the Democratic staff had stayed with the Legislature, some had split and gone elsewhere and things of that sort, and so there was still quite a bit of dynamic change in '97, but you pretty much had a lot of the faces that you had seen before at that point in time.

But over the years, the number of staff changed. To give you an example, and we can talk more in depth about my years, but in 1971 I

became the Chief Counsel for the Senate Committee on Judiciary. Up until that time, they had a single consultant on the committee, and in that year they added a second consultant to the committee, or counsels, as we could call them, since we were lawyers. So there were two of us in 1971.

It was over five hundred bills that the two of us had to analyze during that period of time, and it was also a longer year, because in 1971 they were fighting over reapportionment. The census, of course, was done in 1970, and it was reported to the Legislature or actually released generally in the spring of '71. So traditionally that would have been the year they reapportioned the state.

FERRELL: But before we get into that, you were a junior deputy in the Legislative Counsel's Office, and then you became the Chief Counsel on the Senate Judiciary Committee.

GREGORY: Right.

FERRELL: Does that mean you were just reassigned to a new job, or did you quit working?

GREGORY: No, I quit working for the Legislative Counsel's Office.

FERRELL: And then you started working for the Senate committee.

GREGORY: Right. At the end of the latter part of 1970, I felt that I needed to go and look elsewhere for other jobs, not because I wasn't doing well in the office—I was doing quite well in the office—but I was unhappy with

some of the policies of the Legislative Counsel. So I decided I wanted to go work elsewhere.

And so one day I was walking down the hall and ran into John Balluff, who was then the Chief Counsel in the committee, and John told me he was going to work for the Judicial Council. So I asked him what they were doing as far as selecting his successor, and he said, "Well, they're just taking applications."

So I made an application at that time and at that point in time the Republicans controlled the Senate, and the chair of the committee was Senator Gordon Cologne out of Indio, California. So he selected me as the Chief Counsel, and then he had also picked an assistant, who was Larry Alamo, for me.

Then the Democrats won the election, and so then the chair of the committee became Senator [Alfred] Al Song, who was a Democrat from Monterey Park. He kept me on as the Chief Counsel, but replaced my assistant Larry, who today is a senior attorney over at the Department of Real Estate, with a fellow by the name of Sean McCarthy, who was a recent graduate of the University of California at Davis. I found out many years later that actually he was thinking of replacing me, because I was the new kid and had not been hired by him. But Gordon Cologne had asked Al Song to just keep me and try me out and see how I worked, and if I

didn't work out, then fine and so forth. And so Al did, and it worked out quite well, so I stayed. But I didn't know that at the time.

So in '71, I started. As I say, there were two of us. As I indicated earlier, that was a reapportionment year, and the Legislature, they could not get their act together and get the reapportionment bills done. I'm trying to recall whether '71 or '72, they actually one year did pass the reapportionment bills, and Reagan vetoed the bills.

FERRELL: Right, '71, Reagan vetoed it. They did pass it.

GREGORY: OK. So they did pass it in '71. Reagan vetoed it, over the cries of the Republicans in the Legislature who had cut their deal with the Democrats and wanted it signed. But the story was that Reagan had listened to the Central Committee folks, who said that, "We can get a better deal," either later or from the court or something. So Reagan vetoed the bill.

But the Legislature, in those days the way it worked was the fact that the Legislature would adjourn, or actually recess, and then thirty days later they would come back. Then the bills were delivered and the Governor vetoed them. But thirty days later, the [Legislature] would come back. The Legislature would reconvene in a veto session for the purpose of overriding any vetoes of the Governor. Now, these were generally pretty much futile attempts, because it takes two-thirds of a vote to override a veto.

FERRELL: I understand it was only done once during the Ronald Reagan years. John Burton did that.

GREGORY: It might have been, because, as I said, you don't need to use this many hands to do this. I think it was done once under Jerry or maybe twice under Jerry; I can't recall. I think he did the death penalty one under Jerry. But anyway, it's very unusual for both houses to have two-thirds of the opposite party.

So they would come back and they would all probably take a couple of bills up, and they would make big speeches on them and vote on them and then they wouldn't [be] overridden and they would all disappear. But you were required to have these.

So what happened in '71 was, they stayed in session all this time to try and see if they could resolve the reapportionment thing. So they stayed in session and, as I said earlier, in those days the sessions convened the first Monday in January after January 1st. In '72, what they did was, in '71, they stayed in session until whatever the early part of December was, so when you run the thirty days out, the thirty-day period would be that first Monday in January. So they came back the first Monday in January in '72 in the morning, because this other session wouldn't convene till noon.

They came back in the morning, held the veto session, which, of course, didn't produce anything, then recessed that session, and then at

noon started the 1972 session. So in the context of the workload, I mean, the legislature was in session all that period of time, and so it was just many more bills that were considered and introduced and so forth.

So there were just two of us in that time frame. This was the discussion of how the staffing grew over time. So after about two years on the job, and the second year was about the same, we had over five hundred bills for the two of us, so you were just totally running flat-out all the time trying to analyze these bills and write up a committee analysis for the members and things of that sort.

So, after two years, I went and I looked at the workload of the other committees and wrote up a letter for the Senator to sign requesting a third counsel for the committee. And even with the third counsel, if you divided the number of bills by staff positions, it still left us with the heaviest workload.

So anyway, that was approved by the Rules Committee. So starting in about '73, I guess, I had a third position that we added, and then, I guess it was probably about '75, I looked at this workload again, and again we had the highest workload per staff person. So we made a request to have a fourth staff person serve the committee, and at that time it just brought us below... education always had a heavy workload. It just brought us slightly below the Education Committee, and so that was approved, and so we had a fourth staff person in that last year.

But I was there for six years as the Chief Counsel of that committee, and in the Senate that committee had jurisdiction over both civil matters and criminal matters, so it was quite a heavy workload committee. Senator Song was the chair of the committee during that entire period of time, and it was a large committee. It was thirteen people on that particular committee, and there's only forty in the Senate. So a third of the members of the Senate sat on that committee.

FERRELL: You had [George] Deukmejian and [George] Moscone and [David] Roberti...

GREGORY: [Donald L.] Grunsky, who's a well-esteemed lawyer out of Monterey. We had [Nicholas C.] Petris, who's probably one of the greatest extemporaneous orators I've ever seen, and Clark Bradley out of San Jose. Clark was this great conservative Republican and so forth, and he would generally vote no on almost everything. You couldn't put a bill on the consent calendar on the floor of the Senate unless there were no "no" votes in committee. So there were a lot of bills that were on the regular calendar and the vote was twelve to one, and you would see that on the file it would show twelve to one.

Sometimes the debate would go like this. The author would stand up and say, "This bill does this." And then somebody else would stand up and say, "I notice the vote in the committee was twelve to one. Was the one vote Senator Bradley?"

And the author of the bill would say, “Yes,” and said, “Thank you very much,” and sit down. Nobody else would stand up, and he would close, and the vote would be thirty-nine to one in the Senate on the bill with Clark Bradley still voting no [Laughter].

Clark was a wonderful, warm human being, and, in fact, actually, he was respected by the members. He just had a very conservative philosophy. In fact, he was the chair of the Insurance and Financial Institutions Committee, to show you at least he had respect, because he’s got the chair of a committee.

FERRELL: Why was he always voting no? Many vote no on everything because it’s going to raise taxes.

GREGORY: No. Well, we didn’t have those issues on the committee. Just that Clark just sort of felt that the law was wonderful the way it was, and every bill in changes the law. I mean, that’s the purpose of the bill. And when I say he voted no on everything, that’s obviously an overstatement and so forth, because, I mean, probably the 80-20 rule applies, that maybe 80 percent he might have voted aye and 20 percent he voted no. The reason it was an unusual “no” vote was the fact that it was on bills where there would be twelve other people voting “aye” on those bills. And as I said, Deukmejian was on the committee and Bob Stevens was on the committee, Republicans were on the committee who these were not so-called liberal Republicans. So they were conservative also, but just Clark

many times just felt the law was great the way it was and it should be left that way.

Now, we had a lot of votes in committee also where it might be seven to six or something like that, and you would fully expect that there would be obviously a lot of “no” votes, and he would vote. But there were just a number that were twelve to one, many times.

But, yes, it was a great committee. We had everybody from Don Grunsky, as I said, who had a great defense firm in Watsonville, California, so he was on the defense side, and George Moscone, who, of course, was a plaintiff’s lawyer out of San Francisco, subsequently to become the mayor and subsequently assassinated. So we had this great diversity of folks on the committee.

And then sometime in... you know, I can’t recall what year that was, it would have to be after ’70. It was after one of the regular elections. Bob Presley was elected from Riverside, I believe, San Bernardino, Riverside area, and he was the former under-sheriff down there. He was not a lawyer, and he was appointed to the committee. And he was the first one within recent memory, and it may have been the first one in the history of the committee if it’d been researched, but who was not a lawyer who was on the Senate Judiciary Committee, and he was on there because he, of course, had an interest in criminal matters. So he served on the committee up until at least... well, he served longer than I...

My time is in 1976, so that was sort of an interesting wrinkle, because although we did do a lot of stuff on the criminal law area, the vast majority of things that went through the committee were in the civil law area. Some were pretty arcane, cross-complaints and joinder and things like that that only lawyers can love.

In fact, I asked Bob one time, I said, "Well, Bob, how do you decide what to do on these things?"

He says, "Well, I just sort of listen to both sides and sort of decide where the equities lie, and that's how I vote." And I can't say his votes were any better or worse than anybody else's on the issues, but that's how he sort of listened, sort of listened to what they had to say. Unlike the hearings today, which are very short and they don't seem to likely have a lot of testimony and they limit the number of people who can actually appear on both support and opposition, we didn't do that back in those days. And that wasn't unique just to Judiciary, our committee; every committee had pretty much the same procedure.

We would start at nine o'clock in the morning, and we would go to noon, and then we would break for lunch till one-thirty, and then we would come back, and these were all on Tuesdays. Then we would come back and meet till probably five or five-thirty, and then we would break and have dinner, and then come back probably six-thirty to seven and then go for another two or three hours until the members were feeling a little

tired. You know, we didn't do that every Tuesday, but certainly, I would say, probably starting in April or May that was pretty much our routine for the rest of the year, just to be able to get through the calendar.

There were days we had seventy bills on calendar to consider, and not that we got to all of them in that period of time; some had to get carried over to the following week. But it was a very heavy workload, and we did not limit the numbers that could testify on either side. Obviously, if somebody was being repetitive, the chair would move them along and so forth.

But it was good for the members. You sit there, you get a great education about the subjects, and, yes, we didn't have term limits in those days, so these people had been around for a long time. Senator Song was elected in the mid-sixties, and a lot of these other members had been around for a long period of time. So after you'd been there several sessions and you're hearing these bills, you've heard the subject matter and you're becoming familiar with the subject matter, and so you're able to bring not only your expertise from the outside to the table, but just the fact that you've heard these issues before and sort of have a sense as to where they are and things of that sort.

That was one of the great things we lost with term limits, because I remember watching some of the so-called old guard when I came up in the sixties when I was, again, just a deputy in the Legislative Counsel's

Office. You have guys like Steve Teale from Railroad Flat, which is up in Calaveras County, and Teale was a very powerful person with respect to the budget.

And you'd watch these hearings, or listen to them—in those days we didn't have TV in the Capitol—and somebody would make some proposal, and Teal would say to the person, “Well, you first brought this around in '52, and we turned it around. And then you came back in '57 and whatever, and then in '64 you tried it again. And here we are, it's '69, and it's still a dumb idea.” [Laughter] So it was the wealth of knowledge and so forth, because, I mean, we have the tripartite system of government, but the executive branch has the upper hand. I mean, they know more where the bodies are buried. I mean, they've got the people. I mean, they've got people that have been working twenty, thirty, or forty years themselves and whatever, and so the only way you can stay abreast of them is to have the institutional knowledge in your own part of government in the Legislature to try and hold them accountable sometimes.

FERRELL: So now that's lost with term limits, and the executive branch is much stronger then?

GREGORY: The executive branch is, yes. It's always been much stronger, but it's definitely stronger because they have that knowledge. Now, of course, the third house, hopefully, there's not term limits on the lobbyists, and so to

the extent that the lobbyists were involved in that issue, they would have some institutional knowledge about how things have been going and so forth. But the members don't, and oftentimes you'll watch them spinning away, what we call spinning the wheels, or whatever.

We'll see them spending a long time debating an issue that's been debated quite extensively over the years, and if you'd listen to them long enough, you would know what all the issues are and things of that sort. And it's not that people don't change their mind. I'm not saying that you shouldn't be able to bring issues forth, but it's the issue of how much time you spend on it.

I mean, one example I use of trying to get something done was that [Anthony C.] Tony Beilenson, who's a senator from Beverly Hill area, in fact, I think he started in the Assembly, and I can't recall when he moved over, but he carried bills to regulate the funeral industry, and he hardly ever got them out of the house of origin. One year he got them out of the committee, and then he'd get them out of the house and things of that sort.

But over a period of time, there was enough press, and I can't recall, somebody wrote a book back in the early seventies about the funeral industry, and, of course, when you go in there and, of course, your loved one has died and now suddenly you're there and they're selling you all these services and adding on and so forth, and there was some either series of articles or book and whatever, and so all of a sudden his

colleagues in the Legislature, the light bulb was going on, “Oh, that’s what Tony’s been talking about all these years.” And then suddenly these bills get through and they get to the Governor’s Office and so forth.

But it had been hard to do that just in one year unless you had some big exposé or something of that sort. So that was not unusual that a member would introduce bills year after year and debate them and move them along and get them further along and whatever. And then there would be knowledge gained and then certain issues would arise, and then suddenly they would gain acceptance with your colleagues, and you would ultimately get them through the process.

FERRELL: Well, that’s interesting, though, that you bring it up. That’s really not the power of lobbyists, that’s the power of the media, becoming a popular issue with the voters, and suddenly the politicians pay attention to it.

GREGORY: Well, it is a media thing, and, in fact, today, very sophisticated lobbying efforts actually have a media component to them, because it’s one thing to show up and make the case for your interest group that has hired you to do this. But it’s the old saying that all politics is local, which basically means you’ve got to go back to the folks that elect you.

So there’s always been the local component, where for example, the realtors are a real great example of this. They have their folks all... and I assume they still do, they have their folks all organized by legislative districts. And so if they have some particular issue that they want to lobby

a member on, they then will send out an alert to the members in the districts and have them call that local member and express the point of view to that local member. So now suddenly that member is hearing from people in their district.

That's got much more powerful than somebody up here in Sacramento saying, "Well, this is the way this thing ought to be." And, of course, we all know there's realtors all over the State of California, so it's an easy group to talk to, and I assume they probably do it electronically nowadays.

But now, also, even if you don't have that kind of "in" and so forth—again, we're not talking about some mom-and-pop lobbying organization; we're talking about some big issue. It's not unusual that they would have a media component where they would go out and they would actually meet with the relevant media and try and convince the relevant media about how they feel about what the proper resolution of this particular issue would be. And they try and generate media, particularly focus maybe in the districts of the members who were members of the committee or other influential people if they'd have to do, get that media to produce articles. Many members have clipping services and read their own local newspapers and so forth, so then they would see these articles appearing.

Of course, obviously, the best thing from the lobbying standpoint is that then causes people in the local community to read these articles and say, “Yeah, we need a change in this,” and call the member’s office. That’s, of course, the best possible result for them, that’s happening.

Sometimes it backfires. There’s a term, and I wouldn’t swear that this is the appropriate term, but I think it’s been called “Astroturf lobbying.” Astroturf in the sense it’s not real grass.

FERRELL: Not grassroots.

GREGORY: It’s not real grass, but it’s artificial grass. And so what they do is they try and generate these letters at the local level coming into the member. But sometimes it’s one thing to generate them by getting the media to write an article and then Paul Ferrell reads that article and sits down and says, “By God, that’s right, and I’m going to write a letter.”. And you sit down and write your own personal letter to your elected representative, and another one where basically the lobbying group is spending their own money getting the letters generated down in the district and sent in, and most of the time you can spot those because the letters will have common... well, the worst ones, they’re all identical. But the other thing is that there will be common patterns. I mean, you can only write a letter so many different ways if you’re sitting there trying to generate that kind of campaign. So they call it the Astroturf campaign, because it’s not the genuine grassroots level.

Now, on the other hand, you can have a very effective campaign with a standard pitch and so forth, because I remember the one class of bills that went through the Senate Judiciary Committee dealt with mobile homes, and there was a group called the Golden State Mobile Homeowners Association. So these were the folks that actually owned these mobile homes. And there's bills going through all the time dealing with what rent increases can be had, and this and that and whatever and so forth, and they would generate postcards.

When we had one of these bills in front of the committee, we all of a sudden would end up with this huge flood of postcards that they would generate, and they were already preaddressed to them. Well, I don't know if they were preaddressed, but, I mean, they would clearly tell the mobile homeowner who to send them to, and oftentimes the message would be stamped or something of that sort. And, actually, those were sort of influential, because it was sort of a feeling in those days that folks that owned mobile homes really did vote, and so it's the issue of if it's coming from someone who really did vote, at least the person took enough time to sign their own name to the postcard, that you ought to at least sort of pay attention to that.

So even though the lobbyists in Sacramento for that particular organization was generally outgunned financially and whatever by the lobbyists for the park owners and whatever, it still turned into be a fair

fight in Sacramento where they won some and the park owners won some or maybe there was a compromise achieved and things of that sort. So sometimes the standard message can get through. It just depends on who is sending the message.

[Interruption]

FERRELL: You were working for a committee in the Senate, the Judiciary Committee. What about the Senate in the sixties?

GREGORY: The Senate in the sixties was a pretty clubby organization, and Hugh Burns was the longtime President Pro Tem of the Senate. That's what they call the top leader in the Senate, because, actually, technically speaking, the President of the Senate is the Lieutenant Governor. But since the 1930s, the power edge had been moved to the President Pro Tempore of the Senate. Up until that time, the lieutenant governor is the President of the Senate, which has been that position since the constitution was adopted back in the nineteenth century, made all the committee appointments. In fact, some states still have that process.

But in the 1930s, they ended up with different parties and so the Senate changed its rules, which it has the power to do, to vest all the power in the President Pro Tem of the Senate and actually the Senate Rules Committee. And so they stripped all that power away from the Lieutenant Governor. So the President Pro Tem of the Senate, even though the appointments made by the Senate Rules Committee is a very

powerful position because that person actually can decide the composition of the Rules Committee or at least influence the vote of the Senate on that.

So Hugh Burns was the longtime President Pro Tem of the Senate through the sixties. I haven't gone back and checked the historical facts on this, but it would have been about 1969, gradually, the Senate had changed. Up until the middle 1960s, we didn't have the "one person, one vote" principle, and so the Senate was organized in geographic regions. For example, Los Angeles County only had one senator, who was Tom Rees, who was an incredibly powerful individual, because you just had one person represent all of Los Angeles County.

But after the mid-sixties, after the U.S. Supreme Court enunciated "one person, one vote," they reapportioned the state based on population, and so then you had a number of folks who formerly served in the Assembly moving over to the Senate in that election. I think it was '66 might have been the first election under that principle. Clearly, in '68, you had folks moving over. So you had a bunch of Republicans . . .

FERRELL: Before this change, I'm not clear on this. The way I understand it is, a senator would represent a certain number of counties, similar to the federal system where a senator represents a state. Is that right?

GREGORY: I think that was generally correct.

FERRELL: And then the Supreme Court changed it so that a senator would represent an equal number of population.

GREGORY: Correct.

FERRELL: I see. So that was a pretty big change.

GREGORY: That's right. And so they had to reapportion the state. In fact, ultimately, Tom Rees went to Congress, because he felt it would be better to be in Congress than to be one of multiple senators from Los Angeles, since Los Angeles was large even in those days.

So they reapportioned the state based on population. That then opened up, not in numbers in terms of senate districts, but opened up many more senate districts in highly populated areas, because, obviously, Northern California lost a bunch of its senators, because, again, when you said based on the counties, that.... In fact, actually, I think there was some famous statement in the reapportionment case that said that senators ought to represent people and not trees.

So anyway, Northern California lost a large number of senators, and they ended up in the populated counties, so that created a lot of opportunities for legislators to run for districts that never existed before. So you started getting new faces in the Senate in '66 and '68, and some of the ones coming over were sort of known as the young Turks. I think Deukmejian might have been part of that... Howard Way from Tulare, and so forth. And so sometime in... I believe it was 1969. And the way they decided the President Pro Tem was they did in a caucus of the whole, in other words, all the senators would all get together in one room, and they

would vote for who the leader would be. Of course, obviously there had been a lot of maneuvering and trading before that time and things of that sort, but they would all vote and they would do it publicly. You'd have to hold up your hand and vote for this person or that person.

Burns had been the President Pro Tem for quite a number of years and felt he pretty much had a lock on everything. And so the story was, was that they got into this caucus of the whole, and Howard Way evidently convinced Burns that the vote should be taken by ballot, paper ballot.

FERRELL: Secret ballot.

GREGORY: Secret ballot, as secret as it could be, because essentially what it was, slips of paper. You wrote the person's name on you want to vote for.

Burns didn't think anything of it and agreed to it, and Way got the most votes. I mean, a bunch of folks that obviously wouldn't have voted against Burns in public, but when given a chance to write down Way's name wrote Way's name, and he became the President Pro Tem of the senate.

FERRELL: Well, why did he agree to that? He just had a mental lapse for a moment?

GREGORY: Probably didn't think through the consequences, or maybe he just felt that so many people were committed to him, that it wouldn't change if you took a paper ballot.

[Begin Tape 2, Side B]

GREGORY: So Howard Way becomes the President Pro Tem of the Senate, and so he's serving as the President Pro Tem of the Senate. Howard takes it upon himself to say that we're really going to modernize the Senate and streamline it and we're going to do all these things and so forth, and so he had a whole bunch of things he wanted to do.

But one of the things that he wanted to do was, evidently, as I indicated, at that point in time that they had just started, the Senate just started, like the Assembly, having consultants to their committees. The way it worked was, was that each committee would have an office, and that office would have a secretary, and that office could be attached to the member's office who was the chair of the committee, but often not. For example, the Judiciary Committee office, during the years that I was there, was never physically attached to the chair of the committee. It was always a separate office on the second floor of the Capitol.

So what Howard Way proposed to do was to put all the committee consultants together into sort of this ring, that they would have all their individual law offices around a ring. In the middle would be a secretarial pool that they would all share. That didn't make the committee consultants very happy. Of course, the committee consultants were all chosen by the chairs of the committee so they have obviously input to the chair of the committee. And so they expressed their displeasure about that, in fact, it never happened. But there was a series of other things that

I don't recall right now that Way was doing that would have been sort of a radical change in the setup.

So Way gets ousted by Jack Schrade, who was a Republican from [San Diego] and Way was a Republican, by the way, just to tell you. Hugh Burns was a Democrat, but even though I forget the partisan composition of the Senate, but it was very close, or may be even have been Republican-held at one time. But Burns was from the Valley and he was moderate to conservative Democrat. Again, it was a little bit clubby kind of atmosphere in the Senate. Anyway, Schrade takes over from Way. So there was a new election and Schrade, basically by then the members are unhappy with what Howard is doing, and so Jack takes over.

And probably still laying in one of my drawers at that time was.... What I found humorous was that the cards, even in those days even before the September 11th aftermath and all the security they have today, is we all had I.D. cards for the Capitol so you could access the Capitol and so forth. And so they didn't want to reprint the cards, and it was signed. It had the signature of Howard Way on it. So they just stamped Jack Schrade's name over the top of Howard Way's name so that for a period of time there.... In fact, I think that they never did have a Jack Schrade card. Maybe they did, but his name was stamped over the top of Howard Way's.

FERRELL: Howard Way was just in seven months, and then he was out.

GREGORY: Is that what your records show, seven months? Yes. It was a very short period of time, so he got all the members very excited.

FERRELL: Schrade, he didn't last too long either. He was about a year.

GREGORY: He didn't last too long because the Democrats took firm control of the Senate in the '70 elections, and [James R.] Jim Mills from San Diego then became the President Pro Tem of the Senate at that point in time, and he lasted for about ten years in that particular role.

Jim was a nice guy, but he wasn't widely beloved in the Senate. I know that during the early part of the seventies, it wasn't like a coup a minute, but I mean, there were several times it was rumored that other people were going to run and take him out and things of that and so forth. And, of course, that always had an impact on a consultant's life because anytime you change the top leadership, you probably changed the chairs of the major committees. That's just almost a given, unless the person who happens to be your current chair somehow is agile enough to sign on with the winner. But oftentimes they're aligned with the other individual.

There were several rumors about people that were going to run and win, and then there was rumors like, well, if that person wins, this will be the new chairs of these committees and things of that sort. But none of those ever came to fruition, and by the time you got to the mid-seventies Mills was pretty solid and stayed that way until the end of the seventies, either '78 or '80.

Anyway, probably the event that really made the difference was the defeat of Al Rodda. It's hard to hold a leadership position for long periods of time, that's why Willie Brown's tenure was so remarkable. It was like the old saying, "friends come and go and enemies accumulate." Over a period of time Mills had done things that had gotten some of his supporters upset. For example, there was a move to replace Martin Huff as the executive officer of the Franchise Tax Board, sort of a unique position in the sense that that position can be removed by a vote of the Senate. It might have been a two-thirds vote, but it could be removed by a vote of the Senate. Huff had angered some people and they wanted to have him removed.

One of Huff's longtime supporters was Nick Petris, the senator from Oakland, and Mills went along with the folks that wanted him removed. The Senate voted and removed him, and Petris never really forgave Mills for that, for that support that he gave that he viewed as crucial to removing Huff.

But in 1978, Proposition 13 was a big watershed event in California. But what it did in the context of the Legislature was it turned the Legislature into a much more partisan body and a much more sharply divided body, particularly for the people that got elected that year. You saw it more in the Assembly than you did in the Senate, but it was a little bit there in the Senate.

There was a senator from Sacramento, Al Rodda, who had been a longtime senator from Sacramento. In fact, back in the early fifties, to actually regress a little bit, my father was a lifelong Republican. He had actually formed the... it had a different name in those days, but actually the Young Republicans of California back in the 1930s. He was active and he was active in Alf Landon's campaign, which he described as one of the great nonevents of the century, one of the people FDR [Franklin Delano Roosevelt] ran over the top of and so forth. But Dad had known Al Rodda for a long period of time and Dick Desmond was the longtime senator from Sacramento, and of course, this was before "one person, one vote" and so forth, and he died. It probably would have been an election year, because the person to appear on the ballot was selected by the Central Committee. [He] wasn't selected in the primary, and that happens when a person dies between the primary and the general; the Central Committee picks another name to put on the ballot.

Al Rodda was chair of the Central Committee, so he was selected. I mean not that that's a prerequisite to getting selected, but he clearly had influence. So he was selected to run and he asked Dad if he could put a sign up on his property. So I remember in that year, whatever year that was it must have been '52, '54, somewhere around that time frame, by having this big Al Rodda sign, Democrat for the Senate, on our property

and so forth. But Dad just loved Al Rodda as a person, so it didn't make any difference whether or not he was a Democrat or a Republican.

But Al got elected at that time, and so he had been in office all that period of time, and he was an acknowledged expert in education law. He had chaired the Education Committees for all that period of time and so forth, and well beloved.

But plotting to take him out but not telling anybody what he was doing was a senator called Bill Richardson, who was a conservative Republican from the South. Now, at this moment I can't recall which area in the South. And he basically hatched up this... because Rodda always ran these very low-scale campaigns, he didn't spend very much money, he took some ads out in the [*Sacramento*] *Bee*. Didn't do any direct mail because he was well known in the community and since he didn't see any particular threat he didn't do anything about it. The person who was running against him was John Doolittle, who was merely an aide to Richardson. So they viewed Doolittle as being a token opposition.

In fact, oftentimes the joke is, is that when you have somebody who's a strong incumbent that's going to win that some times you look at the person running against him and say, "Well, the person only wants to be on the Central Committee." Anytime you run for political office, you end up on your Central Committee. So even if you're a loser, you end up on the Central Committee.

So Doolittle was not viewed as a strong opponent of Rodda. I happened to live in that district and so I happened to actually be a personal witness to what happened. Relatively close to the election all of a sudden all this mail starts arriving and attacking Rodda. A lot of parts of that district are very conservative, particularly precincts that I live in, they are very conservative. You watch how they vote, they vote very conservatively. And remember this is now after Proposition 13 and so it has the normal rhetoric about the tax-and-spend liberals and things of that sort and so forth, and so there's a huge campaign now being run against Rodda.

Rodda never stepped up to that campaign. He took some more ads out in the *Bee* and things of that sort, but didn't do any... if he did direct mail, it came at the last minute, and it certainly wasn't in the volume that was being sent out on behalf of Doolittle. And Doolittle ended up beating Rodda. It was sort of a wakeup call for the Democrats in the Senate.

There had been some folks sort of trying to figure out whether or not they could beat Jim Mills even the latter part of the seventies. I remember sitting in one committee hearing. Even in the mid-seventies, that's right, probably '75 or '76, sitting at the committee hearing and watching a member with a vote card. There's these little vote cards they put out that each house were members can keep track of who votes. Nowadays they've got a computer printout. But back in those days,

particularly in the Senate they would call the roll call. They still call the roll call but now the person is moving switches and you can see what's happening. In those days, they would call the roll and you would have your vote card with forty names on it alphabetical and you would be checking "aye" and "nay" and so forth. Because at the end, if you didn't have enough votes for your bill you wanted to see who was voting which way so you can start talking to members and either get them to vote your way or change their vote or something of that sort.

This senator was busy checking off names, and I was sitting next to him. I said, "What are you doing?"

He was very frank, he said, "Well, I'm just trying to figure out if I've got enough votes to become pro tem." So they're always in the back of their mind thinking about, you know, "Can I become the pro tem?"

Anyway, but at that point in time the feeling was we need to get somebody who will actively represent the Democrats, can raise a lot of money for our campaigns and things of that sort. And so Roberti took out Mills as the Pro Tem and I think that was '81. I think it was the same time that Willie was rising to be Speaker in the Assembly and so that ended Mills' tenure there. And then since that time it's been a much more partisan situation.

FERRELL: When you were the Chief Counsel in the Senate Judiciary Committee, there was a proposition that was backed by Jerry Brown, Proposition 9, called the Political Reform Act.

GREGORY: Right.

FERRELL: Did your committee have anything to do with it?

GREGORY: No. The initiative process is totally outside the legislative process and the only thing that the legislative committees would often do is sometimes if something was on the ballot, they might hold an informational hearing about it. But the initiative process is part of the electoral process and so you're not authorized to spend any government money either supporting or opposing any initiative. The most you can do is put out informational pieces to the public that tell them about an initiative and sort of give them pros and cons. But it has to be a piece of information that if the person reads it they wouldn't be able to tell whether you want them to vote yes or not. So it's strictly informational.

But Jerry Brown was running for governor, and he decided he wanted to put together the Proposition 9, the so-called Political Reform Act, which had a lot of different components to it some of which were just pulled in from existing provisions of law. They really didn't make any change. One of the biggest changes with respect to operation of the Legislature was on the lobbying side where it prohibited spending more than ten dollars a month. If you were a lobbyist you could not spend more

than ten dollars a month on any legislator. The official legal term is *designated employee*, or we call them the hot-list employees but those are the more senior policymaking staff positions in the legislature.

It also required folks to disclose for the first time all their assets and things of that sort. You have to file disclosure forms and then you have reporting requirements. So even though a lobbyist could not spend more than ten dollars, even if they spent six dollars they have to report it. And then there's a reporting on gifts also. If a person received a gift of more than I think it was fifty dollars in value from someone who wasn't a part of a named group that was okay, that was generally your family group, your spouse, your children, your mother, your father, it was relatively small group of folks, then you had to report that on your annual statement as to who you got the gift from and so forth.

But as I indicated earlier one impact it would have the Judiciary Committee would meet morning, afternoon, and evening. And in the evening we would go to dinner. So what I would generally do is I would call up one of lobbyists and say, "We want to have dinner." And in those days the places you would generally have dinner would be Frank Fat's, which of course, has been here for ages. Posey's, which is no longer in existence, is down on O Street, the building is in existence but it's LaBou at one point and Vallejo's on the other side.

FERRELL: The Senator Hotel, was it?

GREGORY: Senator was gone in those days. It was shuttered, if I recall correctly, or it didn't really have very much going for it. There was something over where the today is Chops, but in those days I can't recall its name. It's been through several iterations over the years. Well, I've been living in Sacramento for so long I can't... it was Bedell's at one time, but I think Bedell's was gone by then but it might have been over there.

But there's only about two or three places, because we wanted room where basically the committee could all get together and just have dinner and not just do it out in the general thing. For example, at Frank Fat's they have an upstairs room, which they still have where you could have dinner. Ellis used to have a restaurant in the basement of the 925 L Street Building, I think that was another possibility.

But anyway, I would just call up one of the interest groups and ask them to host us for dinner that evening. And so then we would have dinner and then the bill would just be sent to... they would generally call the restaurant and just say, "Send the bill to us." Most of the time they would never even show up. In fact, I think most of the time we didn't even tell the members who was even hosting the dinner. But there was a lot of wining and dining and entertainment that went on at that point in time.

Now, a lot of people felt that that was sort of an evil thing, I actually didn't. I mean, I didn't really see people actually giving their

votes because of the fact that somebody bought them lunch or dinner. In fact, the old joke was that you didn't want to trust somebody that you could buy for lunch because you'd lose them at dinner. But there was a perception of somehow this was bad.

There were also big receptions that were put on. One was called Moose Milk, one was called Clams and Coral, and these were all funded by groups of lobbyists. They'd generally invite just the members to those; I personally never attended them. I knew they existed and so forth. And they were very valuable in the sense that the members would all go to them and not [just] Democrats or Republicans; I mean both Democratic members *and* Republican members would go to these things, and they'd be a big social event. And so it gave them an avenue to talk to each other and discover a lot of areas where there was common ground and things of that sort.

But all that went away with Proposition 9, because Proposition 9 prohibited the lobbyists from spending more than ten dollars on a member. It was the famous saying of Jerry Brown's, which I probably will not get correctly, but it was sort of like it would be a hamburger and a Coke.

FERRELL: "Two hamburgers and a Coke."

GREGORY: Two hamburgers and a Coke, okay, was the thing. The neat inside story on that was the fact that they didn't even want to have it at ten dollars. In fact, Wisconsin today, I think has a zero. But there was a concern that if a

lobbyist was in the same area as a member and the member said, “Can I have a cigarette?” which today wouldn’t be probably a good example, but okay back in those days, “Can I have a cigarette?” or whatever. If you gave them a cigarette and you were at zero then you’d be violating the act and there are criminal penalties and so forth. So essentially the ten dollars was put on there to just sort of cover the so-called incidental things and whatever.

Although, even in those days you could still in the early seventies you could still have a nice lunch at Frank Fat’s for less than ten dollars. Now today you can’t have a nice lunch almost anywhere for less than ten.

FERRELL: You can go to Starbucks for ten dollars.

GREGORY: You can go to Starbucks and have your cup of coffee for ten dollars, as long as you don’t have multiple cups of coffee. But anyway, so that basically cut off all the wining and dining.

I recall the night before Proposition 9 took effect we had a wonderful time down at Frank Fat’s and I couldn’t today even tell you who was hosting it. I think probably all the lobbyists were paying whatever the bills were for anybody at that point in time. But even prior to that time there was a legendary legend, that I don’t think it was wrong, that there were open accounts down there. So if members wanted to go down there and have a drink at the bar at Frank Fat’s they could just say

charge it against so-and-so and the person... it would just go on their tab and so forth. But that shut all that down, whatever.

FERRELL: From what I understand, this thing didn't work. There was a ten-dollar deal on a meal and then you couldn't give a politician a gift of more than fifty dollars in value.

GREGORY: That was for non-lobbyists. A lobbyist couldn't give you ten dollars period. The ten dollars was no matter whether it's a gift or anything. A lobbyist even today, cannot give anything of value to a member of more than ten dollars, I think it's a month, a month or a year. I can't recall right now. It's not something that I even think about nowadays, because when I was Legislative Counsel I was actually on the hot... well, actually, when I was Chief Counsel, too, I was always on the hot list. So when I'd go out with friends who were lobbyists I'd just pay my own way because I didn't want somebody having to report me.

Because the way it technically works is the fact if you have a twenty-five dollar lunch, the lobbyist could pay \$9.99 of it, but they have to report the \$9.99, which I think is totally stupid. So when I always went out with my friends I never did the so-called buy-down. I just paid my own way. So a lobbyist can't give you more than ten dollars period.

If it's a non-lobbyist, then you have to report it if it's over fifty dollars, which I think has been increased now, but anyway it was over fifty at that time.

FERRELL: So what was the effect of the Political Reform Act? Did it work? Did it reform politics?

GREGORY: Well, I think on the disclosure side it basically gave people a lot more information because there were pieces of it on the disclosure side that required disclosure of campaign contributions and things of that sort. So I mean, I think there were greater disclosures that people could act upon. I mean, was it a radical change in politics? No.

Campaigns were so modest back in those days. I remember that members would sweat whether or not they were going to send... "Should I send that last mailer out?" It was going to be ten thousand dollars for the mailer. Because these campaigns were being run well inside a hundred thousand dollars, well inside several ten thousand, not several ten thousand dollars. The fundraisers, most of the time, were in the districts.

When Al Song had a fundraiser, we would actually fly down there. A bunch of us would fly down to the thing, because they were great parties. They would have them at the Hilton down there, the big Hilton Hotel, which I think is renamed now. So they would give us free tickets but we'd have to pay our own way down, which in those days was pretty cheap on PSA or whatever. I think it was a twelve-dollar ticket or something, so we would all fly down. Several of us would get a hotel room together, and then we'd go to the fundraiser because they'd have the big bands and they'd have entertainment and things of that sort. Even

though Song's district was in Monterey Park, which is East Los Angeles, I mean, downtown L.A. was still an easy run in those days, and people would all come down and have a fun time and things of that sort.

So most of the money was raised in the districts, and the campaigns were relatively modest in terms of the amount of money that was being spent, as opposed to what you're having today, where most of the fundraising is done here in Sacramento, and the campaigns are incredibly expensive. So I don't think it had any radical change in the politics but it certainly got Jerry Brown's name before the folks.

Now, there were still ways and lobbyists can now arrange for a gift of over ten dollars. So what was happened over a period of time is that it certainly stopped the casual wining and dining. But if some interest group wanted to host a group of legislators here in Sacramento what they would do would be a... trade association would invite the members to dinner. And then the trade association would do it. Now that's not the lobbyist, and the lobbyist could be present at the dinner, but the lobbyist couldn't go around and actually extend the invitation himself or herself. But certainly the members knew that they were being invited by XYZ trade association. So to the extent there was any influence being felt, they would know that.

But again, as I said, I think that's all been overblown. I think there's more influence by virtue of the campaign contributions. Because I mean, a dinner's a dinner, and although it's nice to save your money and

not have to pay for that particular dinner, I mean your existence up here really depends on whether you can win that next election. And the person that's giving you the big bucks as far as the campaign contributions probably has more meaning as far as where you're going to be a year from now than somebody who comes to Sacramento and you sit down and have albeit a nice dinner.

FERRELL: One thing that you did mention, this got Brown's name before the public and he won the election in 1974.

GREGORY: He did.

FERRELL: And did things change in Sacramento when Jerry Brown came in?

GREGORY: You know, in some respects it's a little bit like [Governor] Arnold [Schwarzenegger] coming up here to Sacramento because we had Ronald Reagan and Reagan was pretty predictable. He basically kept an eight-to-five job. You could almost watch his limo roll out at five o'clock each night and out to the forties in Sacramento where he had his house at that time. They had lived in the mansion for a short period of time but then Nancy [Reagan] didn't like the mansion so they got this house on, I think it was, 45th Street in Sacramento. He would come in, he would roll out. He was just fairly predictable. He didn't really socialize with anybody up here.

Of course, he had succeeded Pat Brown and Pat Brown was totally a different animal. Pat was a guy that loved to go around and press the

flesh and so he'd run upstairs and do like Arnold's doing nowadays. He would meet with the members one on one and talk to them and work with them and things of that sort and so forth. Reagan was a very friendly warm individual, but he just wasn't a big glad-hander like Pat Brown was.

So we had eight years of that, and although Reagan's staff was very approachable, I mean they'd work with people easily and things of that sort and so forth. Reagan was actually a pretty moderate governor, which would probably shock the hell out of a lot of people hearing me say that. But you know, the abortion bill was signed by Ronald Reagan which I always love to give that as a test to folks, ask them who signed the abortion bill in California. They never figure that one out because Reagan just doesn't come to their mind as somebody who would have done that.

He signed the welfare reform back in the early seventies that provided cost-of-living increases for welfare recipients. He actually signed a revision of the community property laws, which I actually drafted back in the '73, '74 time frame to provide equal management and control to community property.

FERRELL: He raised taxes a few times.

GREGORY: Yes. Prior to that time, the husband had sole control over the community property. The wife had an equal interest, but the husband decided how it was going to be spent. So we changed that. Some of the Republicans in the Legislature weren't too excited about that so some of the Democratic

staffers in the Legislature got a hold of some of their Republican friends in Orange County. So what they did and they ended up doing, they had these groups of Republican women calling the Governor's Office demanding that he sign the bills. The calls were coming in so fast and furious, they finally said, "He's going to sign it. He's going to sign. Stop the damn calls."

Because in those days a woman could not even get a credit card at a department store unless the husband signed the credit application. Even if it's a million-dollar household and the money was there it needed the husband's signature. So we shifted to the equal management control concept, then the spouse could go in and basically sign their own application on their own, because the creditor had a right to the community property assets.

You're right, he did raise taxes and one of them he did with a sense of humor. We didn't have withholding in California when Reagan ran for governor in 1966. They asked him about instituting a system of withholding and Reagan said, "There's no way we're going to do that, my feet are in concrete."

Not on the scale or the magnitude that's happening today, but back in those days people were juggling with the figures to avoid having to raise taxes and things of that sort. For example, one thing that Pat Brown did was shift from a cash to an accrual basis, which allowed him to accrue

revenues in early and not have to raise taxes. They were playing these little games, Reagan's was a modified accrual method.

But anyway, they got to the point where it was very clear that something had to be done on a revenue side, and of course, one way of getting revenue in would be instituting a series of withholding, because the withholding of course, brings the revenue in. Otherwise you've got to sit there and wait until after April 15th or maybe it was March 15th back in those days, I can't recall when we went from March to April. But you've got to wait, and then once a year all that money dumps on you and so forth. As opposed to the withholding which pretty much levels that across the year, absent that one big little pile you get in April.

So they basically proposed and the Legislature adopted withholding, and they asked Reagan about it. He said, "Well, I hear the concrete cracking." [Laughter] So he had this disarming way of sort of handling these things.

So in comes Jerry in '74, and of course, he gets the Plymouth, the famous blue Plymouth which actually probably cost the taxpayers more than if he'd just kept the sedan because they still needed to protect the Governor, and so beneath the blue Plymouth, essentially was the.... It was like one of these NASCAR races where the top looks like a Chevy and the inside looks like everything else. So the inside essentially was like having a highway patrol car with a Plymouth body on top of the highway patrol

car because it had the heavy-duty engine, transmission, and whatever, so they could get the Governor out of a tight spot if they had to.

And of course, he went over and got a place over.... He didn't stay in the... well, they were renting the Reagan house over there and so forth. I can't recall when they started building it. Somebody built that place in Carmichael which Jerry didn't want to move in there. So I can't recall if it was even finished at that time. So Jerry got a place over here at the corner of 14th and N Street in the apartment house over there and allegedly had a futon on the floor. I mean, I never physically went there to see but that was the rumors, and I wouldn't put it past him.

FERRELL: [Associate Justice] Ron Robie was there. He eye-witnessed it and he told me that last time I saw him.

GREGORY: Okay. So we have some verification on that. And of course, obviously he had just a weird way of operating. I mean, I used to have some good conversations with B.T. and he said, "You know, you get near the end of the session, not the end of the session, but after the session is over with. The governor's got to take action on all these bills. It was just hard to get his attention, particularly for the routine things."

And so a certain period of time, B.T. said they would just have to go out, and they would basically sort of lock the Governor up and bring in boxes of pizza. Sit there and go, "We're going to sit there and go through these bills until we get the thing done."

FERRELL: B.T.?

GREGORY: B.T. Collins.

Then I know Bob Williams, who I've known for ages, who was the legislative assistant to the governors ever since Pat Brown and so forth, but they had brought Bob over as the legislative assistant under Pat Brown to work. Then Reagan came in and since he was brought over by Pat Brown—and Bob was a longtime career public servant, in fact, today I couldn't even tell you what party he even votes in—but anyway, he got bounced out by Reagan's folks. That lasted about six months until they realized that he was somebody in the Governor's Office that knew how to handle the mechanics of handling all the legislation and bills and whatever.

The legislative secretary was different, that was the person that did policy. Bob didn't do policy. But Bob was the guy who was basically in the office that knew how to put together all the packages that the Governor needed to consider in deciding whether to sign or veto a bill and all that kind of stuff.

So Reagan brought him back, and so he served under Reagan and Jerry Brown and George Deukmejian, and I can't recall if he retired before [Pete] Wilson got in or retired when Wilson got in, but he had been there a long period of time.

And so anyway he would regale us with stories about careening around Los Angeles in the backseat of car. He'd have some bill, you know, he only had twelve days to either sign or veto a bill because if he didn't do anything in twelve days it became law. So if the Governor didn't want it to become law he had to force him to focus on it and decide what to do within twelve days. So he'd be careening around L.A. in the backseat of a car with the bill file with the Governor focusing on the bill file and stuff like that.

But yes, Jerry was unique. He went to Africa with Linda Ronstadt and looked at the animals. I think most people would have looked at Linda, but he was sort of a unique character.

FERRELL: Ran for president, ran for the senate.

GREGORY: Right. He ran for the president. And actually, I knew that was happening, because he had a bunch of young kids working for him down there and doing a bunch of things they probably shouldn't do, like using state telephones on the campaign and things of that sort. But I picked up that information probably about a month before the first time he ran for president, that he was actually running for president, because you get people that young or whatever they can't keep their mouth shut and things of that sort. And I don't want to imply he was doing it to any great extent, like he had a huge campaign organization, but he had some people that obviously were calling around the country and things of that sort.

Of course, he had a lot of controversial appointments like Adrianna Gianturco the head of CalTrans and so forth, people used to call her the Giant Turkey, which I think actually is... somebody told me once that actually is the translation from Italian, that Gianturco is giant turkey. But they were using it in a different sense.

He had a resources secretary I can't recall her name right now, Claire somebody, who sort of marched to a distant drummer. It was interesting. And, of course, obviously, his most famous, or infamous, appointment was Rose Bird as the chief justice. Instead of just putting her on the... I mean, he should have just put her on the Supreme Court. If he'd elevated Stan Moss to the chief justice slot and then just put her on as a justice then it probably would have worked out okay. But obviously, as a chief justice she was a lousy administrator, lousy politician, and it just clearly didn't work.

I remember being in a meeting in the governor's council room at one time and she bounced into the meeting. I can't recall why she was there at that time. At that time she was the secretary to one of the agencies. I can't recall which one it is right now, but she had the . . .

FERRELL: She was secretary of... I think it was Agriculture.

GREGORY: Yes. It was one of the agencies, it probably was. Which would have been a weird one to be secretary of because, of course she basically had a

background as a public defender, and I mean, it wasn't like she came from agriculture or something of that sort.

And she had a pair of these... and I can only describe them... they really are Chinese pajamas. They had the mandarin collar and very loose fitting this and baggy trousers and her hair was pulled back and it was tied with a piece of yarn. I mean yarn, just plain old yellow piece of yarn. And that's how she dressed back in those days and whatever.

She pontificated on something and then left and somebody made a comment like, "Well, at least with Rose, I mean, you get the pure unvarnished," not truth, because, I mean, everybody's truth is a little bit different, "but pure unvarnished opinion," or something like that sort.

But it was interesting when she was under attack in the Supreme Court, because she didn't really change her modus operandi when she went to the court. It was only when she was then finally under a siege on the court on her retention election, and all of a sudden somebody got hold of her, and all of sudden the glasses went away, the hairstyle changed, I mean, it was total radical transformation. I mean, I thought she was a good-looking woman when I saw her back in this time in the early seventies and so forth, and somebody obviously looked at her and said, "Well, there's just no way you can run for chief justice with your hair pulled back with a . . ." You know. And her hair may have changed a little bit since that time and so forth.

And so all of sudden, next thing you know, you had the nice curly hairdo, and makeup and the whole nine yards, so it was interesting to see. I mean, I've seen it in other context around here. You look at some of the pictures of the members when they first show up here and what they look like ten years later, and it's sort of interesting to watch the eyeglasses disappear, the hair transplants magically appear, and things of that sort.

But Jerry was a different animal back there in the seventies.

FERRELL: I guess a couple of years after he took office, you changed jobs. You became the Legislative Counsel.

GREGORY: Actually, I had a short period of time, I actually had a three-week job in the middle of 1976. I hadn't really started looking around, but I was getting a little bit bored and thinking about maybe it's time to go look and figure out what I want to do with the rest of my life. I wasn't married at that time, so I didn't really have any responsibility. But I'd been there five and a half years at that time, and you tend to see the same issues start coming around and around again.

An individual named Ralph Kleps, who was head of the Administrative Office of the Courts in San Francisco, offered me a position as the assistant director for legislation. Which is a position here in Sacramento, with that organization the Administrative Office of the Courts, representing the court system before the Legislature, and I thought, "Oh, that would be a good challenge," so I accepted the position.

But we were right in the middle of session and so I wasn't about to leave in the middle of session. One thing we haven't talked about, by the way, is the change to the two-year session. That's an interesting change in and of itself. The sessions in those days wouldn't be over until the end of August.

So looking at that and figuring, "Well, I need some time to stretch my legs anyway and so forth and wrap things up here," and, of course, obviously, I was going to let the chairman know right away that I was leaving. So we set November 1st as the date I would go to work, to start.

So the session finished in September, the middle of September. I was floating around the delta on a boat that I had in those days and pulled in and I called to Sacramento and someone said that George Murphy retired. That's the former Legislative Counsel. I thought, "Oh, that's interesting." So I went back and floated around the delta and thought that would be an interesting job to think about.

[Begin Tape 3, Side A]

FERRELL: So you retired and you began to think about that.

GREGORY: Yes, I thought about it and said, "Yes, that's something I'd like to try for," so I came back and became part of the group that was vying for the position.

In those days, in fact it's still the law that if a vacancy occurs in the Office of Legislative Counsel during the session.... I should back up, the

Legislative Counsel is elected by the Legislature by a resolution at the beginning of each legislative session. So if they're out of session then a committee comes into existence composed of the Speaker of the Assembly, the Speaker Pro Tem of the Assembly, the President Pro Tem of the Senate, and the chair of the Senate Finance Committee, which is a committee that doesn't exist today. In those days that was Leo McCarthy and Jack Knox in the Assembly, and Jim Mills and Tony Beilenson in the Senate.

Now those were all Democrats, and the Legislative Counsel position is nonpartisan by law and they have sort of maintained it that way. So they invited to be with them the Republican leader of the Assembly, who was Paul Priolo, and the Republican leader of the Senate, who was George Deukmejian. So they put together a six-person committee instead of the four-person committee that the law would require, and so they winnowed it down to six individuals.

We're now in the late October, and I think it was the last week in October, they met in Sacramento and the six of us individually appeared before them and were interviewed by them. I had got some inside intelligence that basically I was the consensus choice of the group, but that one of the leaders wanted to think about it for a little while or something of that sort.

So November 1st arrived and so I packed up all my boxes and went over to my office here in the Library and Courts Building and became the assistant director of the Judicial Council. In those days, this is before Rose Bird became the Chief Justice, the Judicial Council used to meet in very nice places. So they actually had a meeting of the Judicial Council down at the Santa Barbara Biltmore, so I went down there for the meeting. Don Wright was the Chief Justice in those days.

I came back, and then I believe it was November 19th of that year, I received a call from the speaker, Leo McCarthy, offering me the job, and I accepted and started that following Monday the 22nd as Legislative Counsel. So I jokingly say I had the shortest tenure as an assistant director in the history of the thing. And it was probably good it happened to me. I mean first of all, I became Legislative Counsel, which was a fantastic job. But my successor got fired by Rose Bird, because when she came in and was appointed the Chief Justice, which was probably '77 if I recall correctly, she basically cleaned house of all the folks that had been there.

When you work for the court system, you're not covered by civil service, so they're pleasure appointments, and she ended up firing my... and not because of anything he had done. Well, let me put it this way, it actually was something he had done, but I view it as unfortunate what happened. He was caught between her and the administrative office of the Judicial Council. The Judicial Council is a policymaking body of the

court system and it's composed of appointees by the Chief Justice, but they're term appointments. So as you can see by that, over a period of time the Chief Justice pretty much gets people on the council who the Chief Justice has selected. But for the first number of years you have a lot of carryovers.

Rose had a lot of pretty radical ideas about what she wanted to do with the court system that didn't sit too well with the judges. So there were bills in the Legislature where the council actually had a position one way the other, either support or oppose, and he would get a call from the chief telling him to do the opposite. So he was put really in an untenable situation where he's being told by the chief to do something, represent a position in the Capitol that's really not the position of the Judicial Council which is really the policymaking body and so forth. So eventually things became pretty edgy and so he got dismissed by the chief.

Ralph Kleps himself finally... he was at retirement age. In fact Ralph was actually the Legislative Counsel of the state from 1950 to 1960, and in '60 they created the Judicial Council and Administrative Office of the Courts by constitutional amendment. Then the chief, Phil Gibson at that time, offered Kleps the first position as the top staff person for the court system. So Ralph had left the Legislative Counsel's Office and had gone to that. So anyway, Ralph was past retirement age and so he finally

said, “I don’t need this aggravation anymore,” and he just retired. So she changed the whole top of that system.

I’m sure I would have been in the same situation as my successor who happens to be, by the way, one of my close personal friends. We actually went to Stanford together, we served in the same Navy ship together, we went to Hastings together and so forth. So I have more than a passing knowledge of this whole situation. So I probably would have suffered the same fate as he did on that matter. But anyway, I finished up my three weeks with the council and started as Legislative Counsel on November 22nd that year.

[Session 3, March 2, 2004]

[Tape 3, Side A]

FERRELL: Ok, you got the job as the Legislative Counsel for the California State Legislature. That's a real big job and a couple of other jobs come along with that: the California Law Revision Commission, the Commission on Uniform State Laws and, of course, that makes you a member of the National Conference of Commissioners on Uniform State Laws. I thought a good idea might be to give a job description of the Legislative Counsel. I know you were Legislative Counsel longer than anybody else, 25 years. The job has only been around since 1913. You were the ninth Legislative Counsel. You cause a lot of diversity. A lot of women came on your staff as attorneys. Almost half were women; big changes from the past.

Another notable thing everybody talks about is the automation, bringing in computers into the Legislature. That's the Legislative Data Center and it occupies its own building now. It started with, from what I understand, a staff of just five and now there're 580.

Let's talk about all this. First of all, why don't you give us a job description? What does the Legislative Counsel do?

GREGORY: Well, the simple job description for the Legislative Counsel is the lawyer for the Legislature. But what it does on a day-to-day basis is it prepares all the legislative measures for the members to introduce, and each year, in recent years, that's meant that about seven thousand legislative measures were prepared for the members.

FERRELL: Now you use the word *repaired*.

GREGORY: Prepared. Drafted.

FERRELL: Prepared.

GREGORY: Drafted, prepared.

FERRELL: I misheard you. I thought you said *repaired*.

GREGORY: Well, later on we repair them, but initially we prepare them and we draft them. Then the members, of course, choose whether or not they want to introduce them, and they introduce less than half the ones we actually draft for them. Then as the measures move through the legislative process there's amendments that are prepared to these measures as they're heard by the various committees or on the floor of the houses. The Legislative Counsel will prepare about eleven thousand to thirteen thousand sets of amendments to these measures as they're moving through.

Then ultimately, if they succeed in getting through both houses, they'll be presented to the Governor for consideration. At that time the

Legislative Counsel prepares what they call an enrolled bill digest, which discusses certain things to the Governor, such as whether or not the bill's constitutional, whether or not the bill conflicts in a technical sense with other bills and things of that sort. A copy of that report that goes to the Governor is sent to the lead author of the bill. The lead author is the first named legislator on each bill.

Now, Legislative Counsel works solely for the members of the Legislature, with the exception of being able to do some things for the Governor and members of the judiciary. That means that no one really has access to the office unless authorized by a member of the Legislature. In drafting legislative measures it's not unusual for a lobbyist to go to a member of the Legislature and to pitch an idea to the member. If the member thinks that that's a good-enough idea to have it drafted, they will authorize that lobbyist to come down to the Office of Legislative Counsel and confer with us, and then we will draft the legislative measure. Then the measure is always delivered back to the member of the Legislature, so the member is always fully conversant with what is being done in that member's name.

All the work in the office is subject to the attorney-client privilege, and that's not just because we're lawyers; it's because the privilege is expressly codified in the Government Code. The records of the office are confidential; they're not available under the Legislative Open Records Act

or the California Public Records Act. In fact, it's a crime for any member or any employee working for the Legislative Counsel to disclose outside the office anything brought to it by a member unless the member has specifically authorized us to do so.

Another major piece of work that we do is we prepare legal opinions for the members; roughly about a thousand legal opinions are written each year for the members of the Legislature. Again, these are confidential unless the member chooses to release the opinion or publish it in the journal of one of the houses.

Now, we should probably talk a little bit about the history of the office, because it has a fascinating history. As you indicated, it was created in 1913 by legislation that was enacted in that year and signed by the great reform governor, Hiram Johnson. The legislative branch under the constitution is exempt from the civil service system by virtue of a constitutional exemption from the civil service system, but Legislative Counsel is actually a civil service agency. The reason for that was that in 1913 the Legislature was limited in the amount of money it could spend to support both of the houses. I can't recall what it was right now, I think it was about five hundred dollars a day. Which didn't sound like a lot of money, but then again in those days they didn't pay people a lot of money. A dollar a day in some respects was the going wage for a lot of people in 1913.

But nevertheless, the Legislature was always overspending its budget so it really had no additional money to hire lawyers. Prior to that time the legal work had been done sort of on an ad hoc basis. But in 1913 they wanted to establish a permanent office to provide services to the members. So the only way they could do that was to create the office in the executive branch because that means that it would not be subject to the budgetary limitations, would not count against the legislature's budget, and so that's what they did.

Legislative Counsel's Offices now, you'll find the provisions of law in the Government Code. But in creating the office, of course the Legislature is a creative force, what they did was even though they created it in the executive branch, they required that the office work solely for the members of the Legislature, with a few minor exceptions with respect to services to the governor.

The first Legislative Counsel was selected by a board composed of the Governor and the leaders of both houses. Several years later, for historical reasons that no one really today knows, the selection process was changed where the Governor picked the Legislative Counsel, and then they went back to, I think, a composite group that picked the Legislative Counsel. Until they got to the current selection process, which was started in 1927, where the Legislative Counsel is selected by a concurrent resolution that's passed by the houses at the beginning of each legislative

session. Which today are two-year legislative sessions, which started in 1973 - '74, were the first of the two-year legislative sessions.

So the office has a sort of interesting history, and as you indicated I'm the ninth Legislative Counsel. It is a nonpartisan office by law and the Legislature has maintained it as such in both its operation and the manner in which its selected the Legislative Counsel. I was followed by one of my chief deputies, Diane Boyer-Vine, who's the current Legislative Counsel.

When I started as Legislative Counsel in 1976, I think there were about roughly sixty-eight attorneys in the office. That grew gradually so that when I left in 2001, I think we had about eighty-five lawyers in the office. And the number always varies up or down as people retire and new hires are made.

I explained basically the major legal work we do and so forth. We also provide counsel to the committee hearings. We do the routine legal work that a client needs, like drafting contracts and things of that sort. Then we also represent the Legislature in litigation when that becomes an issue. The Legislature is not involved in litigation that often but to the extent they are we represent them. We work for both houses of the Legislature, we work for members of both parties. The reason why that works in California is that the law prohibits us from urging or

opposing legislation, which means that Legislative Counsel takes no position on whether or not a bill is a good bill or a bad bill.

The way I had the office organized, which is no different than really my predecessors, was that the deputies work in subject matter areas in the office. So in that particular subject matter area they get bills, work assigned to them, whether it's a legislative measure or a set of amendments or legal opinion or whatever, and they sort of specialize in that particular area. Now, they may move around in a career in the office, and it is viewed as a career position, but they will certainly spend a certain number of years working in that particular area.

To indicate where the Legislature focuses most intently, the two of the biggest areas are education, K through twelve education and criminal law and so forth. In fact, the way the office was organized during my years was we had major divisions in the office and then under the divisions we had sections. Those sections had one or more subject matter areas assigned to them, and because of the volume in education, K through twelve education, and criminal law, those represent each just one section in the office. So we had like four or five attorneys working in each of those sections. So that gives you some idea where the Legislature focuses a lot of its attention.

FERRELL: Is that because most legislation is involving education and criminal law?

GREGORY: Right. There were more bills introduced in education and criminal law than any other subjects. It's not unusual. I mean, if you look at the public debates and so forth, and look at campaign issues, I mean, people are generally running on education and, probably to a lesser extent today, on criminal law issues. But it sort of rises and falls.

Education is always a high priority in people's mind. Criminal law sort of comes and goes, and right now I think it's probably on the wane right now. But there certainly were periods of time in the last several decades when everybody was running on a criminal law-and-order platform. We had the Three Strikes Law and things of that sort that caught public attention and things of that sort, and people felt unsafe at times. At least, it was alleged they felt unsafe, and so of course, people ran on campaigns that "I'm going to Sacramento and I'm going to strengthen criminal laws and protect you," and things of that sort. So it sort of comes and goes. But the education is there almost year after year, but they're always tinkering around with the criminal law. So even if it's not a big campaign issue and so forth, it's still an area that people do introduce bills and try and move things through the process.

Then a lot of other areas are relatively minor I mean, like for example, in California we have a Probate Code, and there's probably just maybe a handful of bills in that particular code each year. We have about... I forget the current number, I think it's twenty-eight codes in

California where the laws are all codified into these various codes. As I said, some are very active like the Education Code, the Penal Code, others are pretty inactive, like we have a Military and Veterans Code and codes like that. Of course, environmental laws are another area that the Legislature does a lot of work in, although those are sort of divided up into air-quality and water-quality laws and things of that sort.

FERRELL: Could you see that area of the law rise and fall with the changing of the administrations?

GREGORY: Well, the success of the bills may rise or fall depending on how each Governor would view it. The Legislature of course, is independent of the Governor in our particular system, and so it really depends more on who gets elected to the Legislature as to whether or not there's a great interest. But there's always a number of legislators who are interested in the environment, so the number of environmental bills that are introduced are fairly large in number.

There's obviously both sides to an environmental issue and so you have those who have bills that would impose stricter requirements on, say, pollution discharges and things of that sort and so forth. And then you have other folks that might argue that some of the environmental laws are so harsh that they stifle business in California and productivity and that they need to be eased somewhat. So you can have bills introduced also

that would ease some of the requirements and so forth to make it easier for industry.

The area that we're always battling over of course is automobiles. The State of California, of course, is very difficult to move around unless you have an automobile. Of course, the automobiles are a major source of pollution, nobody disagrees on that. But what people do disagree on is how fast we can move toward a pollution-free or certainly a very diminished pollution car that puts out very low levels of pollution, and how fast you can get there and so forth. So you have those debates over time.

The Legislative Counsel's Office is important because it provides really a great reservoir of talent for the legislator. Even though the office cannot tell the legislator, "Well, here's a good idea we think you ought to introduce," or things of that sort. The deputies have been there a long period of time, and they have worked in these areas a long period of time. So the members can come to them and get sort of historical background on what the Legislature's done over the last twenty years, for example, in these particular areas. The office can provide that information to them without advocating for any particular point of view. And the office being nonpartisan, the legislators can come and speak to the office, knowing that they're not going to get a slant on what they're hearing. Also, because of

the attorney-client privilege, that the conversation will remain confidential between the member and the office.

So it's a unique situation that doesn't exist in very many other states and whatever, but is viewed as sort of a strength of the California system. Other legislators come here to view it, particularly in the opinion-writing part of the office, because in many states a legislator would have to go to the Attorney General to get a legal opinion written.

Two things often happen when that occurs is that in our system here if a member goes to the Attorney General and asks for an opinion to be written the Attorney General will publicly announce that the Attorney General is writing an opinion on a particular subject. You know, will actually give the question that's being considered. They do that for a benign purpose. They do it because they want to give a lot of public input into the process.

But also in that situation, you never know what the political party is of the attorney general, because all of the Attorney General Offices in the United States are partisan offices and so forth. And so sometimes a member feels uncomfortable if you're not the member of the same party asking a question of the attorney general. Although I'm not saying the Attorney General slants opinions or does something just because of their partisan nature or whatever. It's a consideration that the member has if they ask the question.

FERRELL: Your job, you're actually selected at the beginning of each legislative session.

GREGORY: Right.

FERRELL: With a concurrent resolution.

GREGORY: Correct.

FERRELL: I suppose anytime you really stray from being nonpartisan, you could lose your job. Has that happened in the past with other Legislative Counsels?

GREGORY: No, every Legislative Counsel has retired from office, not necessarily retired in the sense that I did, but has left the office of their own volition. George Murphy, my predecessor, retired. His predecessor, Andy Morrison, unfortunately died of cancer after serving as Legislative Counsel only for three years. And his predecessor, Ralph Kleps, in 1960 had gone to work as the first director of the Administrative Office of the Courts. The people had voted in a ballot measure that created a body known as the Judicial Council and also the Administrative Office of the Courts and he was asked by then Chief Justice Phil Gibson to head that office for the first time. So he left Legislative Counsel's position and headed that office.

Then his predecessor was Fred Wood, who was appointed in 1950 to the Third District Court of Appeal here in Sacramento, so he, again, left the office. Now, prior to that time.... And Fred Wood was first in, say, the

modern era of Legislative Counsel. He was selected in 1927 and served until 1950, which is obviously another incredible long term of service.

If you look at things in the office, most things started in the 1927 era, so he seemed to be the Legislative Counsel who started the office in the more modern era and so forth. So I don't really have much information on the early Legislative Counsels as to where they went after their service as Legislative Counsel. They were here for, most of them, relatively short periods of time, say two to four years before they then went somewhere else. I have no indication any of them were fired because of partisan reasons and so forth. You know, the job I'm sure was not a well-paying job and maybe they went off and did something more lucrative than being Legislative Counsel. But certainly since 1927, all the counsels have left for either another job or because they retired.

FERRELL: Earlier you talked a little bit about environmental laws. In 1976, they created the Coastal Commission.

GREGORY: Right.

FERRELL: A lot of people didn't like that. Did they come to you and . . .

GREGORY: Well, I didn't become Legislative Counsel till the end of 1976, and it was November, and by then the session was over with. So they would have come to my predecessor for that particular drafting effort in 1976. At the time, during the session in '76, I was, again, the Chief Counsel for the

Senate Judiciary Committee, and that bill wouldn't have gone through that committee. They did not have jurisdiction over the environmental matters.

But it was controversial because, again, they were going to regulate the coastline, and it was going to clamp down on some of the development activities on the coastline, including activities of individuals who had property and homes on the coastline. So there was quite a bit of controversy over that.

There were quite a few environmental laws that were done back in the early seventies. The California Environmental Quality Act, the CEQA, was done back in the early 1970s. The Legislature was very active in the environmental law area back in the early 1970s.

FERRELL: I found one reference to you from 1977. They passed a law and I think your decision was that it was unconstitutional. It was a law regarding nuclear power. You felt it intruded on federal regulations. I think the idea was to stop nuclear power plants from opening up in California.

GREGORY: Yes, I recall that there was a... I don't have a vivid recollection of that but I recall there was a bill that dealt with the siting of nuclear power plants, which in those days of course, were very controversial. Now they have not become less controversial, but we just haven't built any in California for decades, and, so, therefore, it really hasn't been an issue. But there was a bill that dealt with the siting of those particular plants. The issue was whether or not that interfered with the federal government's

regulation of nuclear power plants, which is really where the main regulation occurs as far as other construction and things of that sort, and their safety requirements.

So I think we, if I recall correctly, did issue an opinion that said that that bill was unconstitutional. If I recall though, later on, I think a court might have disagreed with us and so forth. I have a vague recollection that it was a close question, and I think maybe later on there was some litigation where the court actually did sustain it, but I can't recall right now.

FERRELL: Well, in 1978 big things changed with Proposition 13.

GREGORY: Yes. Actually, big things had changed for me in 1977 when I had my office burn down.

FERRELL: I hadn't heard about that.

GREGORY: We had, in those days, the so-called computer system. Well, first of all, I had a very tumultuous first six months with respect to the computer technology. When I became Legislative Counsel in 1976 in November, I knew my predecessor was working to computerize the office, but I wasn't aware of where they were at that time. I knew that just because I had friends in the office and we chatted, and they talked about terminals that were appearing on their desks and things of that sort.

So when I joined the office and became Legislative Counsel in 1976, I discovered, lo and behold, that we were going to start into the

brave world of computer technology starting with that particular session, which was going to be the 1977-78 session. Of course, the sessions convene in the preceding December for a week of organization.

What my predecessor had done was he had actually gotten rid of all the typewriters, so we actually were going right from typewriters to computers. It turned out, in retrospect, that they'd had a consultant who had recommended the purchase of a particular computer, a Varian computer. Which is a very good computer for what it could do, which is basically it had enough speed to calculate any moon shot you wanted to make or trip to Mars or whatever.

But, unfortunately, it was not a business computer, and what that meant was, was that it could crunch numbers, crunch data at a lightning speed once the data got inside of it, but it had hardly any what they call I/O, input/output. Which means it was a hard thing getting data in and out of the machine. Unfortunately, when you're doing word processing it's more important to get data in and out of the machine than it is to have lightning speed to crunch it when it gets in the machine. We had all sorts of problems with the system.

The first thing, of course, was people were just getting used to the system. We had sort of now become the state printer, because in the old days we would type bills on the typewriter, and then after they were introduced in the Legislature, they would physically carry them out to the

state printing plant. The state printing plant, prior to the latter part of the sixties, would set those bills in the old hot lead linotype machines and great big plates and put them on the computer. Then they computerized their operation in the latter part of the 1960s. So instead of the old hot lead linotype machines, they actually were setting type from computer terminals out there, and then again, [they] would create the big mats to be put on the big high-speed web presses to print the bills.

Then what was happening in 1977 would be, was that they were just taking the data directly out of our system. We would transmit the data out there and print it. The printing plant, of course, was not particularly excited about this, because essentially what it would mean ultimately is that some of the folks out there would probably end up losing their jobs or be transitioned out and whatever, because they wouldn't have to do the typesetting that they did.

So they were not particularly cooperative and so forth. And so if we sent some data out to them that didn't look right, they wouldn't call us and tell us; they would just print it. So we had some exciting things like some bills looked like bar graphs instead of having words in them. One bill actually had a typing test in the middle of it where somebody had actually not gotten the data correct and so the bill was right in the middle of this typing test. I can't recall, like "The quick brown fox jumped over the lazy brown dog."

So it was not a wonderful experience and in those days we actually had one big room that all the secretaries sat in and the computer room was at the opposite end of this room. So they would be just keying in the data and these were all dumb terminals in those days. The world of PCs had not been created yet and so forth, that was yet to come in the 1980s. Then every so often, as I said, the machine would get overloaded. And when the machine got overloaded, they would have to do what they called an IPL, which is an initial program load. They would have to really restart the machine again to get it going again.

So when they would do that, they would hang a red flag out the window of the computer room that everybody facing that direction could see and then everybody would stop hitting the keys on the ir keyboard. So, of course, this was something that we were trying to figure out what to do.

In about June of that year, I remember, I was parking in the garage next door to the 925 L Street Building. And so I had gotten in my car and I was driving out of the thing and the people were leaning over the railing. And my office was in the Capitol, it still is, I mean the Legislative Counsel's Office although I had an office over here at the 925 L Street Building. But anyway, people were leaning over and looking out at the garage.

And I thought, "Oh, I wonder what they're looking at," because there were so many people looking. So I pulled into a space and I went

and looked. And here's the fire department rolling up, and they're basically knocking out windows in the fourth floor of the, as we call it, the Ellis Building, 925 L Street or whatever, which is one of the floors of my office in those days. We had two main floors, the fourth floor and the fifth floor.

What had happened was, was that in investigating the fire, they got the fire out and so forth, but not before it had really wiped out that floor. Not burned it, actually the way most fires... most fires don't do things by burn damage and so forth. But by the time they got through putting the fire out there was smoke all over the place, there was water all over the place, humidity, and things of that sort.

They subsequently discovered, the arson investigators, that it had started in a storeroom in which there was computer parts stored, and somebody had probably sneaked in to have a cigarette, because we didn't allow smoking in the office. And so they probably sneaked in to have a cigarette and didn't put it out completely or something and it caught the bubble wrap on fire that housed and surrounded the computer parts. Once the bubble wrap caught on fire it was like this big inferno and it just created the fire.

Well, that was the floor on which the computer system was located and so it basically put the computer system out of operation. So we scrambled around Sacramento and found other places for both the

attorneys and the secretaries on that floor and so forth and kept ourselves in operation. And, of course, had to go back and produce bills in the old-fashioned way by typewriters and so forth. But in July we did, as I jokingly say, a careful planed deliberate consideration, and did a two-week procurement of a computer.

Basically, in those days there were two major computer manufacturers, there was IBM and Sperry-Univac, and those were the two folks that basically did big mainframe computers in those days. So I called them in and we did a head-to-head competition on them as to capabilities, cost, availability, things of that sort. I ended up selecting an IBM mainframe, and so then we started implementing that.

Of course in the meantime, we were rebuilding the fourth floor there; in fact, we actually moved the computer room. We took space up on the eleventh floor of the building and then built that into a computer room because when we went from the Varian, which could operate in a normal office environment, the IBMs and the Sperry-Univacs had to operate in a raised-floor environment. It had raised-floor and air conditioning requirements and things of that sort, so we had to have a totally enclosed computer room. So we built the computer room up on the eleventh floor.

By the fall of the year we had it up and running again and when the Legislature came back for the second half of the '77-78 session, we were

back up and running again with an IBM computer. All the problems were gone, because the IBM computer had the horsepower and the capability of processing the data that we needed. By then we'd also gotten the people better trained and so we didn't have typing tests appearing in the middle of the bills or bills looking like bar graphs and so forth.

But I will certainly go to my grave remembering my first year as Legislative Counsel for that particular reason. There were a lot of management problems that first year of just surmounting the initial part of the year and then getting ourselves reset for the second half of the year.

And then '78 rolled around, you were of course, alluding to '78, which is the year of Proposition 13 and a lot of changes in the Legislature. Of course, Proposition 13 passed in June and it was, of course, opposed by almost every political leader in the state including Jerry Brown.

When people saw that Proposition 13 was going to make the ballot and so forth, the Legislature actually came up with some counterproposals. But it really turned out to be a situation of too little too late, and Proposition 13 passed fairly handily in June. I think it would have passed anyway but I think its passage was sealed when if I recall now, I think the L.A. county assessor did something like refusing to release the property assessments or something of that sort. Which fueled everybody's paranoia as to where the property assessments were going to go. Because that was

the two factors that drives your property tax, your assessed value of your house times the tax rate.

There were some news articles on that and I think that everybody voted for Proposition 13 which had the effect of capping the tax rate side of it at one percent. Because in that particular era, in the seventies, we were in a high-inflation era and housing prices were going up quite a bit and so people's tax bills were going up quite a bit.

So that then meant there was a mad scramble, because Proposition 13, it was the eighty-five or eighty-words. But it was called the eighty-five or eighty-eight word wonder, because it was very simple as the way it was drafted. Basically, Howard Jarvis and Paul Ganns sort of drafted it on a kitchen table. But the language needed a lot of interpretation because the language was inconsistent in its provisions and it didn't cover a lot of areas and things of that sort.

So the Legislature was now scrambling to try and figure out what to do on the thing. One thing it did is said that you couldn't change the assessed valuation unless you had a change of ownership. But it didn't spell out what the change of ownership was and so the Legislature passed some pretty elaborate rules about what changes of ownership were mainly exempting a lot of things.

So for example, they said that when one spouse passes away that was not a change of ownership. You know, even though obviously you

had two spouses on a piece of property, now you have one. That was probably one of the easier things to do. But then they also provided that if you gave it to your kids, it wasn't a change of ownership. You inherited it; it was not a change of ownership. They went through and did a lot of definitions on what changes of ownership could be and so forth.

And of course, at the same time trying to scramble to bail out local government, because the Proposition 13 really didn't affect the state government directly. The money that was raised from property taxes was used really to support schools and local government services. So when 13 came along and basically froze the assessed valuation at the '75-76 year and then capped the tax rate at one percent plus then you could do some minor inflation adjustments as you moved along. It had a dramatic effect on the cutting back the amount of revenue available to local government.

At that point in time, I think in one area that maybe I don't know whether the people rested in their minds. I think people were more focusing probably on what their tax bill was, but the state had a six-billion-dollar surplus. Which was a very large surplus back in those days. It would be large today, but I mean, it was . . .

[Begin Tape 3, Side B]

GREGORY: So you had a six-million-dollar surplus and so what the state did of course was it sent a lot of that money down to local government to basically backfill the loss of revenue at the local government. Essentially what that

did was start the trend toward the State of California controlling a lot of functions of local government and schools and so forth that heretofore it really had not directly controlled, or let's say not controlled to the extent that it had after Proposition 13. But it's the old saying, "Whoever pays the piper calls the tune," and it's hard for any politician if you're sending all this money down to any local government not to tell local government how they ought to spend that money.

So they basically bailed out local government. Local government wasn't too grateful in some respects, from my particular perspective. The state, if I recall correctly in that particular time actually froze or cut back the amount of money available to state employees for salary increases. And in some of the bailout bills, the Legislature put a provision that said that, "OK, we're going to send you this money, cities and counties, but you can't use it to pay for increased salaries for your employees. In other words, this is to maintain essential services, not just to increase people's salaries."

Anyway, the unions went to court over that provision. I think it was the unions, but definitely local government went to court over that provision. And they ended up with the case of County of Sonoma versus... and I can't recall who the defendant was at that time. The Supreme Court held that that was an invalid provision, that local government could in fact use the money to raise the salaries of the

employees, that that was a municipal matter that the state could not interfere with.

So I think that sort of rubbed people the wrong way at the state level that think that the state employees are not giving pay raises, but the locals were giving pay raises to their employees. Because then, and even today, the salaries of a lot of local government employees far exceed those paid at the state level. So you're sending state money down to folks who were using it to pay salaries that were beyond the scope of what state employees would otherwise get.

But that started that particular process, and with respect to the Legislature, there was a very large anti-tax group that was elected in 1978. In fact, they were called the Prop 13 babies. So there was quite a bit of turnover in the Legislature, and of course because the people voted for Proposition 13... I mean, Jerry Brown was noted for being flexible. If you look at Jerry Brown's pronouncements within thirty days after the passage of Proposition 13, you wouldn't have guessed he was actually opposed to it thirty days earlier. Because he jumped right in front of it by saying, "We're going to implement it and carry it out," and this and that and whatever.

But in the Legislature it led to a lot of wringing of hands and whatever, and a lot of budget cuts and things of that sort, as the members

are trying to figure how to basically finance both levels of government, state and local government.

Some of those members, I think back, actually I think in 2004 if I recall correctly, I think were probably losing the last of the Prop 13 babies. I think Senator Ross Johnson, who will be termed out of office this year, was elected in 1978 to the Assembly. Another one that's still in state government is, I think, Bill Leonard. Who is now a member of the Board of Equalization was elected in 1978. I'd have to look at the entire roster to see who else was there, but those two people come to mind.

Again, we had talked at an earlier time about the changes in leadership in both houses in 1981, after the '80 election, but '78 was really certainly again a watershed year, not because of Proposition 13 but because of the group that got elected to the Legislature. I think that partisan divisions were more sharply defined starting in the 1979-80 session than they'd ever been before, and probably has continued that way since that period of time.

FERRELL: You just mentioned 2004, this is March 2nd, 2004, an election day. There is a proposition on the ballot that would change a provision of Proposition 13, which is that it would take two thirds of the Legislature to raise taxes, to get a budget. Now it's going to be brought down to 55 percent, if the proposition passes. That's a pretty big change. I believe, there's only three states in the nation to have such a threshold to reach.

GREGORY: Well actually, there's several two-thirds requirements and I think the one you're talking about with the three states is actually a two-thirds vote to pass the budget itself. And Proposition 56 on this election would reduce that to 55 percent. The reason why it takes two-thirds vote to pass a budget is not because the constitution says it takes two-thirds vote to pass a budget, but it takes a two-thirds vote to appropriate money from the General Fund if it's not for public schools.

And of course, the budget is a mixture of General Fund appropriations, special fund appropriations, bond monies, and of course, appropriations for public schools. For example, in a very elementary level the money that supports the Governor's Office is General Fund money. So just the appropriation for the Governor's Office, which is a small dollar amount and so forth, would take a two-thirds vote. The constitution doesn't require a two-thirds vote if it's special fund money. Special fund money is money that's restricted constitutionally or otherwise to be spent solely for a particular purpose.

So for example, Article XIX of the constitution provides for a gas tax in California. When you go to the gas station, you buy gasoline there's two taxes on your gasoline that are state-based. One is the gas tax, which is based on gallonage, and then there's a sales tax on top of the whole purchase after you finish when you buy it. Now, you don't see that because when you show up at the pump nowadays it just says two dollars

and something to buy your gas and so forth. But that gas tax is limited by the constitution and it can only be used for the development and construction of roads or the support of the Highway Patrol. So appropriating that money only takes a majority vote of the Legislature if you just did it by itself and there's other funds that are restricted in that way.

And bond monies, because when the people pass a bond measure that bond, the amount of money that's raised by the bonds is restricted to whatever the purpose of that particular bond is. And that would only take a majority vote. And in the constitution if you're appropriating money for support of the public school system which is kindergarten through... and the school system would go up into the community college area and so forth, that only takes a majority vote. So there's a lot of money that could be spent with a majority vote, but if it's something from the General Fund, then it takes a two-thirds vote.

The irony of that situation was, was that wasn't a firm requirement until the middle 1960s. When the Constitution Revision Commission, which was in existence in those days and reforming the constitution, and of course, then presenting the proposals to the people changed what would have been the formula before that time. And that was that annually there was this formula. It said that—and without looking at it I may be a little bit off in my specifics—but what it basically said was that if the budget

this year was going to be more than a certain percentage of the budget from the prior year—and we have annual budgets in California—it had a certain percentage, and there was growth in it.

For example, if it was no difference than the prior year or less, you could pass it by majority vote, even General Fund appropriations. But if it was more than a certain percentage increase, then it had to be passed by a two-thirds vote. What the commission had looked at was the fact that over the last—let's say, pick a period of time, a decade or more, something like that—every budget had taken a two-thirds vote because of the fact that the budget had exceeded the prior year's budget by that percentage, because California was in growth mode.

If you look at California in the fifties and sixties, I mean we were building roads, we were building universities and so forth. And there was a lot of money coming in and so we were spending a lot of money. So the commission just said, "Well, since they're requiring a two-thirds vote, it takes a two-thirds vote, anyway, not legally, but because practically, we'll just change the formulation and just say if you're spending general fund monies other than for public schools, you have a two-thirds vote."

Now the irony of that situation is that if they hadn't changed that formulation then budgets of the last few years probably could have been done by majority vote because these budgets actually retrenched rather than growing. But that standard was changed. So we've had that standard

and as you said, we're only one of three states, and I don't know the other states, that's only what I read and so forth, to have the two-thirds vote. So this would take us back to 55 percent of the proposals in the past and 50 percent. But somehow people think that 55 is a little more magic or something or gets more of an acceptance. So we'll have to see, you know, sometime in the early hours of the morning how the people react to that particular proposal.

What Proposition 13 did, besides clamping down on the property taxes, then put also a two-thirds vote requirement to raise taxes on anybody else, any other kind of taxes. Which was not the rule before, they could raise taxes by a majority vote. There are provisions in this Proposition 56 that would allow taxes that are budget-related to be raised by again, that same 55 percent. The language is sort of interesting and we'll have to see if it passes, how it plays itself out. But that would be sort of a retrenchment from where we were after 1978.

FERRELL: Your job as Legislative Counsel also puts you on a couple of commissions, California Law Revision Commission and the Commission on Uniform State Laws. What are those all about?

GREGORY: Well, the California Law Revision Commission is the successor to the California Code Commission. The California Code Commission was a commission that existed during the 1940s and codified California law. In California law, up until the 1940s, with the exception of a few codes such

as the Code of Civil Procedure, the Civil Code, the Penal Code, and the Probate Code, the California law is what they were called uncodified, which means they were just general laws.

Today we would refer to something as a section of the Vehicle Code, and you would actually be able to go and if you look at a private publisher, they would have the Vehicle Code, and you would look up that section of law. But in those days there were just what they called general law sections. You'd refer to them by the chapter number and the year in which that particular statute was passed, and they were not codified. It's hard to give a better term there—placed into codes.

So placing them into codes, of course, makes them much more easier to reference than just having general uncodified laws. And so the California Code Commission was created, and they spent the better part of a decade going through and codifying all the laws of California and so forth. So we ended up with, I forget, 25, 26 codes in California, and some logical groupings in those codes. And then those bills are passed by the Legislature. Like for example, in 1945 they passed the Government Code, which is one of the larger codes.

And so the Code Commission's work was finished, and they went out of business, and the successor was the California Law Revision Commission, which was created to basically sort of keep the laws modern in California. It's composed of appointees of the Governor, the

Legislative Counsel, a member of each house of the Legislature and it has a staff, a very small staff. It used to be headquartered down at the Stanford Law School and now it's still in Palo Alto but it's in an abandoned grade school across from the campus and so forth.

It engages in revising and eliminating anachronisms of the law, particular those areas of law where the Legislature really doesn't deal with on a regular basis. For example, it doesn't get involved in taxes, in taxation or penal codes, welfare issues, various things like that and so forth. For example, one thing it did over a number of years was take a look at the law of eminent domain in California. There was sprinkled throughout the codes of California all these laws that dealt with eminent domain, which is the power of government to take property that belongs to a private party by paying just compensation for it, but nevertheless, taking it for a public purpose.

Over the years all of these variety of governmental interests and so forth, water districts and sewer districts and levee districts and all these little districts and cities and counties and so forth all had their own little law of eminent domain that was sort of unique to them. So the Law Revision Commission, over a multi-year period, went through and basically removed all of those out of those individual bodies of law. They put them into one central body of law that dealt with the power of government at whatever level, state, county, city, local district and so

forth. To take power by eminent domain, establishing one procedure you could look at in one place. And then keeping only any unique provisions that might apply to a particular district because it happens to have a unique aspect to it or something of that sort.

This is not a glamorous task and it takes a long time to do it and so over a period of time the staff produces reports that are considered by the commission. They hold public hearings so people can come and testify as to how they feel about it and then ultimately a bill is introduced in the Legislature and debated in the Legislature and passed by the legislature.

The Law Revision Commission has a very high success ratio on its bills. By the time it introduces a bill it's been pretty completely vetted and so the bills go through the Legislature fairly easily. But essentially that's the function of the thing is to do that non-glamorous work of making sure the law stays modern, rewriting the law and so forth in modern language.

FERRELL: It seems, maybe in an abstract way, you're sort of going against your job description as a Legislative Counsel in that you're actually recommending laws, whereas you don't do that as Legislative Counsel.

GREGORY: It's true, it's a perceptive comment, and it does in a sense, but I mean that's what the law says. In other words, the law itself can eliminate conflicts. If somebody might otherwise have a conflict, the law itself can say, "If you're acting in these modes, you don't have a conflict," because conflict is only a thing that the law creates. Basically, a law which creates

a conflict of interest can also excuse a conflict of interest and so forth. And so by basically saying Legislative Counsel serves in that particular capacity, what they're saying is at least when you're wearing your Law Revision Commissioner hat, you can make a recommendation.

Now, it probably is relatively innocuous because, as I said, the Law Revision Commission does not get into the so-called hot button areas of law. So the Law Revision Commission doesn't get in there and recommend taxes be increased or reduced, welfare payments be increased or reduced, criminal penalties be increased or reduced, things of that sort and so forth—areas that are highly controversial in the Legislature. I mean, they really are dealing in the nuts and bolts, making the law a better thing.

So even though, like for example, in the eminent domain study, there were some changes in the law from the current law. It was really more of an effort to pull it all together into one coherent body of law, and the number of changes in it were relatively small and not controversial. So that doesn't present much of a problem.

The other commission I serve on is the California Commission on Uniform State Laws. Each state has a Commission on Uniform State Laws and each state decides exactly the composition of their commission. There are also commissions in the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. California's

Commission is composed of six appointees of the Governor, the Legislative Counsel, a member of each house of the Legislature, the Senate person selected by the Senate Rules Committee, and the Assembly [person] as selected by the speaker, and then also has other commissioners on it.

Anybody who's a life member from California of the National Conference of Commissioners Uniform State Laws, which means you've been a member of the commission for more than twenty years, is forever a member of the California Commission. Anybody who's not a gubernatorial appointee, which is basically the universe of Legislative Counsel and the members of legislature, if they've been on for more than ten years, then they're also a member of the California Commission.

What that commission does, as I said, is participate in the work of the National Conference of Commissioners on Uniform State Laws. That's a body that was created in 1892 to establish a body where the states could act in concert in areas that the federal government was not involved in. Or they didn't want the federal government involved in, but where the states felt they needed to act in concert to have some common body of law across the United States.

So over the years, over the more than hundred years of its existence, the National Conference has promulgated quite a number of uniform laws. The hallmark work of the conference, of course, is the

Uniform Commercial Code, which has been adopted in all fifty states. Even though Louisiana, which is one state that is a civil law jurisdiction, so because their law comes really from the Napoleonic Codes and whatever, has never adopted the code verbatim in the sense of adopting the entire Commercial Code. But on the other hand, they have bodies of law like Article II, which is sales and other areas and whatever, that are essentially part of the Uniform Commercial Code. So as a practical matter, even Louisiana is a so-called Commercial Code state.

So all the commerce of the United States is basically governed by the Uniform Commercial Code, whether it's Article II, governing sales; Article III, negotiable instruments; Article IV, bank deposits and collections; Article IX, secured transactions.

I mean, when you buy a car, there's probably a filing made with the Secretary of State's Office which shows that the creditor on the car has a lien on that car until you pay it off. And of course, by filing with the Secretary of State, you can actually just... actually I misspoke. It wouldn't work for an automobile, because an automobile they do that through the Department of Motor Vehicles. The lien shows on your certificate of title. But if you went and bought some other piece of personal property and it was financed and so forth then they could file with the secretary of state showing they had a lien on that property until such time as the debt is paid

off. And anybody going to the secretary of state's office could actually find the existence of that particular lien.

So anyway, that's one of the most important areas of the conference. They also do things in the family law area. So for example, we have the Uniform Interstate Family Support Act. That act allows support orders to be enforced across state lines. So for example, if you had a couple that get a divorce in Nevada—we'll make it close to California it doesn't make any difference it could be Pennsylvania for all that matters—and one of the spouses comes to California and they have a support order that was issued by a Nevada court. They needed to try and enforce it in California, they could actually, under the Uniform Act, enforce that support order in California pursuant to the requirements of the act. So there's reciprocity in that particular area. There are areas also dealing with custody of children. There are areas dealing with the enforcement of domestic violence orders, and so forth.

California, I think, has about thirty of the Uniform Acts on its books right now, so it's an active area the conference is working in. For example, there are bills introduced this year in the Legislature that's going to revise the Uniform Parentage Act. The Uniform Parentage Act was an act that was promulgated by the conference back in the early 1970s to eliminate the stigma of illegitimacy, which was a big stigma back in those days. I mean kids were called bastards if they didn't have married parents

and things of that sort. Now we've come a long, long way during that time. And so the act is being modernized to reflect more modern concerns and surrogacy and things of that sort and so forth.

We also have a bill in the Legislature this year to revise Article VII, the last of the articles is being revised of the Uniform Commercial Code. It deals with bills of lading and other esoteric things and so forth, very relatively minor matters, as far as most people's concerns are.

But that's the situation where the national conference has drafting committees. The California commissioners participate in those drafting committees and then once a year they all come together in an annual meeting and they debate the Uniform Acts. Then if they're approved by the state delegations then they're promulgated and sent back out and each state delegation then introduces the acts in their legislature to get them passed.

I served as the president of that conference from 1995 to 1997. So I've been actively involved in the work of the national conference over the years.

FERRELL: That's good for business. That's good for foreign business as well, this national conference?

GREGORY: Well, it doesn't deal with international matters. Actually, international business matters are really the problems of the Congress. They simply involve foreign relations. Now of course, if you have a foreign company

doing business in California, I mean Honda Motor Cars that are doing business in California selling their cars here. They would, of course, be subject to the California laws and the California law would be the Uniform Commercial Code.

But if you were doing a business transaction with Honda Motor Company of Japan and here, then that would be more of an international business transaction. Although if you read their contracts, they would look a lot like the contracts we would use here in the United States, but again, that would be subject to a different set of rules. So it's basically meant to be an area where the fifty states want to act in concert in matters among them that collectively deal with matters among themselves.

FERRELL: In 1980, you got married.

GREGORY: Got married in 1980.

FERRELL: How did that happen?

GREGORY: I don't do things early in life, so it was my first marriage.

Well, I'd met this lovely lady who was Patty Lowney. So when I first met her she was the secretary to the chief deputies in the Legislative Counsel's Office. I became Legislative Counsel in 1976 and so my first secretary was really the secretary to the prior Legislative Counsel but she was getting near retirement and actually was at retirement. So she retired and I had a couple of other legislative secretaries, one of whom subsequently went to law school. Well, actually went to law school as she

was working for the agency, and then did very well at McGeorge Law School. In fact, we worked on the Law Journal there and subsequently was hired as an attorney in the office and, in fact, is still working in the office.

Eventually I think there was a vacancy in the thing, and so Patty became my secretary. And at that time there was no personal thing between us. In fact, I had a relationship with somebody else at that point in time. But we went out on a couple of casual dates and then realized there was sort of a feeling for each other. So at that time we thought, well, it really wasn't good for the office if the boss is dating the secretary and all the things that that would entail. So she left the office and went to work for Assemblyman Charles Imbrecht, who was an assemblyman from Ventura County.

Then we were dating and then got married in 1980. In fact, since both of us were older at that time, we sort of put on our own wedding. We were married at the old Supreme Court chambers down in Old Sacramento here. We rented the old Supreme Court chambers, which you can do, and were married by Gordon Schaber, who was the dean of McGeorge School of Law at that time.

There was actually a bill that went through the Senate Judiciary Committee. The law before this bill went through said that a retired judge could marry people. In California it was just a limited group of people

that could marry folks. It's been a little bit more liberal now in more recent years. But one of the people that could marry people was a retired judge. Judges, of course, could marry people. A retired judge could be marry people. But a retired judge had a set meaning, and that meant that you had to actually be on the bench and you had to retire under their retirement system.

Gordon Schaber had been a Superior Court judge but he had actually resigned from the bench because he really wanted to head up the McGeorge Law School, which was a very small law school back in the days when he started. And of course, much to his credit, had built McGeorge up to the national stature it has today where it's an American Bar Association-accredited school and things of that sort.

Gordon was not a retired judge, but Gordon wanted to conduct marriages and so forth. Gordon was a Democrat, lifelong Democrat, graduate of Hastings, my same law school I graduated from. But Gordon was the kind of person that was well respected in the community and so he had friends in all the administrations. Whether it was Pat Brown's, who of course was a Democrat, Ronald Reagan, of course who was a Republican, Jerry Brown who then, I think, was the Governor at that point in time. So everybody knew Gordon, everybody liked Gordon, everybody conferred with Gordon, and so forth, no matter what political party you were a member of.

So Gordon got a member to introduce a bill that allowed a resigned judge to conduct marriages. The bill appeared before the committee.

Actually, the bill was opposed by the Judicial Council. The reason why the Judicial Council opposed the bill was the fact that although a resigned judge could be like Gordon, who just resigned because he wanted to go off and do some other things, which was the McGeorge School of Law. Some judges who were resigned, resigned only because they had the Commission on Judicial Performance hot on their heels to recommend to the Supreme Court, "Throw them out of office," or something. They decided, "Well, I'll just resign, and then it all goes away." So they thought it wasn't a good idea. But as I explained, Gordon had friends all over the place and so the bill went sailing out of committee, went sailing through the other house and got signed by the governor.

Gordon had been a family friend for years. I mean, he had known my dad in Sacramento and then I had met Gordon a number of times and we'd conferred on a lot of different things. So I called Gordon up and I said, "Gordon, you remember that bill that went through the Legislature a number of years ago?" because this was probably about roughly six years later. So I said, "Well, I think we need to put that to use, so I want you to marry us."

So, anyway, Gordon married Patty and I in the old Supreme Court chambers and then that's a relatively small thing so we just had family and

some friends down there. But then we walked back to the courtyard of the Firehouse Restaurant and there we had all our friends there for the wedding reception. So we had a great wedding reception that Saturday afternoon on the Firehouse courtyard.

We've been happily married since 1980, and so this is coming up on our twenty-fourth year, because March 29th is our anniversary date.

FERRELL: Coming right up.

GREGORY: Yes.

FERRELL: I understand she works for the [California State] Archives now?

GREGORY: Yes. She had a variety of positions. I can't recall, she finished up, she went back to college at [California State University, Sacramento] and got a degree at Sac State in anthropology and then she started working for the City of Sacramento. At one time she was the curator for the City of Sacramento here at the.... They call it SAMCC, Sacramento . . .

FERRELL: Sacramento Archives and Museum Collections Center.

GREGORY: Collections Center, or something like that. It's called SAMCC, she was working over there and then the city went through some really rough budget times and whatever. And so she got RIF'd, you know, the magic word for reduction in force.

They eliminated the curator position over there and so then they still have never put it back in again and so forth. So she then went to work for the State Archives, the Secretary of State's Office, and she of course,

specializes in legislative records because having worked in the Legislature, she understands all those records.

She retired at the end of, not last year, because last year now was 2003. She retired at the end of 2002, but again, because of her experience they asked her to come back as a retired annuitant. So she has been working as a retired annuitant over there at a very reduced work time schedule. So she's still over there processing the legislative records, which of course, have increased in volume because with the term limits nowadays, more members are leaving office and sending their records to the archives.

FERRELL: You talked a bit about the big fire with your computers and going to the IBM mainframe, but the growth of automation, information systems, whatever you want to call it, in the Office of the Legislative Counsel just grew phenomenally while you were there.

GREGORY: Right. As I said, we basically by '78 we were back online with at least a modern mainframe. And it was working quite well, but not much was happening in the houses. The houses were not very well automated if it at all. In fact, in the Assembly they always point to the Assembly. Only one person in the Assembly had a correcting Selectric typewriter and that was the secretary of the Rules Committee. And they consciously didn't give one to anybody else, because the minute they felt they gave a correcting Selectic typewriter to one secretary outside the Rules Committee—the

Rules Committee is the one that controls everything in the Assembly—then they would have to give it everybody. So they didn't give it to anybody, and so forth.

So there was a great hunger out there to modernize, and when Willie Brown became the Speaker in 1981, Richie Ross became the Chief Administrative Officer of the Assembly. So Willie wanted to automate the Assembly, and so he charged Richie with that task. Richie started looking around to see what to do, and of course, he knew that we were running computers and so forth, and so he called us in and said, "Well, what can you do?"

We pointed out what the technology could do nowadays and so forth, and there were other folks that were floating around at that time that were trying to pitch their technology. Now, they're still around today, but they provide information services to people who want to pay for their service. But they just had what we would call dumb terminals, where you could actually call up and look at a bill or print a report on it or something of that sort, but you couldn't do any word processing.

The point we showed to Richie was the power, of course, of the system was to do word processing and produce letters, reports, and things of that sort. He thought that was really where the Assembly needed to go, so he basically said, "We want you to do it."

Then of course, Willie did one of his Willies and said, “And, of course, we’re going to have this running in one year.” So it’s sort of like, OK, off we go, here we go, and so we started looking around, decided which vendor we should use and basically, I ultimately decided on a particular system, which, if I recall correctly, was the IBM 8100 system, which was fairly state-of-the-art in those days.

So we were about several months into that project when all of a sudden the Senate somehow woke up and said, “Well gee, if the Assembly automates and we haven’t automated, we’re going to look a little stupid. So we want the same thing.” And so they came to me and said, “OK, we want to automate, and we want to have ours at the same time the Assembly does.”

So now we had this project, and suddenly we now have both houses who want to automate, and so we were off to this mad rush. You have to understand that if you look at the normal data processing project, they say that the rule of thumb generally is that if you’re producing a new system, which is a strategic system, in other words, basically it’s a system on which your business lives or dies and so forth, it’s generally a three-year project. If you’re just doing minor changes in the project, it’s probably a one-year project.

And we were doing all of this in one year. And of course, since they had never been wired or anything like that for data processing before,

I mean, it was a flat-out race just to get this thing done. But in April of 1982, Willie Brown held a press conference to announce to the press that this new magic system was coming into fruition and whatever and so forth. It was one of those magic moments in time, because this was not planned at all.

Willie Brown introduced few bills in the Legislature when he was the Speaker, and this year he happened to have a bill that dealt with... I think it was the harbor pilots. Ferry boats or harbor pilots; I can't recall what it was. So we had set these terminals up in the old part of the Capitol, which had by then been restored. You know, the Capitol actually had been declared earthquake-unsafe back in the early seventies. Then starting in the latter part of the seventies, they'd actually started the restoration of the Capitol, which was a huge project in and of itself, and we had big litigation over it and so forth.

But that had all been completed, and so now they're back in the restored Capitol. I think, if I recall correctly, it was on up on the fourth floor of the restored Capitol. We had set up these terminals so the press could come and look at them and so forth. The system could do a variety of things. It could, obviously, do what today we call word processing and things of that sort. But that's not what Willie was there for, but also it had the rudiments of the legislative information system, which today you can find at: www.leginfo.ca.gov. Which today is available to the public

and things of that sort. But at that moment in time, it was just a very rudimentary in-house kind of system that we had set up.

So one of the press guys said to Willie, he said, “Well, Willie, you got any bills introduced this year?”

And Willie said, “Oh, yeah, I got this,” and again, harbor pilots or ferryboat.

And he said, “Why don’t you see if you can find it,” and we’re going like, “Oh, my god.”

And so Willie typed in the thing, either ferryboat or harbor, whatever the term was, and it was one of those magic moments that up pops Willie’s bill [Laughter]. And so there it was, you know, showing the bill number and Willie Brown the author, and a description what the bill did, and things of that sort. You couldn’t have scripted it. If we’d tried to rehearse it, it probably wouldn’t have worked, but it was just one of those things that you go, “Wow.” [Laughter] So the press was surprised, Willie was pleased, and so forth.

Then over a period of time it was just more evolutionary over a period of time where the systems were changed, extended, extended out to district offices, and things of that sort. I don’t think they have 580 employees today in the Data Center. I think the Legislative Counsel’s Office may have 580 employees, but the vast majority now are in the Data Center. I think over 300 are in the Data Center, of the 580 employees. So

it's been a huge growth from the five people that I started with in 1976, that I inherited from my predecessor George Murphy, to the more than 300 that I left in 2001. It's still a very large operation, and it's the most sophisticated data processing operation I'm aware of in any of the legislatures of the fifty states, and we're even better.

The leg info website, which was created, started in the '91-92 session from legislation that was proposed by now Senator Debra Bowen, and so forth, is much more timely than, say, the federal system. You can read about a federal bill being introduced, and it takes days for you to find the thing on their Thomas website. In California, as I indicated earlier, I mean, really the Legislative Counsel's Office is the so-called state printer for a lot of respects now because the data is created in that particular office, transmitted electronically to the printing plant for the purpose of printing.

California, of course, has had a history of printing its measures since the nineteenth century. You can go back and look at the early legislative process and find high-style typography measures back in those days. A lot of the states you look at, it looks like they came off a Xerox machine or a typewriter or something of that sort. We've been running a printing plant almost from the beginning of the state's existence and so forth.

Of course, with the modern technology of the high-speed web presses, I'm not sure what their runs are today, but back when I was Legislative Counsel, they would run about two thousand copies of every bill or amended bill every night overnight. So in the morning it would be back in the bill room. You could get a copy of that particular bill and so forth.

But what we do is we capture the data, we transmit it to the printing plant, but we also then transmit the data into our own systems. So in the early part of the session, any bill that's introduced on a day or any bill that's amended on a day, probably, if you have a bout of insomnia, by one or two or three o'clock in the morning, if you log onto the leg info website, you will actually see that piece of data. You will be looking at the exact version of the bill, as it will come out in print. If you print it off your computer, and if you go look in the printed bill in the website, if you look at the PDF version, it's the identical version that comes out of the state printing plant.

Later on, when the volume gets heavier, it's probably five to seven o'clock in the morning when everything is updated and so forth. But the bottom line is, when you really get up and you're ready to go to work in the morning, it's available to you as a copy of all of the material that was amended or introduced the day before.

[Begin Tape 4, Side A]

GREGORY: It has the history of all the measures as it goes along, nowadays it has all the committee analysis appended thereto, the votes on the floor so you can go see who voted for it in committee or on the floor. The website also has all the current California law on it. You can take a look, see what the current provision is of a particular code. That site is kept updated where if the Governor signs an urgency statute, which, of course, will take effect immediately, within twenty-four hours they will go in and update that database so that you're always looking at the most current law.

FERRELL: I was really impressed with it. Just about a month ago, I was following some legislation, it was S.B. 50, and it's really interesting the way it's updated. I see language that's crossed out, and I see other language that's in italics.

GREGORY: Right.

FERRELL: How does that work? Italics means it was added later on, and struck out means it's removed?

GREGORY: Right.

FERRELL: And that's updated every single day?

GREGORY: Well, yes, the database is updated every day, and of course, if that bill has been amended that day, then overnight the amended form will then be added into the system, and you will find it the following morning.

In California we have a system where when the bill is introduced, any change in law is shown in ~~strikeout~~ type or *italic*, so if it's ~~strikeout~~

type, that means that the language has been removed, and if it's italics, it shows that it's been added. Then in California what we do is between each form of the bill, what you see the changes made from one form of the bill to the other. Until you get to the enrolled bill, in which case then that's the form of the bill that goes to the Governor for consideration. At that time they take out all the strikeout type and all the italics.

There's been a debate over the years as to whether or not we should change to a system where each form of the bill shows the change from existing law as opposed to the change from the prior form of the bill. If the bill's been amended two or three times, you will then not be able to tell what the changes are from existing law unless you lay all the versions of the bills together. Because all you're going to be looking at in the third or fourth version, or the third version, is the changes from the second version.

When that debate is had, legislators have always stayed where they're at, and the reason why is because... the two arguments are, if I have a change of existing law, then I can look and see how the law's being changed. But the dynamic legislative process is such that oftentimes a member will tell the author, "Well, I can't really support your bill the way it is, but if you make these changes, then I can support your bill." Well, since they show the changes from one version to the other, then you can see that those changes actually were made to the bill. If you just always

show the changes from existing law, for reasons that we could go on for another six hours, you wouldn't necessarily see those particular changes. So the members have stayed where they are, where one version shows the changes from the prior version and so forth.

Now of course, you can still look at the face of the bill. Because one other thing the Legislative Counsel does when any bill is prepared is they do a digest on the face of the bill that tells you what the existing law is and then how the bill would change existing law. It may not focus on the specific revision you're looking at, because it's a bill, of course, it's a huge bill. If it's a fifty-page bill, you can't digest all fifty pages, otherwise the digest will be as long as the bill, so you have to pick and choose the most important provisions to digest. But nowadays there's also computer technology out there that there wasn't many years ago, where you can actually use the computer to compare various. You have to download it to your own system, but you can actually compare the bill against existing law and actually see what the changes are on the thing. So there's ways of getting to that.

But the bottom line is, is that the data is out there for anybody to look at, regardless of where you are, and I should say in the world, because that site has gotten hits from throughout the world of people looking at California for its legislative information. And if you look at that website today, and if you could look back in time to the website of

'91-92, you're staring at exactly the same website that came up in '91-92. It's sort of a rule of thumb, so to speak, that to get people back to your website you've got to make changes and make pizzazz and you've got to nowadays do animation and you've got to do this and so forth and so on.

Well, probably because of budgetary reasons more than anything else, we never changed the website when I was Legislative Counsel, and it still looks the same as it did back in '91-92, which is sort of [dated] now because it has a wallpaper in the back. It has a look that you wouldn't today... you wouldn't design a website to look like that today if you started from scratch today.

But the basic data, what people come to that website for, is not to be entertained or check Sony's latest gismo or what the General Motors recent car looks like or things like that and so forth. They come there because they want the basic legislative information, and that site today still provides that in the same manner it did in '91-92, and it gives the people what they're looking for.

FERRELL: Well, I for one was very impressed by it. I first became aware of it just a couple of years ago. I thought it was fantastic, and I appreciate that it doesn't change. I hate the new gismos and things.

GREGORY: Right. Well, that's a part of the problem, is that you sort of like to have the old shoe that's comfortable, because you know exactly when you click

on this button what you're going to get or where you're going to go and all that kind of thing. You don't have to be relearning things.

Now, some of the technology that underlies that website is pretty dated now, and there's some better search engines out there, for example, that could be used, based on what we had in '91 and '92 and so forth. So I'm sure over a period of time when money allows and whatever, they can update the underlying technology of it and so forth. But it's still pretty good today.

FERRELL: Yes, it sure is.

GREGORY: Also, I should say that the one thing, fortunately, is there was going to be a period of time we were thinking of having to archive off the old data. But with the cost of chips dropping as dramatically as they have and the cost of computer storage dropping the way they are, that site's been able to keep all the data that it did back to '93. So we never have to take anything off. So the '93-94 session is still there on that website, and considering the fact that the cost of storing data nowadays is still pretty cheap, I don't think they'll ever have to change that. So it will always.... Who says always? I mean, always means a millennium. But certainly in my lifetime, I'm sure they'll have all the data there from '93-94 forward.

FERRELL: It's very democratic, bringing the latest stuff out to everybody in the world.

GREGORY: Right.

FERRELL: It's there for everyone to see.

As far as the computers goes, there was a fight between... well, I shouldn't say there was a fight between you and Willie Brown. But back in 1986, Willie Brown tried to not get you reappointed, as you're always reappointed at the beginning of each legislative session, and there was some fight over the computers.

GREGORY: I don't recall ever having a problem with Willie about as far as my being Legislative Counsel. You know, I don't have that same recollection in '86, but . . .

FERRELL: He put it off to the Rules Committee, the joint resolution in reappointing you. You had already been there ten years.

GREGORY: Well, it probably got sent to the Rules Committee, because, actually, probably the greatest disagreement I had at that time was with Tom Brin, the chairman of the Rules Committee. Maybe he sent it there as a favor to Tom Bain. But the resolution came out, and I got selected again and so forth.

But the lifecycle on computer technology back in that time frame was basically three to five years. The technology was moving fast enough that three to five years after you installed the system, you really had to look at whether or not you would go to another system because of the rapid advances that were occurring. So we had a dispute over where we ought to go for the next generation of computer equipment. There was a

long, drawn-out process of reports that were done as to who the players were at that time and the different systems that were available and things of that sort, and I just had a dispute with Tom Bain over which was the best direction to go.

The bottom line was that basically the customer ultimately has the choice. I basically provide the service. Even in the 1981 time frame, I presented the options to Richie Ross and he was the one that basically said, "All right, this is the way we're going to go." He went the way that he thought was the best way to go, so there really wasn't any difference of opinion. Tom Bain felt that we should go a different direction, which we felt was not advisable. But ultimately, he said, "That's the way we're going to go," and so that's what we ended up doing, and we ended up buying Digital, DEC, or Digital Equipment [Corporation] and so forth.

In retrospect, I think it was a mistake, and I think actually the employees in the Assembly that had to use it thought it was a mistake. DEC was basically an engineering company, and the old joke was, you could hit the enter key and go out and have a cup of coffee and come back by the time your document was processed. Because, again, I explained the problem with the Varian equipment back in 1977, the DEC was the same thing. It was developed for engineers, and they were trying to move into the office environment, and it was not a smooth transition.

FERRELL: Now, DEC is Digital Equipment Corporation.

GREGORY: Digital Equipment Corporation, right, which no longer exists today. It's been one of the companies that's been subsumed. But it was a major company back in those days.

But anyway, we installed the DEC, the digital technology there in the Assembly, and they ran with that for quite a number of years until... I think probably until the Republicans took over in '96, if I recall correctly. At which time the Republicans basically threw out the DEC equipment and went a different direction at that particular point in time.

So, yes, there was obviously a disagreement, but I never viewed my job as Legislative Counsel as being in jeopardy in '86.

FERRELL: I think one of the problems, or something that Willie Brown wanted to do was to use information from mailing lists for political purposes.

GREGORY: I don't recall that. We did a lot of mailing. We did a lot of mailing in the Legislature and so forth, and we had a lot of mailing lists. Maybe somebody made that allegation, but basically the mailings were scrutinized in both of the houses if you want to do large group mailings. But the Data Center did huge amounts of mailings in those days. They were all in accordance with the Political Reform Act, is what you were allowed to do, and so forth, because there was actually an initiative was passed that limited the types of mailings that people could do and so forth. Which up until that time you could be pretty promotional as far as yourself, not in a campaign sense and so forth, but, I mean, you could have

your picture on it, and you could do a lot of things or whatever. That initiative cut back that capability.

There were generally customized mailing lists for all the members. Each member decided how they wanted to manage their own mailing list and so forth. And so they would do town hall mailings and all sorts of mailings and things of that sort. It's probably that beauty's in the eye of the beholder, if you're not an incumbent, and you're sitting out there challenging an incumbent, then anything the incumbent sends out to you is going to be politically oriented.

But the issue is looking at the four corners of the mailing, and one function of the Legislative Counsel's Office would be that sometimes they would bring the mailing to us. Each house had its own folks who would basically be in charge of reviewing the mailings to make sure they didn't have a political tone to them and stuff like that. And then if there was a question about it, they would bring it to us and they would ask us for our legal opinion whether or not it presented a problem.

Of course, they were very sensitive when it got into an election year. They were very sensitive when there were initiatives on the ballot and so forth. Because it's very clear that we can't use government funds to sway people's opinion as to whether you should vote yes or no on an initiative or vote for a candidate or something of that sort.

Of course, in the mid-eighties we had the Rose Bird... when they basically had the campaign to vote down Rose Bird and other justices on the [California] Supreme Court. And I recall there were some members that wanted to use the legislative systems to send out things that were urging people to vote against the justices. And they were not going to allow that and so forth, either for support or against the justices.

So there's a huge volume of mail that went out, so in numbers it was very large, but, by and large, I think they kept it pretty clean as to issues that would be viewed as a political issue. There was one that says that Paul Ferrell is a wonderful guy and he ought to be returned to office. Now, if you're the opponent of Paul Ferrell, and Paul Ferrell is sending stuff out to the district about all the wonderful bills that Paul Ferrell has introduced, you probably wouldn't like that and think that that's political. Well clearly, from Paul Ferrell's standpoint he's getting his name before the people in his district, but he's also talking about the bills in the Legislature that he's introduced and what they're going to do and why they're the greatest thing since sliced bread. Or he may be talking about bills that people in the other party have introduced and why he thinks those are bad ideas and why he's going to vote against them.

So it's always this balancing thing. You've got a situation where you want to keep your constituents informed about what you're doing up here, but again, you don't want to slide across the line to say that, "OK,

now since I'm doing such a wonderful job up here, vote for me." So that's sort of the debate that goes on on the use of mailing by... anytime there's a mailing on behalf of an elected person.

FERRELL: Sounds like a never-ending debate.

GREGORY: It will never be resolved. As I said, it depends on which side of the fence you're standing on at that particular point in time.

FERRELL: A lot of interesting things happened in the 1980s.

GREGORY: I think probably from the legislative standpoint the biggest thing that happened in the 1980s was Proposition 24, I hope I have that number correct, in 1984.

FERRELL: Which one was that, now?

GREGORY: That was the one that was a statutory initiative that basically cut the legislature's budget and changed the way the Legislature operated. Basically, it was an anti-Willie Brown move. I don't know if we talked about it... we talked about the redistricting.

Willie Brown became the Speaker of the Assembly in 1981 with a coalition of the McCarthy Democrats and the Republicans. I was not privy to any of these discussions and so forth, so I can only go with what the press reported and so forth. But one of the things of concern, since it was 1981, which is again, the year after the decennial census is taken, which was in 1980, then reapportionment, redistricting would, of course, be the big hot topic. You know, redrawing the legislative districts. It was

rumored that... it was reported that Willie had said to the Republicans that we'll be fair and we'll be.... Because the Democrats, of course—even though it was a coalition made him the Speaker—the Democrats were still the largest number in the Assembly and in the Senate. [He said] that we will be fair or something, whatever words were said on that particular issue.

I have no doubt, being around the process as I was, that I'm sure the subject came up, now what was said was only, obviously, heard by the people speaking and listening at that point in time. But anyway, the redistricting was done by the Legislature in the 1980s. And the Republicans felt they got a real raw deal in the redistricting. And so there was a lot of animosity and so forth, and so there was a lot of attempts to try and cut back the power of the Speaker and things of that sort.

So there was this initiative that was passed, and it slashed the Legislature's budget, and so there was substantial cutbacks in the Legislature's budget at that point in time. The irony is that there were actually some.... The Legislature probably did not really have to cut his budget as much as it did, because there actually were some funds that had been held over. There was always some funds in reserve and whatever and so forth, but the Legislature at least wanted to make a showing that they were hurt by it and so forth.

But the initiative was challenged and successfully defeated. We litigated the matter, and the initiative was overturned because it was a statutory initiative, as opposed to a constitutional amendment, and the statutory initiative, the court found it infirm for a lot of reasons. First of all, the constitution gave the Legislature the authority to make rules for its own proceedings. So to have a statutory initiative, which is, obviously, of lesser dignity, coming along and try and redo those rules, spelling out how the Speaker would be selected and how the chair.... I can't recall right at this moment without looking at it all the nuances of it, but it dealt with the Speaker, it dealt with how you pick select committees, it dealt with all sorts of internal matters. That was contra to the constitution that gave the Legislature the power to make those decisions and so forth.

And then as far as the budget goes, there's provisions of the constitution that provide how the budget is done, that the Governor proposes the budget, the executive budget, and whatever. And again, these statutory provisions were a violation of that.

So the court struck down Proposition 24, except for, I think, they preserved a couple of minor provisions that dealt with open meetings or something of that sort. So, 24 went away. Now of course, that was sort of the precursor to Proposition 140, which came along later in 1990, which we can talk about at a later time.

But that was a lot of turmoil at that time. I had friends that got fired because of the budget cutbacks and things of that sort in the Legislature at that point in time. The Legislative Counsel's Office, because of the way that thing was drafted, they actually zeroed-out my budget. My budget showed zero, and the houses took the money out of my budget and put it in their budgets. Then basically I had to get money back from them to operate the Legislative Counsel Bureau during that period of time. So it was pretty rough times during that period of time to operate the office because they were cutting back our budget also at that point in time.

As I indicated earlier, the Legislative Counsel's employees are civil service employees, so their salaries are set by a whole different mechanism than the legislative employees' salaries. And so at that point in time, the mid-eighties, the state employees were getting salary increases. So that particular year, whether it was '84 or '85, I can't recall. I can't recall when that thing was passed in '84.

FERRELL: 1984, yes.

GREGORY: Well, I can't recall whether it was passed in June or passed in November. But anyway, my employees were scheduled to get a pay raise, and all of a sudden, the leadership of the Legislature said, "Well, that's unfair that your employees get a pay raise, and we're not going to give our employees a pay raise because of Prop. 24." So they actually passed a law that said

that my employees couldn't get a pay raise, because that's the only way they could stop the pay raise from happening, because they have to change the law.

So what I did was I negotiated with them, and I said, "Well, I understand where you're coming from in the sense that since they're sort of working side by side and so forth." I have to point out that I didn't think it was fair at that time, because legislative employees don't work a forty-hour week; they work a thirty-five-hour week. State employees generally work a forty-hour week, eight to five, five days a week. Legislative employees have never worked a forty-hour week. There are some times during the year when they work a lot more than thirty-five hours, a lot more than forty hours, but then there's also times of the year that they're not in session, that it's a pretty lax situation.

So anyway, obviously it was not a good time to have that debate. But what I did was I said, "All right fine, if my employees are not going to get,"—let's say for the sake of argument, I can't recall what it is now, a five percent pay increase—"then give me the legal authority then to reduce their work hours by that amount of time." And they did do that. So although my employees didn't get any additional money in their pocket at that point in time, I did reduce their workweek. So I can't recall if they worked a thirty-five-hour week or thirty-six hour or something like that,

but I basically reduced their workweek commensurate with the fact that they did not get a pay raise at that point in time.

So they weren't happy to give up their pay raise, but on the other hand, at least they were a little bit happier in the sense that they got a reduced workweek out of that. And that lasted for several years until everything got back to normal again and stuff like that, and then they got their pay raises and we went back to a forty-hour workweek.

FERRELL: You mentioned the constitution, the California State Constitution, and the amendments to it. I understand the California Constitution is well over a hundred pages long.

GREGORY: Well, it used to be longer. Yes, it's long and I don't know if it's the longest one. I remember reading one time, at least before the Constitution Revision Commission got its hands on it, that it was the longest in the United States. And that was one reason for establishing the Constitution Revision Commission back in the sixties, because they went through and they started attacking the various articles of it to slim it down and get extraneous stuff out of there.

They were moderately successful. They rewrote the legislative article, and that was passed by the people, and they slimmed that one down quite a bit. They redid the judicial article and slimmed it down, the executive article and slimmed it down. And then they started running into

problems in some of the other articles, the taxation articles and things of that sort.

The problem is that if you're a vested interest, and the vested interest doesn't have to be some big business or something. It can just be Joe Citizen or something like that, and you've got something in the constitution, oftentimes you want to keep it there, because you view it as sort of a protection. Since it's in the constitution and can only be changed by a vote of the people, then you feel more comfortable, because that means that a simple bill in the Legislature cannot change whatever's there, whether it's a prohibition or a permission or something of that sort.

So we still have a lot of stuff in the constitution, and of course, more gets added. I mean, all the Indian gaming stuff got plugged in. If you look at where you came since the latter part of the sixties after the Constitution Revision Commission finished its work and whatever, again, we've been adding stuff back into the constitution. And whether it's now the Prop. 56, the 55 percent thing, has got new language that's going in, everybody's always proposing brand-new language to go into the constitution.

There are several initiatives floating around out there now that would amend the constitution, would add a lot of language into the constitution. So it's difficult because, again, the only people that can change the constitution are the people, and the Legislature does not like to

propose wholesale.... There's two ways to revise the constitution; the Legislature has to do it, or you have to call a constitutional convention.

We've never had a constitutional convention in California since 1879, which is the rewrite of the 1849 constitution. Since 1879, we've never called a constitutional convention in California and so forth. And so the only people that can revise it are the Legislature. The people cannot, by initiative, propose a revision of the constitution. They can propose amendments to the constitution, but not a revision. And obviously, a revision would be larger in scope than just simple.... Amendments would have to relate to sort of a single subject and things of that sort, and there's just no appetite across the street to go in there and do that.

If they went in and revised the taxation provisions, people would probably think there's all sorts of things hidden in there and so forth. And if they removed some of the stuff, people would probably figure we were taking it out because they want to lessen our protections or something of that sort. So I don't hold out much hope that in the near future we're going to slim down the California Constitution, and so a hundred pages is probably a fair statement of where we are today.

FERRELL: Well, it works. I guess that's the important thing, more or less.

GREGORY: It works, yes.

FERRELL: You mentioned Indian gaming there and that made me think, in the mid-eighties, there was a proposition that started the California Lottery.

GREGORY: Right.

FERRELL: The other day I was watching a PBS [Public Broadcasting System] program, a local Sacramento program, and they talked to a lot of the former governors, all of the former governors were there except Ronald Reagan. And they all thought that the way to solve the fiscal crisis now is to legalize gaming, just flat out legalize gambling statewide.

GREGORY: Well, they probably ought to do it because we're almost there anyway. The gambling stuff is sort of interesting, because a lot of those bills would go through the Senate Judiciary Committee, or at least attempt to go through the Senate Judiciary Committee. But there was an attempt to establish a lottery for quite a number of years by legislation or by constitutional amendment because, actually, our constitution prohibited lotteries. Those were killed year after year because of the alliance of two disparate but powerful forces, and that was the churches and the racetracks. The churches because of moral reasons, and the racetracks because of presumed moral reasons but really because of competition reasons. They would get together, and both would be ranting and raving about it and so forth, and they would kill it.

Of course, there was always the law enforcement element. I remember hearing back in the early 1970s when it was again before the Judiciary Committee. And one of the opponents had brought some police chief out, I can't recall, from one of the eastern cities. And the guy was

basically telling us, “You’re just a bunch of naïve folks, and if you have a lottery here, organized crime will be running it shortly. And you just don’t know what you’re in, because we have the numbers business back in,”—whatever we’re at, I can’t recall what eastern city it’s in, and this and that and whatever—“and you’re just amateurs.”

But anyway, what happened was, again self-interest reared its head and so we had an initiative for a lottery. And the initiative was proposed by, if I recall correctly, Scientific Games out of Atlanta, who stood to make a lot of money selling the equipment that would run the lottery. They put the lottery together, and they went and got money from the gambling interests in Nevada. Because as part of the initiative, they not only authorized a state lottery, a California State Lottery, they also prohibited—and this is what the language actually says, and it’s still there today—they prohibited in casinos in California, such like those operating in New Jersey and Nevada.

Because one of the things about Nevada—always used to be a fun thing—was the fact that anytime Nevada annoyed us, we would always introduce a bill in the Legislature that would authorize the establishment of a casino sort of halfway between Sacramento and Reno and halfway between Los Angeles and Las Vegas. Which of course, annoyed them hugely, because that meant that people wouldn’t have to go all the way to gamble.

But anyway, Scientific Games basically came in there, funded the [campaign] themselves, got a lot of money out of the Nevada gaming interests because of that prohibition they put in there and so forth, and got it qualified for the ballot.

I don't sit here and say I'm an expert in electoral matters and so forth, but it's my perception that every time they put something on the ballot that deals with gambling and it's in favor of gambling, the people vote for it, because that thing passed handily. It was not a close vote. So later on when you have the Indian gaming measures on the ballot, they passed handily. People clearly, given the opportunity to vote on it, will vote for gambling in California.

For all intents and purposes, we have casino gambling in California. I had occasion, I've now been in two casinos in California, out of curiosity, I was on vacation a couple years ago, I went to one of the Agua Caliente casinos on Interstate 10 down in the Palm Springs area. At ten o'clock on a Monday morning, and, I mean, they're going hot and heavy with gambling and the mini-baccarat tables and all those kinds of things. Of course, they have smoking in these Indian casinos, so you have to wade your way through all the smoke. We're not used to that in California anymore since we're smokefree in a lot of areas.

And I had occasion to go to Thunder Valley Casino. I actually was out with a client, and he said, "Let's go have lunch over there," and so we

actually went over there and had lunch at Thunder Valley. There we were in the middle of the day, and they're going hot and heavy at Thunder Valley Casinos. If you drop somebody into the middle of Thunder Valley Casino and didn't let them look around where they were, you would swear you were in Nevada. In fact, most of these casinos are being operated by organizations out of Nevada. I think Landmark Casinos operates the Thunder Valley one for the Indian tribe that has that casino and that's fairly close to Sacramento. It's twenty miles out of Sacramento, so it's not a hard one to get to. So they're creeping closer to major metropolitan centers in California.

So sooner or later, the state's going to have to sort of figure out what it wants to do about that. Of course, we have this initiative that's trying to be qualified right now, which is sort of the dagger at the heart of the Indians' gaming interest, and it's been proposed by the big racetracks and the big card clubs. And what it says is basically if the Indians don't give 25 percent of their revenue to the state—which they're nowhere near giving right now, they give a relatively modest amount now—then the racetracks and the big card clubs, and I draw the distinction because this is being funded solely by the big tracks and by the big card clubs, and said they will then be allowed to have slot machines. So thousands of slot machines will be added into the mix at those locations, and of course, those locations are in major metropolitan areas. Because you've got your

big tracks; you've got Golden Gate and Bay Meadows and Del Mar and Hollywood Park and Santa Anita, your big tracks, and it's the big card clubs that are, again, in those particular areas.

So it wouldn't allow the smaller card clubs, like, for example, we have here in the Sacramento area, to have machines. They would be given a certain limited number of machines that they could allegedly sell the right to operate those to the big folks, but it couldn't operate the machine physically in Sacramento. I don't think that's much of a use, because I don't think the big ones even would pay them for the machine or pay them for the right to use the machine.

And they cut out all the fair racing. For example, here in Sacramento at Cal Expo, California Exposition and State Fair, we have a racetrack there which runs during the fair season with traditional races, runs for a substantial portion of the year through a harness race. There's a harness race season during a large part of the year, and of course, it has off-track betting at Cal Expo throughout the year. But they would not be allowed to have any of the slot machines because, again, it's sort of like whoever pays for the initiative and writes it, too, basically stacks it in their own favor. Anyway, they're off trying to collect signatures on that, and then if they do get the requisite signatures speedy enough, then it will be on the November ballot, so we'll have to see how that plays itself out.

But I think whatever people feel about gambling, it's very clear with the success of the Indian casinos that people in the state want to gamble, and they'll either do it here or they'll go up to Nevada, whatever suits their pleasure. A well-regulated gaming industry, there's always the potential, because there's a lot of cash involved, you have to watch, it has to be regulated closely, and you've got to make sure that the mob element is not there and whatever. But you can clearly do that. So I would be in favor of doing that, having a well-regulated gaming industry in California, and obviously the state would then reap benefits from it.

One of the nice little trivia questions over the years I always like to ask people, "Which state government gets more revenue off gaming, Nevada or California?" and people will invariably choose Nevada. And the answer is wrong. Because actually, because of the size of our racetracks and whatever, the state has actually gotten more money from gaming in California than they do in Nevada. Because of the racetracks, the big racetracks I mentioned, and then, of course, you have Los Alamitos, which runs quarterhorses. And then you've got, of course, the state and county fair circuit, which runs throughout certain parts of the year. So the state has gotten more revenue off gaming than Nevada, but obviously it's a different mix of gaming than you have in Nevada where you have a traditional full-blown casino.

[Session 4, March 8, 2004]

[Begin Tape 4, Side B]

FERRELL: I guess we're kind of in the middle of the 1980s. A lot of things were going on then, as usual. One thing I saw in the paper, in 1986 there was a strange... well, I thought it was rather odd, that Tom Hayden was elected to the Assembly, and members wanted to get him out, and you were quoted in the paper with your opinion. I think Willie Brown came to you, asking your opinion of trying to oust Tom Hayden from the Assembly. Do you remember what that was all about?

GREGORY: Well, what it was about was, there were members of the Assembly that were upset about Hayden's anti-war activities during the Vietnam War period. As you, I'm sure, recall, there were pictures of Tom Hayden and Jane Fonda when they were married, together they had gone to Hanoi and were criticizing the U.S. government and expressing support for the North Vietnamese, and that upset many people.

There is a provision in the California Constitution, and without looking at it I can't recall literally what it says, but it basically disqualifies someone from public office if they've engaged in what someone might call subversive activities. I can't recall who had asked for the opinion, but it did become public, so I don't hesitate to speak about it.

But I did conclude that if, in fact, they expelled Hayden under that particular provision of the constitution, or they attempted to, that there were not sufficient grounds to do that for a variety of reasons. And that is that the particular provision is legally suspect because of a lot of Supreme Court cases that struck down similar provisions because of the free speech aspect of those provisions. In other words, the people were just merely expressing their verbal support of a foreign government without inciting people to take action or otherwise taking action themselves, that the courts have said that under our First Amendment you have these rights of free speech. Essentially that's what Hayden was doing back in the latter part of the 1960s.

So even though his conduct was distasteful to many people, that the mere distaste of it was not sufficient grounds for expulsion. Because expulsion is always viewed as an extraordinary remedy to allow the house to purge itself of someone who has been convicted of a crime, which would then bring disrespect on the house or was otherwise acting in a manner that interferes with the house's ability to conduct its business. For

example, let's say some member comes on the floor drunk every day and creating a big scene and things of that sort so the house is disrupted, so expulsion is used.

And of course, Hayden was never convicted of a crime, never prosecuted, as far as I know, for going to Hanoi and expressing support for the North Vietnamese. So there was no criminal conviction, and, as I indicated, probably couldn't have been a criminal conviction, because the statutes that would have been applicable were probably not constitutional.

So a number of members, of course, didn't like that opinion, didn't agree with that opinion, but that's one of the jobs the Legislative Counsel has, is to render an opinion when asked for it by a member. Unlike when you draft legislation, you draft a legislative measure, you're carrying out the intent of the author and you do explicitly what the author asks you to do. Well, instead of amendments, the opinion-writing process is a little bit different. There you're asked a question by the member, and you render an opinion. And you render an opinion even if you feel that probably it's not the answer the member wants to hear, but that's the strength of the office, is that the opinions are viewed with a high degree of credibility, because they know that they're not influenced by any member seeking to achieve a particular result.

So that, essentially, was the Tom Hayden issue, and, of course, Tom Hayden served quite a number of years in the Legislature and eventually went over to the Senate, got elected in the Senate.

FERRELL: Something that I thought was very interesting as well in the 1980s was this FBI sting operation, sometimes called Shrimpgate. It went on for two and a half years. A lot of people weren't aware of it until it finally came to the surface, and you got involved in that later on. There was a question of turning over evidence to the FBI, some records that they wanted. What was the story on this, this FBI sting operation, as you recall it?

GREGORY: Well, I vividly recall when it came to the attention of the Legislature, because my father was dying in the hospital at the moment that they searched all the offices in the Capitol, and it occurred also during the last week of the legislative session in 1988. They executed search warrants for the Capitol at nighttime. In fact, the Assembly was on the floor when they were doing the search. I can't recall if the Senate was meeting that particular evening.

FERRELL: Did you say they searched *all* the offices?

GREGORY: No. They executed search warrants for the targets of their investigation. If I recall some of the names, it was, I think, Assemblyman [Pat] Nolan, Assemblyman [Frank] Hill, Senator [Paul] Carpenter. Those three names come to mind. There may have been some others, maybe one or two others.

But they came in and searched the offices, removed large amounts of files and so forth, and that pretty much made public what they were doing. It is a criminal investigation. I really had no role in that particular investigation, and we don't represent members in criminal matters in the Assembly, so they, of course, had their own counsel.

Where I became involved was the fact that I operated the Legislative Data Center, which is a huge repository of information, a lot of it information from members' offices and committee offices where they store their documents on our mainframe computer. One of my computer operators saw what he thought was a high number of deletions of records, and again, it was a global number. It wasn't something that he had done any analysis of what particular offices were involved and so forth. He thought that he was going to help the FBI, so he called up the FBI and told them that large numbers of folks were deleting huge numbers of records from the computer.

Well of course, this obviously piqued the interest of the FBI. Each night we backup the computer system, and they requested that we produce the backup tapes for one or two or three nights during that period of time, which we, of course, had still stored. Backup tapes were ones that you really backup in case the system fails and collapses on you and you have to reload all the data. They're not archival tapes, in fact, they're actually rewritten over. You keep circling them around. Essentially you keep

three generations of tapes, three days of tapes. When the third day comes up or the fourth day comes up, you just throw the other tape back in the batch and eventually it gets overwritten.

The Office of Legislative Counsel, as I think I indicated in an earlier session, all the records of the office are confidential, and it's actually a crime for any employee to disclose anything unless we're authorized by the requester. So I refused to disclose, turn over the tapes. It adds a few interesting sidelights and ironies and so forth, but I hired an outside counsel, Bill Shubb, who was then with the firm of Diepenbrock, Wolf, Plant & Hannegan, and David Levy was the U.S. attorney at that point in time.

So we met with Levy and we explained that we were not going to turn the tapes over, and if they made any move to try and get their hands on them, that we would basically be fighting them in court. Levy indicated that he had no immediate interest in the thing as long as they were preserved, and we did agree to preserve the tapes. And so we rented a safe-deposit box in a bank in Sacramento, and we deposited in that box the tapes. I had a key and Bill Shubb had a key, and the FBI never came asking for them. They're just locked up in that box.

A number of years later, the investigation was pretty much over, but obviously the trials and all that kind of work and further looking at things went on, and there was a point in time in time when they were

talking to a particular member of the Legislature. I don't think this was the target of the investigation. They asked the member if they could see all of his e-mails and other documents and so forth, and the member said he had no problem.

So the member contacted me and said, "Fine, you can go ahead and give them whatever you've got on the system that relates to me." So we went down and we got the tapes out of the safe-deposit box. The first problem we had, which is not unique to data processing, was the fact that we no longer used the computer system that these tapes were produced on, and so we had no capability of even reading the tapes.

But we did find a service bureau, as there are these service bureaus around, that actually had that older equipment, and so they could read the tapes. We had never looked at these tapes. We said, "These are not archival tapes, they're just used to back up a system." To be able to find the particular data, we needed to have them print the whole tape out, all the tapes out. There were quite a number of tapes.

They ran into a problem because these tapes are the classic tape that you would have in your old cassettes. They're a Mylar tape with an oxide coating, and they had deteriorated, and so only about half of the tapes were readable. The rest of them were just unreadable because the metallic oxide, this is not a permanent record, it deteriorates over time.

FERRELL: How long had it been?

GREGORY: You know, without going back and asking some folks whose recollection ... I'm guessing it was like four to six years. It was a long period of time. It wasn't just a year later. Maybe three to five years. It was several years.

So anyway, we printed out what we could print out and then we pored over them, and we actually did find some records from that particular member, and we did provide those records to the... I can't recall who we gave them to. I think we gave them to the member, who then turned them over to the FBI. I don't recall us giving them directly to the FBI. And we put the tapes back in the safe-deposit box, and that was it. They never came after the tape as a whole, and so we never had to fight them in court over the tapes.

As far as the excessive number of deletions, we actually went in and took a look, because we have records over the years, and as I indicated earlier, this was the last week of the legislative session. Recess was going to start the following week, and the Legislature generally gets out about August 31st on the even-numbered years. And what we did was we looked at who was deleting, and the volume. As far as the volume goes, the volume was no different than in it was two years earlier. Everything in the Legislature you match up with a two-year period earlier, because it's not the previous year because in odd-numbered years the Legislature gets out the middle of September. So to match things up, you go back two years.

The number of deletions really was not much different than it was two years earlier.

Then when you look at who was deleting, it was pretty benign. It was standing committees, it was the education committees, things like that, not the individual members' offices. And we don't look at the people's data. In other words, even though the Legislative Data Center is a repository of the data, we view that data belonging to the individuals. So we never even... even though technically some of my technicians could go in and look at the data, they don't do it. Unless some person that we're providing service to specifically is having a problem and asks us to look at something, we never pay attention to it.

And so we just asked them, "What are you doing?"

And they said, "Oh, we're just cleaning up our records. We're getting rid of old memos and this and that that are duplicates and things of that sort." Again, we didn't go through, and we did print out the... as I say, we printed out all the documents off those tapes, at least what we could recover.

So we actually looked at that data, and it was really benign. I mean, there was nothing. Because once you printed it all out, and you're looking for this particular member's documents, you've got to go through each one and look, because they weren't sorted by members and whatever. So you go through, and it's just the kind of stuff you find in any kind of

general office thing, you know, e-mails between coworkers talking about luncheon dates and things of that sort. There was no smoking gun in there about anything that anybody would have been interested in, except some of it was just titillating when you read it, but it's just kind of you have an amusing sense and stuff like that.

So that's my only involvement in the thing, other than just being a spectator and watching everything unfold and watching the trials and things of that sort.

FERRELL: I understand these undercover FBI agents were handing out envelopes stuffed with cash to certain guys. Did anybody turn over the money to you?

GREGORY: No, no, no. No, I would have no involvement. I mean, that would be totally out of character for any member to deal with that. I mean, there were members that actually turned down the envelopes that they were trying to be foist on them. And again, I had no personal knowledge of that. I mean, I just saw things that have reported in the press and maybe things I heard in the hallway and things of that sort. I knew they were really trying to get to Willie Brown. They had showed up at one of his staff person houses and tried to leave money on her doorstep or so forth, and she refused to accept it.

And so they were really.... You know, this whole thing started, I understand, down in Los Angeles, when they were investigating

somebody else, and somebody said, “Well, you really ought to take a look at Sacramento,” and so they sort of came up here from whatever they were doing down in the area and so forth. I think it’s pretty clear that Willie Brown was a target, and there was no indication at all that Willie Brown engaged in any illegal activity at all.

But some people got convicted, you know. Pat Nolan got convicted, Hill got convicted, Carpenter got convicted, Clay Jackson, the lobbyist, was convicted, and a couple legislature staffers were convicted out of the whole thing.

In fact, actually, there was a guy by the name of Shahabian, who was a staff person at that time and who was engaged in unlawful activities. So the FBI basically confronted him and got him to turn and wear a wire and so forth, and he was the one, I think.... Oh, Joe Montoya, got convicted, Senator Montoya, and they set something up at, I think it was Penisi’s, but it was right at the corner of 11th and L Street. It’s now an Indian restaurant. They had a video camera hidden in a briefcase, and so it was a videotape recording of that morning or afternoon meeting or whatever, with money passing and things of that sort and so forth.

I don’t know if Shahabian ever did any jail time, but he’s actually in business right here near the Capitol. There’s a thing called the Jumpstart Café right across from the 11th and L Building and so forth, so

I've often wondered which of tables are wired. I'm saying that facetiously. I have no knowledge that anything's wired at all and so forth.

But, yes, an interesting footnote. I mentioned the lawyer I hired and the U.S. attorney, and today they're both federal district court judges in Sacramento. Judge Shubb and Judge Levy are both sitting on the federal district court bench here in Sacramento, and so that's just sort of an interesting little footnote to that particular chapter.

FERRELL: Wasn't there a couple of employees in the Data Center who grabbed a couple of tapes? What happened to those guys?

GREGORY: I don't recall anybody grabbing any tapes. We just had the one employee call the FBI, but there were no tapes that I'm aware of that ever left the Data Center.

FERRELL: So the FBI wasn't even aware of these tapes until somebody told them about them?

GREGORY: Right.

FERRELL: You'd think they would have known that.

GREGORY: I'm not going to comment for the purpose of this oral history, but I think the action of the FBI during that period of time was pretty shoddy with respect to the members and the staff people and the lobbyists. And does not speak well of the federal government, but we will leave the matter lay where it is.

FERRELL: OK. Now, the 1980s. I remember 1988 and there being a lot of propositions on the ballot. In one case, there were five propositions that dealt with automobile insurance, and there's counterpropositions and propositions. I just thought it would be interesting just to talk about the entire referendum initiative process. How do you feel about it?

GREGORY: Well, I think the good part of the initiative process is that it sometime spurs the Legislature into action where they have some inaction, and there's other times and so forth when it's the only way you can get something done. Well, we did talk about gambling, and I did talk about the fact that there was already the alliance between the racetrack interests and the church, and they killed any bill to do the lottery. But for the lottery initiative, which was done, I think, in the mid-eighties, we wouldn't have a state lottery in California. So there are times when the Legislature is just stalemated by interest groups.

But, by and large, I think it's been a bad thing for the state. These initiatives, of course, are crafted by whoever the proponent is, and they do it in secret. Once it's on the ballot, you can't change it. I worked with a legislator one time, Senator Montoya, and he was proposing a number of changes in the initiative process and actually introduced a bill—it had to be a constitutional amendment, because you can't change it just by a bill—and incorporated a bunch of ideas from other states and things of that sort. And it never survived the first committee because Senator

Montoya was a Democrat, and the Republicans used it as a sort of attack against him by saying that he wanted to undermine the initiative, the sacred initiative process, and things of that sort.

The initiative process, of course, had been around since 1911 or 1913, I can't recall which year, and it was used at that point to break the stranglehold of the Southern Pacific Company over the Legislature. But by and large, I don't think it's been a good thing for the state, because basically, many of the problems we have have come through the initiative process. And most of the problems I see from my perspective as a former Legislative Counsel of the state is that many initiatives have put the Legislature into a straightjacket. And whether you like it or don't like it, Proposition 13 did it. They did it with respect to locking in the property tax rates and imposing a two-thirds-vote requirement to raise taxes, which actually, basically, was a boon for business because you could raise business taxes by a majority vote before that.

Proposition 98, the school funding formulas, are all locked in now to the constitution. Those two come to mind, but I'm sure there are others if I sat down and thought about the thing.

Term limits, which we'll probably talk about a little bit later, was an initiative process. One that caused, of course, a lot of litigation was Prop. 187 later on. I think it was 187. That was the anti-immigrant one and so forth, which actually turned out to be unconstitutional in most

respects. Even though it was passed by the people, most of it's been shot down and so forth.

But a lot of all these things just straitjacketed the Legislature and made it more difficult for the Legislature to make informed policy decisions because the ramifications of these things, for example, any kind of new revenue raised because of Proposition 98 goes off to the schools. So that presents problems and so forth. If you want to raise revenue just for other programs, because of the way the formula works, anytime you raise the revenue, Proposition 98 siphons a portion off to the schools.

So whether or not you view something from a conservative or a liberal standpoint, there's probably something in the initiative process that you don't like. And if you go over to the four walls of the Capitol and you engage members in a one-on-one conversation, it's been my experience over the years that the members don't like the initiative process. But they're not about to publicly speak out against it, because the public loves the initiative process, and so it's sort of—like we call Social Security—the third rail of politics. If you talk about changing Social Security... well, maybe this is the fourth rail; you just don't want to talk about changing the initiative process.

So, you know, even one of the main partners of this firm, when he was in the Legislature, Jack Knox, had some bill to try and deal with the initiative process. And I think after the bill finally got to the second

house. The only thing that he had left on the bill was a provision that requires the relevant policy committees of the Legislature about thirty days prior to the election to hold hearings on initiatives that are on the ballot. Of course, they can't make any changes, and the purpose of the hearing is just to give people a forum where they can come forth, you know, both the proponents and the opponents, and explain why this is the greatest thing since sliced bread, or why this is going to be evil for the state and that's it.

But the other states, we're not the only state that has the initiative process but we have probably one of the more rigid ones in the sense that once an initiative is adopted... of course, a constitutional initiative is something in and of itself. Because the constitution can only be changed by a vote of the people. But even on statutory initiatives, once it's passed, unless the initiative allows you to amend it itself, you can't change it. Whereas in Colorado, for example, statutory initiatives in Colorado have no more or less dignity than a piece of legislation passed by the Legislature, which means that it can be amended by the legislature.

Those initiatives in California that allow themselves to be amended generally impose an extraordinary vote requirement, like two thirds, or in the case of the tobacco tax initiative, it's a four-fifths-vote requirement. And then also require that the amendment further the purpose of the initiative. So it's a very high threshold to even amend it when the

initiative even allows its own provisions to be amended. So it's not very easy to amend an initiative.

There's always a fear that somehow the Legislature will undercut the initiative, but it's been my experience over there that when the people vote for an initiative, the Legislature, even if they could amend it by a majority vote, is really loathe to touch it. Because they've got to go back for reelection. My experience is that the members certainly don't want to go back as soon as two years and run for office being accused that they ever cut something that the people just voted for.

But even Senator Montoya, if I recall correctly, in his proposed constitutional amendment that never made it out of the first committee, I think he allowed the initiative to be amended, but he even put a waiting period in. Like, I can't recall, four, six, eight years or something like that, just to undercut the argument that somehow the Legislature would gut the initiative. But again, as I said, that never even left the initial committee.

So even though the initiative really has brought a change in the law that people wanted, the lottery is the example, and maybe spurred the Legislature along in some other areas. By and large, I don't really think it's been beneficial to the State of California.

FERRELL: I'm wondering about how these initiatives are presented to the public and that they can be confusing to the public. Now, the Attorney General, he's

the person who prepares the title and the summary of the measure for the ballot.

GREGORY: Correct.

FERRELL: I understand you do it in times—the Legislative Counsel does it—when the Attorney General happens to be a proponent of a particular referendum. Have you ever . . .

GREGORY: I've never done that. I've never done that. The Attorney General, of course, will express support or opposition to an initiative, generally closer to the election time. But during my years, the Attorney General has never been a proponent. The Attorney General, of course, as I indicated earlier, I think, he can't use any government money to either draft an initiative, collect signatures for an initiative, either support or defend an initiative.

The courts have been very clear. The initiative is part of the electoral process, and government is not allowed to take positions one way or another with taxpayer funds on this. Now, it doesn't mean that the Governor or somebody can't stand up and say, "I think it's a great idea," or, "I think it's a bad idea," but you can't spend money doing that.

The relevant case on that is a case of *Stanson vs. Mott*. William Penn Mott was the former director of Parks and Recreation under, I believe it was, Governor Reagan, and there was a bond measure on the ballot. The bond measure was passed by the Legislature, as bond measures are, and it was on the ballot, and it provided funding for parks.

He used government money to put out a pamphlet that extolled the virtues of the bond measure, and the Supreme Court says you can't do that. You can't take sides in an electoral campaign, which is what an initiative is all about. You can put out material that explains both sides of it as long as a reader of it could not divine which way they would want you to vote, but you can't put something out that is laudatory of it or opposed to it.

So when that provision says that the AG [Attorney General] is the sponsor of it, the AG could be a sponsor of it. He'd have to be a sponsor in a private sense, which he could do. I mean, he could take his campaign committee and draft an initiative and send it to the Attorney General for title and summary and so forth, send it to his own office for title and summary. That's obviously when that would come into play. But that never happened in the more than twenty-five years I was the Legislative Counsel. So it's there as sort of a backup provision.

But we have enough initiatives, and they appear on every ballot. We had one initiative, of course, on this ballot, which is the one that would have reduced the vote on the budget from two-thirds to 55 percent, and that failed almost on a two-to-one vote. On every ballot you'll have initiatives, there are a number in circulation. So come November, I'm sure we're going to have more initiatives on the November ballot.

Many of these are very complex, and the public has a hard time, I think, even though the text of the initiative is sent out in the ballot

pamphlet to them. The title and summary is just that; it's a title and a short summary. The Legislative Analyst then does an analysis, which appears, which helps, I think, the public to try and understand, again, overall what it does. But if you get a very complex initiative, there are so many things hidden away in the initiatives, and it is difficult for the ordinary citizen to get a feel as to what that initiative is all about.

FERRELL: That's what I wonder about. I mean, just the title of the proposition, a lot of people will look at the title and decide to vote yes or not just on that.

GREGORY: Well, of course, the proponents all put a motherhood title on it, you know, "The initiative to make the world better, a better and safer place to live in." I mean, that's their own title. Now, in fairness to the Attorney General, the Attorney General will probably use his or her own judgment to decide what the title is going to be. It's the Attorney General's title they're putting on there. So they don't necessarily slavishly follow what the proponents do on the thing.

But if you read the bond issue, it has the findings and declarations up front, and so almost the first section will say.... They'll give it some really catchy name, and maybe even a name that leads to a catchy acronym or something like that, and then they'll use that in all their promotional materials that go out on the initiative. It's interesting to watch what some of these names are they come up with.

FERRELL: In 1990, there was a proposition, term limits. We've talked a little bit about it, but I think maybe we should talk a little bit more. This made Assembly Members to have three terms, these are two-year terms, for a total of six years, and the Senate two terms, they're four years each, and that made some big changes in the Assembly. I know the proposition was voted on in 1990, but it didn't really have an effect until fairly recently, the late nineties, I should say.

GREGORY: They didn't apply it against any time spent before it passed in 1990, so the clock started running at that date. So that meant that the first members would be leaving the Assembly at the end of '96, and the senators would be leaving at the end of '98. So you really haven't seen the effect of it until the latter part of the nineties.

In large part, the initiative was aimed at getting Willie Brown out of the Assembly and, therefore, out of the speakership. In fact, I recall stickers on a lot of places around Sacramento and so forth, particularly one carwash that I go to. It had the international stop sign, which is that round thing with the slash across it, but they had Willie Brown's face in the thing.

It was a bad thing for California because of the fact that it takes a while for people to understand how to operate in a legislative context. You come up and you've got a collegiate group of eighty in the Assembly or forty in the Senate. And even if you've been on a city council or board

of supervisors, which are basically, you know, the board of supervisors are five-member bodies, and city councils vary, but they can be anywhere to five up to quite a number. I think L.A.'s got nineteen. I may be wrong on that, but large number. It just takes a while to learn how to operate in the environment that you have to go get the majority, of your colleagues.

You've got to get the majority of votes to get something done, whether it's in committee or on the floor, and, in some cases, getting two-thirds done.

It's a learning experience, and many people don't even have the local government aspect. Many people come right out of industry and so forth, and they're used to operating in a pyramidal structure when "I'm the boss and whatever I say goes." And now suddenly, you can stand up and say, "I'm the boss, whatever goes," and you have seventy-nine other folks staring at you going, "Like who in the hell is this?"

So there's a learning curve, and even after two years, you're still learning. I remember in the Legislative Counsel's Office, the effect, of course, is we lost all this institutional knowledge, and we lost people that knew how work with the office, and so forth, or even knew what the office did. They always do this new-member training, and you sort of get a cameo appearance, but they don't really know to effectively make use of the office.

So I instituted a program where we actually went out with my two chief deputies and met with these members one-on-one. I recall meeting

with this member and she had been elected.... This meeting had probably occurred around 2000, and she was going to be termed-out either in 2000 or 2002. It might have been 2002. So at that point in time, she was coming up on her last term. She said, right in the privacy of the office, myself and two chief deputies there, that she was an ardent supporter of term limits in 1990. Now she'd been in the Legislature and now was subject to being termed-out herself, and now realizing how the Legislature operated, and she had come from the private sector, that she thought it was really a bad mistake.

And that's the feeling of a lot of people over there. There are people who disagree, I mean, they think term limits is great, but the people love it. They've tried several variations on a theme the last few election cycles, not this year, and the people bat it down. In their mind, they just love term limits, and they don't really understand that a lot of the dysfunctional situation you have with the Legislature now is because you have people subject to the term limits who don't have that long-term understanding, or even relationship. So much in the Legislature involves relationships with people, and you don't just come up and get relationships overnight.

I think I mentioned in an early session about the passage of Proposition 9 back in 1974. It eliminated a lot of the social settings where members could actually get together and drink and dine and whatever and

talk to each other. And members of different parties or even liberal and conservative could find a common ground in a lot of different areas, although they would have basic disagreements. But there were a lot of areas they could do that, and that just doesn't happen that much anymore, so you don't get that dialogue going on. So I didn't like term limits when it was proposed, and I think it's been bad for the legislature.

The other thing that the initiative did was slash the legislative budget, and that was pretty severe. The fortunate thing was the way it was drafted, it didn't affect the budget of the Legislative Counsel Bureau, so we were able to continue to provide our services at a same level we had provided before. In fact, [Pete] Shabarum brought a lawsuit. I can't recall when it started. It probably started around '92, roughly, arguing that the Legislative Counsel Bureau should be counted as part of the legislative budget. Which would have meant, then, they would have had to cut our budget or slash their budget if we didn't cut our budget, but it would have been quite a bit of cut.

I defended that lawsuit and won the case in the Court of Appeal on a two-to-one vote, and the Supreme Court refused to grant a hearing on it, so we prevailed in the suit that our expenditures were outside the Proposition 140 limits. But that limit is still there today on the Legislature, and they can cut the budget to begin with and then only

allows a certain increase each year. I can't recall right now what that index is that they can increase each year.

But again, it was more of a punitive thing, because in the large scheme of government in the State of California before Proposition 140, the amount spent on the Legislature was one-half of one percent of the amount the [Government] spent. And after Proposition 140, it was one quarter of one percent. I don't know where they are today, but, I mean, it's a pretty infinitesimal amount of money that's spent on the operation of the Legislature when you look at the large scheme of things.

The other thing, too, that it did, of course, sort of, I guess, consistent with term limits, in a sense, if you're not around, arguably you don't need it, but it wiped out the legislative retirement system. It didn't wipe out the system; it just prohibited any new members from coming in from joining the system. So their argument was, was you still get Social Security, which is not much of an argument, because actually most people in this country have Social Security. It's a mandatory system unless you're part of some very unique systems that lets you opt out of it, which is a relatively small number.

So not only do you come up here with this prospect that you're only going to spend six years in the Assembly, and, of course, if you're lucky enough that things make it that you can get over to the Senate. You

might then get fourteen years up here, but you're not going to get any pension plan when you're here.

[Begin Tape 5, Side A]

FERRELL: So it was punitive, then.

GREGORY: Oh, yes, it was very punitive. As I said, it was basically going after Willie Brown.

FERRELL: It seems to be going after everybody, though.

GREGORY: Well, it did, but sometimes you do that when you throw the bomb to kill one person, you kill a lot. You could kill a lot of people. It served its purpose. Obviously, Willie termed-out in '96. Actually, I believe he left before then, because he ran for mayor of San Francisco and won that race, and so I think he might have left just before he termed-out.

So you had the consequence, for example, of a senate seat opened up in the Santa Monica area, for sake of discussion, it's broader than Santa Monica, but so you had two very able legislators. You had Sheila Kuehl and Wally Knox, both Democrats, running against each other for that Senate seat, and, obviously, only one could win. Sheila Kuehl won, and Wally Knox ... I'm not sure what Wally is doing nowadays, but he lost the seat. Without term limits, you probably, in the old days, would have had one of the persons.... And the reason why they both ran for it, because they're both termed-out. They both termed-out or one was going to be termed-out shortly.

But in the old days, you would find the dynamic where one of the people would probably try and do some head faking with each other and try and convince the other one that “I’m stronger to run for that seat,” and whatever. But probably by the time you got to the filing deadline, you’d find the one filing for the Senate seat and the other one staying in the Assembly. But with the term limits, staying in the Assembly is not an option anymore, so you find people running head and head against each other.

You just had one Senate race this year with John Campbell and Ken Maddox running against each other, which Campbell won the primary. Which means that he’s going to easily win the general election. And so you find all sorts of the members of both parties going head-and-head just because they’re termed-out. They don’t have any options.

It’s just not a good thing for the State of California, because you’re just losing a lot of able legislators. And the turnover before term limits was a fairly steady turnover. It was nowhere as large as it was under term limits. The Assembly, I haven’t looked at the recent figures and so forth, but they’re turning over thirty or thirty-five members each time out of an eighty-member body. So even though you’re theoretically rolling a third, which would be, what, twenty-six, twenty-seven members, because of the dynamic of members running for other offices, you’re turning over more

than thirty each time. So huge numbers are turning over from new folks coming in.

Now, some members who have not served their full three terms in the Assembly before they move to the Senate have jumped back to the Assembly. You had Ray Haynes now sitting in the Assembly. He had finished his terms in the Senate, and I don't know how many more terms he has in the Assembly, because he was in the Assembly a number of years ago. Betty Karnette, I think, is running for the Assembly, and I can't recall if she was ever in the Assembly. So you find members moving between the houses that way, but that's, again, a very small number of folks, I mean, particularly coming from the Senate to the Assembly. Most, of course, of the Assembly members want to move up to the Senate, because it gives them a four-year term instead of two-year term. They get eight years up in the Senate as they sit around trying to figure what they're going to do for the rest of their lives.

It's not a good deal, but it's going to be something that's going to be with us a long period of time. I can't see at this moment how one can construct a proposition to the people that the people would vote for, that would get rid of the term limits. California has the most strict of the term limits. We have the shortest periods of time. There are some other states have the same periods, six years and eight years. Ours is an absolute bar. Some states have a period of repose where after you've served the period

of time, if you stay out for one term, you can then run again. And if the people after that period of time still love you, they can put you back in again. California doesn't do that. Once you've had your six or eight years, you're out forever. Other states have a longer period of time. Oklahoma's got twelve years.

I'm not in favor of any term limits, but if you're going to do anything, twelve years is a lot better than six or eight years, because at least in twelve years you can become more effective. If you look at the figures of how many members rolled over in the Assembly in the past before term limits, the twelve years probably would produce that same result. Because there were about a quarter of the Assembly that was new every year, so it wasn't like the Assembly was static.

Now, there were members that were there for a long period of time, and, of course, as we said, going after Willie Brown, and Willie had been there a long time. Willie was elected back in the sixties, and tried to become Speaker when Bobby Moretti stepped down to run for Governor in the early seventies, or '74, and didn't make it, and then, of course, came back and became Speaker in '81. So there were members that were around for a long period of time, but that was the value, because you sort of have these long-term folks who were mentors to the new folks that were coming up.

But that's not the case anymore, and they now have a Speaker in the Assembly over there, [Fabian] Nunez, that, arguably, one of the reasons they chose him as speaker, he's in his first term, is the fact that he will be here for a while. Now, "for a while" means four more years. But it's better than the old comment about having the Speaker du jour that was here for a short period of time and then rolls out and is gone, because the speakers don't really have the control that they used to in the past.

If you knew some Speaker was going to be around for a long period of time, the Speaker had a lot of control because of the fact that the control the Speaker had was in the assignment of committee assignments, committee chair assignments, office assignments. There are some offices that are nicer than offices in the Capitol, and so forth. If you knew the Speaker had the support of the members and was going to be around for a while, then you risked going against the Speaker at your peril of not getting the committees you wanted to be on or get removed from committees and things of that sort.

Now, if you only have a Speaker who's only going to be here for one year, that's less of a risk, because one year from now there will be another Speaker, and you'll try to figure out ... try to get on the good side of whoever's running to do that. Nunez is going to be here for a while. At least that gives a little longer term to the Speaker, and we'll have to see how that plays itself out.

FERRELL: There are proponents of term limits who feel that it should just be one term, maybe a longer term than two years for the Assembly, but the real evil thing with returning politicians is that they are always looking towards their next reelection. If they had just one term, that wouldn't happen at all.

GREGORY: Well, what's happening now is, is that they're looking for the next reelection. Well, the word *reelection* is probably misspoke. They are looking to the next election.

FERRELL: They move to municipal governments, don't they?

GREGORY: Well, they're looking to see where they can go. So if you don't let them do a reelection to the house they're in, they're saying, "All right, fine. Where do I go next? I either have to jump to the other house, I have to try and see if there's a congressional seat that's open." Of course, that's the nirvana, because congressional seats don't have term limits. Or, as you indicated, a number have gone back to the boards of supervisors in their local communities or back to the bodies that are relatively large and have influence like the Los Angeles City Council. I believe the former Speaker of the Assembly Antonio Villaraigosa, is a member of the Los Angeles City Council down there and so forth.

So the politician is always going to be looking for the next election, whether it's to a reelection where they are or an election somewhere else, so I don't think a single term is the answer. Even if you

give them a single term of six years. Well, first of all, I think that you ought to stand for election, certainly shouldn't go more than four years and so forth. Because the public should have an ability to have some influence over you.

Actually, if you have a single term of x number of years, the public has pretty much lost its influence, because if you can't run again in that particular district, then what are you going to be selling to the folks in that district, unless you are, in fact, going to be running for a local office seat or Congress that overlaps that particular district. So you're not going to want to get the district too mad at you.

I would much rather have somebody who needs to be responsive to the people in their district, because they've got to go back to that same district and ask for their vote again, and once you get to the point where you're in your last term, what do you need from the district anymore? You don't need anything from the district.

FERRELL: You mentioned going to Congress. In '92, there was a proposition, Prop. 164, that set term limits on Congress.

GREGORY: Yes. That's blatantly unconstitutional.

FERRELL: I wonder how that even got on the ballot.

GREGORY: It gets on the ballot because of the fact that anybody that wants to spend a modest amount of money.... It used to be the saying, "If you give me a million dollars, I can qualify anything." I think the figure now is about

two million dollars. Unless you've got some base, unless you've got a group of folks that are members of your organization and things of that sort. I can't recall who put that on the ballot. I think it might have been one of the anti-tax folks or something like that.

So you have to have some way of collecting the relevant number of signatures, and that was a statutory initiative, so that was even less. Well, I can't recall now. I'd have to go look it up. But I mean, the point was, they went out and got the signatures and put it on the ballot, even though it was blatantly unconstitutional. They had reworded it, and they have some argument why this was okay, but there were other states that had tried this and the courts had struck it down. It's a federal matter, and there are just areas the state cannot operate in, because it's clearly a federal matter, and there's nothing in the U.S. Constitution that spells out that there's any term limits for members of Congress.

I think there's an age... if I recall correctly, there's an age limit to be elected to the House of Representatives, but I think one of the interesting things, I think there's not even a residency requirement. If I recall correctly, I think, theoretically, someone from Nevada, they could even make it. Somebody from Kansas could get elected as a representative from California, even if they don't live here. There's some pretty strange things, which were probably not relevant to the founders when they were writing the Constitution, because, I mean, everything was

so small on the Eastern Seaboard back in those days and so fluid, that I don't think they envisioned the fifty states that we have today.

But the bottom line is, there's no term limits in the U.S. Constitution, and so the Supreme Court or the Courts of Appeal . . .

FERRELL: Except for President.

GREGORY: But remember, that took a constitutional amendment, and so that wasn't there initially.

FERRELL: Something more relevant to California is this regular thing of reapportionment, which comes up every time after the census, which happens every ten years. In 1990, or maybe it was '91, [Governor Pete] Wilson vetoed the reapportionment. Now, this happened before. This continually happens, it seems like to me. How is the Legislative Counsel's Office involved in these reapportionment battles?

GREGORY: Well, sort of peripherally, because... it's very peripheral. We obviously, provide legal advice, and every redistricting plan requires that a bill be drafted, because each of the 120 legislative districts and whatever the number of congresspeople we have at that time, which is fifty-some-odd things, have to be enacted into law. It's sort of the bill from hell, because all it is, is a bunch of numbers, and what they do is they generally go by precinct tracts. So it says District 10, and it just starts listing all these numbers. And it's a hell of a proofreading job to make sure that you've got the right numbers in there, and of course, they never show up early.

These things, they always show up right at the end of the session with the listing, and you'd have to put in bill form. There's always been bills sitting around the process since the beginning, because people know you have to do it to amend it into, so they are very large, large bills.

Prior to my time as Legislative Counsel, one of my predecessors had actually defended the reapportionment plans in the Supreme Court, so they got involved in litigation on the plans and so forth. But during my tenure, when they had court battles over it, it was customary for them to use outside counsel for these fights, so we didn't get involved in that at all. So it was sort of just more as a sort of interested bystander watching what was happening on these decades and whatever, because the ones I witnessed were the 1970s.

I think at an earlier time I was talking about those sessions going very long as they tried to craft a redistricting plan that was acceptable to the Governor, because Reagan had vetoed the redistricting plan and then they never got one passed. So the Supreme Court redistricted the state.

Then in the '80 plan, that was actually done by the Legislature, but it was only done after the general election, because in the general election, the two gubernatorial candidates... well, they didn't get it done in 1981. And in 1982 there was some litigation during that period of time. If my recollection serves me right that... I'm just trying to think of what was happening.

There was some litigation. I can't recall. It was in '81. But in '82, the gubernatorial election had Mayor [Tom] Bradley against Senator Deukmejian, and Mayor Bradley led in the polls, and the Democrats had both houses. So they sat back and said, "We don't need to hurry on this thing because of the fact that Bradley will win the election and we'll pass something and he'll sign it."

I can't recall right now why they didn't pass anything in '81 or even earlier in '82. So election night came around, and on election night Bradley had won the governorship. But this was one of the first...

FERRELL: You mean Deukmejian had won.

GREGORY: No. On election night, Bradley had won the governorship, but this was the first major election that was decided by absentee ballots. So on election night, Bradley was a hit. When they got through counting the absentee ballots, Deukmejian had become the Governor. Of course, the Governor does not assume office until the first Monday after the first of January in the next year. So Jerry Brown was still the Governor until midnight of that moment, or maybe noon. I can't remember. I think it's midnight.

So all of a sudden, now the Democrats are faced with a situation where they're going to have a Republican governor, and, of course, I mean, the thought was, Deukmejian's not going to be too excited about Democratic redistricting plans. So the Democrats cut a deal with the Republicans very similar to what they have today. They went to the

Republicans and said, “Look, let’s do a redistricting plan that basically preserves the status quo. So everybody, you Republicans get your districts, we get our districts, and maybe there’s a few that are tossups, but everybody gets to preserve their own turf.”

The Republicans said, “Sounds good to us,” and so we drafted redistricting plans. I said *we*. I mean it was actually the redistricting gurus are the ones that actually do the number-crunching and all that kind of stuff. But we put the bills together and ran them through the legislature.

The new Legislature convened the first week in December. They start early. So they convened and they organized, and then they called themselves back in at the end of December and passed the redistricting plans, and Jerry Brown signed them, and that set up the redistricting for the eighties.

In the nineties, they had themselves back in that same pickle again, where they didn’t get the plans done, because they had the Democratic Legislature and a Republican Governor. So the Supreme Court did it again in the nineties, and then there was a period of time that the Republicans had taken over the Assembly. The ’94 election was an election that actually the Assembly ended up tied, but there were some nuances on that. We can come back and talk about that.

But then the 2000 plan was basically a deal cut by the Republicans and Democrats that preserved the status quo, made very safe seats for the

Republicans and very safe seats for the Democrats. And that's the redistricting plan we're operating under right now. And it's still early enough in the twenty-first century that we haven't seen too many inroads yet.

What happens is, is that you set the plan up based on your census figures, but California, as anybody looks at our population growth, we are growing rapidly, and we're building all sorts of new housing developments and things of that sort. Probably not as much as we should be, but we are. So once you get to the middle of a decade, you start seeing changes, because of course, the districts are static, but the people are not static. So the districts will suffer loss and some will suffer a huge growth and things of that sort. Particularly when you get to the end of the decade and whatever, the best crafted plans have all gone out the window, and one party has generally made inroads against the other party.

But in the nineties, the '94 election was sort of a watershed in the Assembly, because they had tied. Essentially they ended up tied, and Willie Brown was still the speaker. So when the Legislature convened to pick someone... I'm trying to scratch my mind and go back and recall this but Willie Brown had convinced [Paul V.] Horcher to cross over. And I can't recall whether or not to either vote with the Democrats or not vote at all. I can't recall which way.

FERRELL: He was Independent, right?

GREGORY: No, he was a Republican. There were no Independents. The only Independent we had in recent history was the member Audie Bock. She was elected in a special election as a member of the Green Party, and she beat Elihu Harris in Oakland in a special election. Her fate was going to be pretty much sealed, because it was clearly a Democratic district, and if it was a regular election, she probably wouldn't have made it. A special election, of course, the turnout was low, and the Greens turned out in force. So she changed from being a Green to a so-called Independent, which is basically a "decline to state," and ran as an Independent and then lost the seat to a Democrat. But that's the only so-called Independent. But Horcher was a Republican from southern California. I can't recall what area. So he either didn't vote, which meant that you had a plurality with the Democrats, or he went and voted with the Democrats and so forth, and there was just a lot of turmoil going on in the Assembly at that point in time.

Boy, I'd have to go back and recall. I'd have to go back and look it up to recall all this. But '95 was a very tumultuous session. Willie was the speaker. Also, [Richard] Mountjoy, not the current Mountjoy that's in there now, but the father, Richard Mountjoy, had won election to the Senate, and so the [Democrats] were trying to get him out of the Assembly over to the Senate. The Republicans were basically saying, "Don't move over to the Senate right away. Let us organize the house and so forth."

There was one period of time when the Republicans even, I think, took off and deprived the Assembly of a quorum by hanging out at the Hyatt, took their meeting over at the Hyatt Hotel. Because, again, remember, the house was evenly tied, and so you need forty-one for a quorum. There was only forty Democrats.

But anyway, near the end of the legislative session, Willie engineered a deal where Doris Allen became the Speaker of the Assembly. Doris Allen was a Republican, and that really angered the Republicans, and so they started a recall campaign against her, which was successful. Before that was successful, Doris had passed off the speakership to Brian Setencich, who was from Fresno. Doris was from Orange County. So he was sort of the speaker, particularly during the recess period. Or maybe the Republicans actually had a one-vote majority, but when Horcher switched, it made it neutral, because . . .

FERRELL: Yes, Horcher became an Independent. That's what he did.

GREGORY: Well, he probably did, but they took him out eventually, too. But maybe the Republicans had a one-vote majority, but Willie got Horcher to switch, so that tied them up. That was it. So Horcher switched. So Horcher switched and that tied them up, because when the dust finally settled after everything happened at the end of '95, they had bounced Doris out, and I can't recall if they ran somebody. They probably ran somebody against Horcher and took him out, too. Because come the beginning of '96, the

Republicans had, again, their forty-one-vote majority and had gotten rid of these other folks. Although Setencich, I think, was still around, but I think he wasn't going to vote against a Republican thing.

So Curt Pringle was elected the Speaker when they reconvened in '96, and Pringle served as the Speaker through '96, at which time the Democrats took back the Assembly fairly solidly. I think it was like by five votes or something of that sort. So they reorganized themselves. Willie now had gone off to San Francisco to become the mayor, and [Cruz] Bustamante became the Speaker of the Assembly.

Then the Republicans were really in decline after that. In '98, they lost more seats, 2000, they lost more seats, and 2002 is the first time they turned around and actually started picking up seats again. So right now it's very heavily Democratic in the assembly.

But that's what it was. It was 41-39, and Willie got Horcher to go with them, which tied it up. Then that was when everything turned into this big stalemate for a while and so forth. Then, if I recall, I think Mountjoy finally went over and took his Senate seat, and that gave Willie enough votes to hang on to again become the Speaker. In the Assembly, the Assembly under their rules elects the Speaker at the beginning of each session. The Senate actually has a carryover provision, so the President Pro Tempore of the Senate actually carries over into the next term, unless somebody else is elected to replace him or her. So the President Pro

Tempore doesn't have to stand for election every election cycle.

Somebody's got to go against the person and knock them out before they lose it. In the Assembly, they start off with the Chief Clerk actually presides over the Assembly until they elect a Speaker.

FERRELL: I think in '94, the Chief Clerk had to go to the hospital with stress during that battle.

GREGORY: It was a very tumultuous time. It was incredibly stressful, but Dotson Wilson was a man of integrity, and he withstood all the... I can only imagine all the pressure he was under and so forth to make rulings in favor of the Democrats. I mean, Dotson was put in that office by the Democrats. I won't say "put in the office." That's a misstatement. He was elected. Jim Driscoll was a longtime [Clerk] of the Assembly, many, many years, and he retired, and Dotson replaced Driscoll directly. I was trying to think if there was somebody in between. But Dotson was elected the Chief Clerk to replace Driscoll, and it was during the time the Democrats controlled the Assembly, and Dotson had actually worked for Willie Brown and so forth. He's an attorney, he's a graduate of Hastings, my alma mater, and he was elected the Chief Clerk of the Assembly. So even though that's a nonpartisan office, you sort of never rub off where you came from, so people sort of viewed him as a Democrat. He may be a Democrat. I've never had occasion to look up his registration or anything

like that, but they viewed him as basically a Democratic-aligned individual.

But in his functioning as the Chief Clerk, which by the time we had got to '95 he had been doing for a number of years, he wasn't a recent appointee or recently elected. He handled everything in a very even-handed manner and provided advice to members and kept their confidences and all the things the Chief Clerks do. So he had a good nonpartisan reputation just because of the way he operated.

But I'm sure that the Democrats sort of felt, "Well, we sort of put him in there years ago, and we expect him to make rulings that favor us," and whatever. So there was probably just a huge amount of pressure on Dotson, and it probably ended up where he had to go and get some relief or something of that sort. But, yes, I do recall that.

FERRELL: You mentioned the President Pro Tempore of the Senate, and I think of John Burton, who is now in that position. I believe in politics he started in the Assembly, then he went off to Congress, he took a break from politics, and he came back, back to the Assembly actually in the 1980s. Now he's in the Senate.

GREGORY: Right.

FERRELL: He's a pretty interesting guy. Did you deal with him a lot as the Legislative Counsel?

GREGORY: Yes, I dealt with John a lot, because John is actually one of the old-fashioned politicians that likes to do everything himself. I think in an earlier session I talked about the office used to be physically in the Capitol, and the members used to come right into the office and have a face-to-face meeting with the deputies in the office and so forth. John was at that particular era. He was here during the sixties, and like you say, went to Congress, and he developed a drug habit. To probably save his life, he left Congress and dried out and so forth, and then ran and got back into the Assembly and then moved over to the Senate.

John has always been a colorful character. He's profane, but he's one of these people you always know where he stands because he basically will tell you where he stands and so forth. When I was Legislative Counsel and so forth, John would come bursting into the office and say, "I need this," or, "I need that," or whatever and so forth, and, "We need to get this set of amendments going" and this and that and whatever. He didn't really send a staff person... very seldom. He would just do it all and do it all himself.

I mean, John and I, I dealt with him back in the sixties when I was just a deputy. In the early seventies when I was Chief Counsel to the Judiciary Committee, he had sort of gone to Congress at that point in time. In fact, actually, his brother Phil, of course, was back in Congress. Phil was a master politician. Well, John is great, but Phil was a master

politician, and so I had dealt with Phil a little bit on the redistricting of the eighties. Which, as I said, ultimately ended up where it did because they couldn't get something signed by that time.

Phil was a master of redistricting, and that was in the era when computers were just starting to come into their fore, but folks were still doing it by the seat of their pants back in those days. And sort of knowing how districts voted and things like that and so forth. Phil had done one plan, I can't recall where it got or maybe it got vetoed. But he called it his piece of [modern art] to the State of California, because they had these districts that just ran all over the place.

They had this assemblyman at this time, Ken Corey, who was from Orange County. Today Orange County looks a lot different, but in those days, Orange County was very conservative, but Corey had gotten elected from Orange County as a Democrat. So he had drawn this districting so Corey could get reelected, and it was called the "Corey-idor," because it started in Orange County where Corey lived, and then it wandered up into L.A. to find these Democrats. In some places it was just as wide as the street to get up to Los Angeles to find enough Democrats to elect Corey. That plan never got enacted, but it was just interesting looking at it.

Although if you look at the current map that was done and so forth, the comments that were made in that thing could be just on a map that was done for this last redistricting cycle. I mean particularly the area that I live

in, they wandered in and picked up my district and ran me up into the Sierra Foothills and stuff like that and so forth, and it's just really weird what they did. But anyway, that's Phil.

But then John came back in the Assembly, and so I've sort of known John over the years and so we know how to deal with each other. We can yell at each other and understand each other, but that's sort of the way. It's sort of like having dinner with a sort of just unruly family or something like that, but that's the way John operates. So if you're a sensitive individual and you don't like somebody yelling at you, then you'd have a hard time dealing with John. But if you basically yell back at him and whatever and so forth, you sort of develop a mutual respect for each other.

FERRELL: I understand he gets along well with our current governor, [Arnold] Schwarzenegger now.

GREGORY: Yes, he would... I don't have any proof of that, but I don't disbelieve it for a moment. Because I think that basically their personalities would mesh a lot better than they did with Gray Davis, who was pretty much of a buttoned-down, closed-mind, closed-mouthed individual. It was no big secret that he just didn't like Gray Davis, and when you understand John's personality, you can see how he wouldn't get along with Davis. They would not be the kind of folks that would get along.

I don't think John smokes, but I can even see him sitting there when Arnold's puffing on a cigar and having a drink together and yukking it up and stuff like that. Politics is a lot of that, I mean, establishing relationships with people and so forth. Even though, probably, you know, Gray Davis was really a lot more moderate than people paint him to be, a lot more pro-business and moderate. So he really wasn't a liberal. I mean, John is pretty much a liberal, in a classic sense. He cares for poor folks and social programs and things of that sort and so forth. So actually, Schwarzenegger, policy-wise, at least what we can see to date, is probably about the same philosophical bent as Gray Davis. But he just has a different way of governing, more of the seat-of-the-pants and whatever, which is sort of how John operates. So I can see them yukking it up and cutting deals and all sorts of stuff, where that just never happened, would never happen, with Davis.

FERRELL: Well, I guess back to the nineties. In '93, you became a member of the house of delegates with the American Bar Association.

GREGORY: Yes. That was a Uniform Law Conference, which we had talked about earlier. It has a seat in the house of delegates. The house of delegates is a four to five-hundred-member body of the American Bar Association that establishes the policy for the association. The American Bar Association is the world's largest voluntary professional organization. I'm probably off in my numbers, but let's say three hundred to four hundred thousand

attorneys are members of the Bar Association. It is voluntary; you don't have to be a member, unlike the Bar Association in California where you have to be a member to practice in the state. It advocates on behalf of attorneys at a national level and not just advocates for the practice of things. But it takes positions of administration of justice, speaks out, for example, on giving due-process rights to the detainees now, speaks out on the death penalty. Not on the policy of whether we should have a death penalty. But speaks out that people shouldn't be condemned to death unless they've had competent counsel representing them during the trial proceedings, and a variety of other things, besides promulgating a model code of ethics for lawyers and judges and things of that sort.

It has a board of governors that is elected by districts. California is so big that the one district is just California. But the policy is established by the house of delegates, and the house of delegates meets twice a year, February and August, and debates and passes resolutions. So from '93 to '97, I served in the house of delegates as a representative of the Uniform Law Conference. And then I was out of the house for a while, and I've now been back in the house for four years now, maybe, four or five years. Four or five years, that would be overlapping, wouldn't it? I was out in '97, probably came back in '99, and I now represent the Sacramento County Bar Association as their representative in the house of delegates.

The house of delegates is composed of a lot of different bodies. There are people elected to the house from various states. Depending on the size of your Bar Association, you may have one or more members in the house, and the Sacramento Bar Association has enough members that it has one seat in the house of delegates. Some bar associations, like the Los Angeles County Bar Association, is so large they've got two or three seats in the house of delegates. It just depends on the number of lawyers that are members of your voluntary bar association.

So it's an interesting time, so I enjoy the work.

FERRELL: Sometime in there, I'm not sure when it was, you filed a couple of friend-of-the-court briefs with the United States Supreme Court. What were those regarding? One of them had to do with the Franchise Tax Board, and the other was with the bar association.

GREGORY: Right. We filed two *amicus* briefs with the U.S. Supreme Court, and if I recall the Franchise Tax Board one correctly, it was over the taxation of multinational corporations. California has a tax called the Unitary Tax, and it's changed over the years and so forth. But speaking in broad concepts, what the State of California does is says, "We're not going to just tax you on the activities that you have in the State of California. But we're going to look at all your activities on a worldwide basis, and apportion those in a way that we figure out what should be apportioned to California."

One of the reasons to do that, conceptually, is that it inhibits the ability of these corporations to shift money out of California to avoid California taxation. For example, you may have a corporation that's providing goods or services here in California. Let's say they're manufacturing goods here in California. One way to ship money out would be when you're buying the parts that are going to go into those goods from subsidiary, their subsidiary corporations that are outside California or maybe even outside the United States, is to pay them huge amounts of money for the parts. So that when they end up billing the goods in California and selling them, there's a very small profit left, but huge amounts have gone out of California to a subsidiary that might be in Taiwan, for example.

Needless to say, the multinationals don't like that. They'd like to be taxed only on what's happening in California, because the end result was that they end up paying more tax, because we're looking to see how that activity relates to California. It's a very complex area and so forth.

So we wrote a brief supporting the Unitary Tax, and that case was argued in the Supreme Court. In fact, I went back and actually watched the arguments in the Supreme Court. I was not one of the lawyers presenting the arguments, but it was just curiosity to go see. In the Supreme Court, we won that case. The Supreme Court ruled in favor of the Franchise Tax Board.

[Session 5, March 17, 2004]

[Begin Tape 5, Side B]

FERRELL: So filing with the court, you don't actually go to the Supreme Court . . .

GREGORY: Well, you file a brief, they call it an *amicus* brief, and what it is, is it expresses the position of a party. This one I happened to be expressing the position of the California legislature, being their lawyer, and of course, it supported the view of the Franchise Tax Board. I mean, the brief will support the view of one party or the other.

The other one was the so-called *Keller* case, and there had been a fight—it's probably the best way to describe it—over the years, on what you could use bar dues for. Every lawyer in California who practices in California has to be a member of the California State Bar Association. The vast bulk of money used by the bar association is used for admission and discipline, but there were other things that the bar association spent money for, and they generally fall under the rubric of administration of justice. Now, they have other programs dealing with outreach to get more

minority lawyers and more women lawyers or things of that sort, and there's some of that also.

But over a period of time, there were people that were upset on some of the positions that were taken by the bar association. Because over the years at that point in time there was a part of the association that was called the conference of delegates, and it's very analogous to the house of delegates. The conference of delegates was funded by the bar, and they would take positions supporting like the legalization of marijuana. I remember one year they took the position of the legalization of prostitution. And positions on no-fault automobile insurance, I think they were against it, and other things that a lot of people considered social matters.

So people felt that you shouldn't be able to use dues that are mandatorially required to be paid. Unlike the American Bar Association where that's up to the individual choice of the lawyer, here you have to pay your dues. So they said, similar to the concept that when a person's a member of a union, there's a way that they can object if their dues are being used for political purposes, if it's a mandatory union shop, and so they had the same arguments.

So the Pacific Legal Foundation, which is a conservative organization, sued on behalf of... I think Keller was the deputy attorney general, if I recall correctly, which had nothing to do with his office,

deputy attorney general, but he was the named plaintiff, Eddie Keller, I think. Arguing that it was unlawful for the state bar, unconstitutional for the state bar, under the First Amendment grounds, to use a portion of the dues for advocacy arguments.

That case went clear up to the Supreme Court, and ultimately, the bar was prohibited from doing that. So there is now, even today, a so-called Keller deduction. So the state bar had to go back and they had to figure out. OK, of your dues, and of the four hundred dollars, for sake of argument, that you were paying, how many dollars of the four hundred dollars were actually spent on these activities. I think it was less than five dollars.

So what they did was they gave the ability to anybody paying the bar dues that year to deduct the Keller deduction. So that money would not be going to those advocacy efforts and whatever. Ultimately, the state bar has got out of that business. In fact, they adopted a purview matter, which was a great controversy in the conference of delegates, where they tried to keep all of these hot-button issues off the floor, the prostitution, the marijuana, the things they viewed as more of a social issue. And try and deal with pleadings and all the nuts-and-bolts stuff that lawyers deal with.

Also, the sections of the bar, they required them to have their own lobbyists, because the sections of the bar sometimes express social views

and things of that sort and so forth. So today, as we speak, that ruffled the feathers of many of the folks in the conference of delegates, which actually was formed by many of the local bar associations. So today the conference of delegates has split off totally from the state bar and no longer is part of the state bar. It meets at the same time as the state bar, but it's not funded by the state bar and the state bar doesn't control it. It's got a different title now, it's sort of like the conference of local bar associations, or something like that. I can't recall the name of it. It's funded totally differently than the State Bar Association.

It had its own lobbyists. It's hired its own lobbyist, so they are free now, because again, they are not funded by the mandatory dues, and so they tend to take social positions. Now, they haven't done marijuana or prostitution or something like that. But they are not limited by the so-called purview motions anymore that the conference of delegates, when it was funded by the bar, was always looking to decide whether or not any resolution proposed by a local bar association presented a purview question. In other words, was it something in an area that the conference shouldn't be involved in based on these series of court decisions that were handed down?

But anyway, we filed an *amicus* brief in that one on behalf and in supporting the bar association. The Legislature is actually the one that sets the bar dues, so that's what the Legislature's interest was in that

particular case, and we filed an *amicus* supporting the bar. But in that case, unlike the other one, the Supreme Court actually went opposite what the position of the bar was and opposite the position of the brief.

FERRELL: The 1990s, there were a lot of interesting propositions. I don't know how involved in some of them you were. Some that come to mind, there were school vouchers. You mentioned Proposition 187. There was the Three Strikes Initiative. There was a Single Payer Healthcare Initiative that didn't pass. We were talking about the titles of propositions. The title of this one, Prop. 209, in 1996, the California Civil Rights Initiative, a lot of people had issues with the title of that.

Anyway, I was just wondering, in the 1990s, did you get involved in these things as Legislative Counsel?

GREGORY: Not really, because, again, I was aware that they were there. The members would often ask us for legal opinions on these initiatives, as to whether or not they were constitutional or did they conflict with federal law, which is a spinoff on constitutionality, or how they would apply to certain situations and things of that sort. So we would write the legal opinions on that particular issue or provide oral legal advice, whatever they were asking for. But, again, because they were part of the electoral process, we didn't get involved with them.

So we were just, again, sort of an interested observer of what was happening. Now, of course, once again, if they were passed by the people,

then, of course, the members would either continue to ask questions or increase the volumes or whatever. Prop. 187 was passed by the people, and so, again, we were asked questions about that and how it applied to education and social services and the other things that 187 applied to.

FERRELL: Another thing that happened in the 1990s, '94, there was the Northridge earthquake, and later on what happened is there was a scandal, I guess is the right word for it, involving Mr. [Charles] Quackenbush, the insurance commissioner. Your name came into some of the newspaper articles as Quackenbush's lawyers were accusing you of withholding evidence.

GREGORY: Well, I wasn't withholding evidence, but they were trying to get some material back from us. There was huge amounts of controversy about Quackenbush and the money he had collected from these insurance companies. He had set up some nonprofits to handle the money. In fact, it's still playing itself out today. There was just a retrial of one of the people in Sacramento here and just was recently convicted.

The Legislature was digging into the matter, and there was a lot of controversy over there, because, at least in the early stages, it was not all that clear as to what he had been doing and so forth. So there was quite a bit of partisan schism over there since the Republicans were supporting him, the Democrats weren't. Now, that ebbed after a while, because it became clear that what he was doing was not proper, and so the Republican support sort of eroded.

But there was comment going on about the fact that these insurers had engaged in, I may not have the right term here, but like unfair business practices with respect to the settlement of claims. And that there have been market-rate studies, which I believe is the proper term, done that demonstrated that these insurance companies had, in fact, improperly denied claims to people of their insurance. These market-rate studies are confidential, and you can't just get them under the Public Open Records Act request and so forth.

So what had happened was that an employee of the Department of Insurance, an attorney there, Cindy Osiasis—I think I have the name; I think I pronounced it correctly—had leaked a copy of it to a legislative staffer. And actually turned out, we found out, had actually given a copy to a legislative staffer in the Assembly, who didn't know what to do with it, and conferred with a secretary there. They decided to do nothing with it, and so it just sat there.

So she became frustrated by that, the attorney did, so she turned a copy over to Senator Martha Escutia's office, a staffer in Martha Escutia's office. So what Escutia did was put the matter on her website, which, of course, had the effect of making the thing available to the world. Of course, I have no idea how many people downloaded it, but suddenly it's all out there.

I believed it involved State Farm Insurance, I'd have to go back and refresh my recollection, but I think it was State Farm. So what happened was, we got sued by the Department of Insurance. I mean "we" being the Legislature got sued by the Department of Insurance, arguing that we had to basically return it, take it off the website and so forth.

So we went to a preliminary. They wanted a temporary restraining order, and so we went over and argued before Judge Gray over in the Superior Court. At that time, he made the right decision. Obviously, every lawyer's got their own view in life, but we viewed this as a classic Pentagon Papers case. We had done nothing, on the part of the Legislature, had done nothing to encourage this lawyer to give us this document. I mean, she just decided she was going to do it on her own. She was going to act as a whistleblower, and so we were not complicit in any way of encouraging her saying, "Give it to us," and, "Why don't you go steal it for us," or anything of that sort and so forth.

So Judge Gray refused to issue a temporary restraining order, and the way these things happen, you generally have this first hearing, and then they go for a preliminary injunction, which is a later proceeding. So by the time they got to them before the preliminary injunction, he had turned himself around and said, "No, you've got to give it back, and you've got to take it off the website," and whatever. He was citing the provisions of the insurance code which makes these things confidential.

Now, we would have had a winning case if we went up on appeal, and we were going to go up on appeal. But this is sort of a moving target. By the time this had all transpired, it became pretty clear that Quackenbush had been involved in this whole smelly situation. Calling the insurance companies in and, basically.... He had this little room over there. When I say *he*, I'm not saying that Quackenbush himself personally did this, but clearly his high-level staff had done this. So they would call the insurer in and say, "We have all this evidence against you and so forth, and we're going to go and exact huge penalties and that kind of stuff. But, of course, we'd be happy to settle this, if you agree to pay *x* number of dollars to these foundations that we've setup."

These foundations, of course, then went out and did a variety of things. One thing they did was make a lot of money for Quackenbush's political folks, in the sense of administering these funds.

But they did commercials, I mean commercials featuring Quackenbush and so forth. I can't recall, they had some sports figure in one of them or something like that and so forth. But it was sort of a very highly irregular thing to do, because normally if your company is going to pay money, it goes in the general fund of the state, and it's like a fine or a penalty. And to pay money off to a nonprofit was really sort of out of line.

So, anyway, the bottom line was it never got taken off the website, we never gave back the copy of the market-rate study and so forth.

Because I can't recall whether the order didn't become final... something happened, I can't remember; I'd have to go back and review the litigation. But that's probably what you read, was that Gregory's withholding something. I mean, it was the market-rate study they wanted to get back, and of course the company was in there supporting the department. The company didn't want to have this out, because of course, it laid out all the conduct the company was accused of.

Of course, the company's argument was that they had filed a report that disagreed with all the stuff in the market-rate study, and so, of course, the Legislature said, "Well, that's fine. Let's see your rebuttal." Of course, the company didn't want to give the rebuttal. They just wanted the market-rate study to go away and so forth.

But that was one of the old interesting dust-ups we had at that time and so forth. Of course, Quackenbush subsequently resigned the office because it became pretty clear over in the Legislature that, I think, that he would have been impeached, clearly impeached, and then he would have gone to trial in the Senate if the Assembly impeached him. He pretty much had lost most of his support over there when the details started coming out with respect to what was happening.

FERRELL: I read an article in the *Sacramento Bee* about the time of your retirement, which was 2001, and it gave a very brief overview of your career. It talked about kind of the legacy you left behind, which, of course, they

mentioned the big computer system that was installed and the many years you were in the Legislative Counsel's Office. It talked about reapportionment and mentioned the battles, the big disputes that you presided over there. It also mentioned legislative sexual harassment scandals. I haven't heard other things about that, except in this one article. What sort of scandals were there? I don't know, what did you do? Did you mitigate them, or what?

GREGORY: We represent the Legislature in a variety of contexts, and the one thing we do is represent them in litigation. I've jokingly said that almost every decade's got its own little nuance as far as employee-employer relations. During the 1980s it seemed to be the decade of carpal tunnel syndrome. It seemed like that became the flavor. But, of course, that's a workers' compensation issue and is the loss of mobility in your wrists and so forth from repetitive typing and things of that sort.

But the nineties seemed to be the sexual harassment decade and so forth. I think everybody became very sensitized to the issue of sexual harassment. In the Legislature, both houses adopted policies dealing with sexual harassment. In fact, the policies were a zero-tolerance policy, which is a policy that says that we just think that conduct dealing with sexual matters are inappropriate for the workplace. So, for example, dirty jokes, things of that sort, you know, were just not tolerated in the houses.

Sexual harassment is a little bit different, because sexual harassment is a legal matter and so forth, to be actionable has to rise to the level that it has to be severe and pervasive and affect the employee in their performance of their duties. That's one test and so forth, and of course, then you have the other test, which is the so-called quid pro quo test. Which basically covers the situation where the employer would say, "You will not advance or receive some other advantage unless you have sexual relations with me." That latter one is relatively rare and so forth. Generally, what you find is more the former.

So we had a series of cases that we defended for the Legislature in the nineties, and so when the allegation was made, of course, immediately an investigator would be brought onboard, and generally it's an independent investigator to do an investigation for the Rules Committee. They would report to the Rules Committee as to their findings as to whether or not they believed the conduct occurred. Again, as I said, they're looking also at the zero-tolerance aspect of the thing, not just necessarily the higher level of sexual harassment.

We had a series of cases, and some of them we felt were meritorious, and so there was a settlement made with the employee, and some of them we felt were not meritorious, in which case then we had to proceed to trial because no settlement was possible, or we certainly

probably would have settled them for a relatively modest amount of money just because of the expense one incurs in litigating a case.

But the demands by the employees were much too high. In one case, for example, they were demanding a million dollars. Clearly, we were not going to pay a million dollars for a case we thought had no merit.

The two big cases we defended were one involving an Assemblyman down in San Diego, and I'm trying to remember his name right now. I think it was [Tom] Connolly. We could spend probably a couple hours talking about the merits of the case, but we basically felt it was non-meritorious.

One amusing thing was the fact that the plaintiff's lawyer, as part of his case and so forth, somehow wanted to paint this as some big political conspiracy in Sacramento against his client. He called me as a witness. I, of course, went to the witness stand and I took my oath. He asked the normal preliminary questions about your name and your address and so forth. Then he asked me, he said, "What political party are you registered in?"

And I said, "Decline to state," at which time the attorney turned to the judge and asked the judge to order me to answer the question.

I'd associated a trial firm to help us try these cases, and that firm is Murphy, Adams, Austin & Schoenfeld here in Sacramento. Dennis Murphy is a premier defense lawyer, and so Dennis was down there in San

Diego. And Dennis started to... he hardly could contain himself from laughing.

When he said that to the judge, I turned to the jury and I explained that “decline to state” was a way you registered in California if you were not a member of any political party, which then, of course, the plaintiff’s lawyer had a very sheepish look on his face and so forth.

But that case was successful for us. I think the jury was out a very modest period of time, an hour or so, or something like that, and came in with a defense verdict for us.

The other case we tried up here was a case involving Mickey Conroy. Mickey was a legislator, a former marine pilot, he was in his sixties at that point in time and so forth. There were allegations by an employee in his office about sexual harassment. It was investigated, and what it found was, was that Mickey Conroy and his aide, Pete Conaty, had violated the assembly’s zero-tolerance policy in the sense that there were certain things happening in the office, but that they were independent of each other and sporadic and so forth. And didn’t really rise to the level of being severe and pervasive.

But that employee sued and so they were... I should say they were disciplined for that. Conroy received a reprimand and Conaty received a week without pay. The employee turned around and sued for a million dollars.

Again, we could spend a lot of time talking about the tactics of the case, but eventually what happened was, was that we ended up going to trial here in Sacramento on that particular case and ended up with a verdict that on its face appeared to be against us. But what the jury found was that there was no sexual harassment, that there was no assault, there was no battery. But then found that we were negligent in failing to train the members and staff about sexual harassment, and then found us liable for the negligent infliction of mental distress to the tune of six hundred thousand dollars.

The problem with that particular verdict was the fact that the first part of the verdict that they found us negligent for failure to train was inconsistent with the other part of their verdict. Because if they found no sexual harassment, then you really can't find someone negligent for failing to train someone for something that didn't happen. So that part of the verdict was inconsistent.

The second one, the judge had created an error. We had specifically asked for an instruction to the jury that said if you find that there is no assault or battery, that you cannot find there's any negligent infliction of mental distress, which is what the case law was. And the judge refused to give us that instruction.

So suddenly we had a verdict that on its face appeared to be six hundred thousand dollars against the Assembly, and it was a loss. When

in reality, essentially, it would not be a verdict you could sustain on appeal.

This case had been going on for several years, and as I said, we could fill a whole book about all the machinations of the plaintiff's lawyer in this particular one. But we essentially negotiated a settlement on this one for three hundred thousand dollars, so again, on its face it appears the Assembly paid three hundred thousand dollars. But we took a look at how much it was going to cost us to take this case on appeal, even though we were going to win the thing on appeal, and then we would be back trying the case again in the trial court, and all of this adds up to money.

We knew that the other side already had about two hundred thousand of hard costs. What I mean by that is they've already paid their expert witnesses and other folks about two hundred thousand dollars, which only left about a hundred thousand dollars for the plaintiff. The plaintiff's lawyer had been with a firm to start with and then left and gone on her own, and that former firm had some claim on the part of that hundred thousand dollars that was left over.

The irony of the whole thing is the fact that the plaintiff probably herself probably got very few dollars out of the settlement, by the time you got through taking the attorneys' fees off the top and so forth. This is a case that, because of the fact that the folks had been found to violate the zero-tolerance policy, we'll just settle for a modest amount very early in

the case, in fact, shortly after it was filed. If they had accepted the amount that was put on the table at that point in time, the plaintiff would have ended up with more money in her pocket than she did several years later after the litigation. It's one of these tragedies that often happens in litigation.

But the interesting thing about that case was we were able to show to the jury.... The plaintiff thought that because the person had violated the zero-tolerance policy, which, as I said, is at a very low level, there were no jokes, no this, no that. Even though it hasn't gotten to the point where it's so severe and pervasive it affects the person's ability to perform their duties and so forth, was able to explain to the jury that, yes, in fact, these folks had been found to have violated the policy. And, in fact, had been disciplined and so forth, but that still didn't raise itself to the level where now there was actionable sexual harassment. That, I think, was quite a feat on our part.

So basically, through the nineties there were a number of these cases, and from what I read across the street today, I don't see that there's anything occurring over there today in this decade. I'm not sure if you ask my successor if she thinks there's just some particular flavor of this particular decade. But during the nineties there was quite a bit of activity regarding sexual harassment, and of course, the press took great delight in

reporting it. If you actually went back and looked to check these out, the press gleefully, of course, reported all these cases.

FERRELL: I do recall. You're absolutely right about the 1990s and the sexual harassment.

GREGORY: I think what's happened, I think people have become much more sensitized to it and sort of cleaned up their act and so forth. So I think it was a nice curative period of time in our society, and people realized that that kind of conduct is not to be tolerated in the workplaces.

FERRELL: Like I say, I found out about this in an article that just very briefly summed up your career at your time of retirement. I just wanted to ask you why did you choose to retire. I know you can't stay in office forever. You had the longest time in that position.

GREGORY: Right.

FERRELL: Why did you choose to end it in 2001?

GREGORY: Well, there's actually a very simple economic fact. I got to the point where actually my net retirement benefit exceeded my net take-home pay. In California, the CalPERS system is a defined benefit system. Which is a system where, for the class that I was in, which is the general class for all employees—I should make that clear, no special class—you take your average of your last twelve months' salary, and it's multiplied times your years of service and a factor. And that decides what your benefit is.

As we indicated, and so forth, I went to work for the state in the Legislative Counsel's Office in 1968 on a permanent basis and had worked for the state since that time. But I also had worked one summer, as we had indicated, in the Legislative Counsel's Office. I also during my college days... I don't know if we talked about this earlier, I had worked for the Division of Highways during the summers, when I was going to Stanford, down at the Materials and Research Laboratory out here on Folsom Boulevard. I was able to buy back that particular time and so forth, so I have a lot of years in state service.

So when you apply the factors, when you got to the end of 2001 and applied all those factors as to what my retirement benefit was going to be, and when you are retired there's a couple of things you're not paying. You're not paying Social Security on your wages and you're not paying into the retirement system. So when you factor those things as to what your net is and so forth, I actually ended up with a net retirement benefit that exceeded my take-home pay.

And the Legislature had changed dramatically over the years. We talked about term limits and how it rolls over the members and things of that sort. It operates quite a bit differently than it did back in the old days and for a lot of different factors. I was sixty-one at that particular point in time. I just felt it was time to leave and go off and try other things and try the private practice, where I've been for the last couple of years.

FERRELL: Your successor is Diane Boyer-Vine. Can you tell me a little bit about her?

GREGORY: Diane is a bright individual. She had come to work in the office after, I believe, she had a brief stint in private practice. She's a UC [University of California] Davis graduate and had come to work in the office and had demonstrated her competency many times over. And had risen up in the office to a point where, when my chief deputy retired back in the latter part of the nineties, that was Jack Horton, she was elevated to chief deputy and was serving as the chief deputy in the office when I retired.

When I left in 2001, the Legislature went through whatever process, I mean, I was now outside the Legislature, sort of viewing it from afar. But sometime in the latter part of... not the latter part, but sometime in... I don't recall, March, April, or May, or something like that. Maybe April or May of 2002, they finally got their act together. Obviously, when I left at the end of 2001, actually, I had two chief deputies at the time, and so they were almost like co-acting Legislative Counsels, although Diane was sort of the lead person. She was sort of the acting Legislative Counsel at that time. But they chose her as my successor.

FERRELL: I know this is an oral history, but I'd like to ask what you think about the future. I know you don't have a crystal ball. I'm talking about the future of the Legislative Counsel's Office.

GREGORY: I think the Legislative Counsel's Office has a bright future. Coming up in ... I guess there's still nine more years, it will be a hundred years old. So it's actually probably one of the oldest institutions in the State of California. If you start going back and checking, probably the Department of Corrections might be the oldest. They probably locked somebody up quickly after they became a state.

But if you look at all the various entities over the years, it's been around a long period of time. It provides an incredibly valuable service, because it is there to draft the legal language to carry into effect the policy decisions of the Legislature, and they need that function. And to provide them legal advice in a variety of contexts, which they also need. So as much as term limits has roiled the institution, they need somebody with a stable, steady influence and so forth, even more so now, because it's very useful.

I don't know what the median time is in the office right now, but when I was there, I think it was well over ten years, and ten years in the office. There have been a lot of retirements over the last few years, just because people got to the same age brackets that I got to and so forth. Once you get to sixty, around sixty and so forth, people then make their own individual choices as to when they're going to retire, but that's sort of an age when people start thinking about it. So we had quite a number of

retirements of the folks that have been there a long period of time, and there have been a lot of number fewer hired.

So I'm not sure what the median time in the office is, but it's certainly a substantial period of time. And so it's a valuable resource for a legislator to come up here and be able to deal with an office like the Legislative Counsel's Office that is nonpartisan by law. And in practical effect has been maintained that way, and come in there and be able to talk to an attorney about water law or education law or any kind of thing they want to talk to them about. And have somebody who has been there and knows what the law is to begin with and knows what the history of measures are in the Legislature.

The office... we may have covered this earlier, but the reason why they can work for members of both parties and all philosophical persuasions in both houses is the fact that it's prohibited by law from urging or opposing legislation. So it cannot take a position on whether something is a good idea or a bad idea. But that doesn't mean that they can't tell a member what the history of various things have been in the Legislature, so that the member can make up his or her own mind as to how they want to proceed. In other words, they can say, "This kind of bill has died in the first committee ten years in a row," or, "Passed to the second house, but it doesn't survive the second house." They can give them that kind of historical information, which is very valuable for people.

Then one of the unique things the office does is writing the legal opinions for the members. Because over the years when I've spoken with legislators from other states either at, say, the National Conference of State Legislatures' annual meeting or if they come and visit here and whatever, that function is often lacking in the other states. And they have to go to the attorney general. So, again, that's a valuable thing. Again, it's confidential. They can go and ask the opinion. If they don't want to release it, they don't have to. They can just keep it to themselves.

So it's just a valuable resource to the Legislature, and I'm sure it will evolve over the years, as we've talked about how it evolved over the period of time that I was in the office and was serving as the head of the office. But that basic function, I think, needs to be performed, and I think the framework in which it's performed in a nonpartisan manner that serves both houses is its strength and the strength that will carry it forward for many, many years.

FERRELL: Now, you retired in 2001, and this is 2004. What have you been doing lately?

GREGORY: Well, in May of 2002, I joined the firm of Nossaman, Guthner, Knox & Elliott as a partner in the firm. And have been practicing in the firm since that time here in Sacramento, serving a variety of clients, most of which generally have some problems with state government, since that's obviously an area that I know quite a bit about.

Recently, I've acquired two cases and so forth where I'm representing the Department of Finance, in one case over some litigation that set aside 500 million dollars that was supposed to otherwise go to the State Teachers Retirement System. The system was upset about that, and so they sued the Department over that issue, and I'm defending the Department in that particular case.

Then a more recent one that just came in was the case where I'm defending the Governor, Arnold Schwarzenegger, and the Department of Finance in a case involving the Vehicle License Fee, the so-called car tax. Where people are upset as to how the Governor has, we use the term *backfilled*, basically reimbursed local government for the loss of the car tax. In other words, when the Governor ran for office, he said that he was going to reduce the car tax, which had actually gone up under Gray Davis and so forth. There's a so-called trigger mechanism in the law dealing with state revenues and the effects. The car tax was lowered in the nineties by the Legislature, but they put a trigger in there that dealt with the issue of if you have certain levels of state revenues and whatever, then it would cause a trigger that the car tax would go back up again.

In the mid-2003 time frame, in June, the Gray Davis administration had pulled the trigger, so to speak, and the car tax went up. That was an issue in the subsequent recall campaign that occurred in the fall, and one

of Governor Schwarzenegger's promises was to reduce the car tax, which he did shortly after coming into office.

The effect on that is the car tax actually goes to local government. That's a large piece of the financial support of local government. So when you reduce the car tax and therefore reduce the amount of revenue that would go to local government.... What the Legislature did back in the nineties when they reduced the car tax, is that they agreed to, as we say, backfill, or reimburse, local government for their lost revenues. So when Governor Schwarzenegger then reduced the car tax when he took office, that meant that somewhere that revenue needed to be replaced, and so he adopted a certain mechanism to do so, and so he's been sued over that. And we are defending his actions in that lawsuit. So that's just sort of an indication of some of the things that we are doing.

[Begin Tape 6, Side A]

FERRELL: We've talked a lot about a wide variety of things. I hope we covered everything. Is there anything we missed?

GREGORY: I can't think of anything major that we've missed. Obviously, we could go on for many hours and talk about many, many things, but there has to be some finite boundaries on any project. But I think we've covered some of the major events over the last several decades.

FERRELL: I appreciate your taking all this time to talk to me. It's been very interesting, and I think it will be useful to people who read the transcripts,

and I think they'll get a lot out of it. I just want to say thanks for participating in the State Government Oral History Program.

GREGORY: It's been my pleasure.