

California State Archives
State Government Oral History Program

Oral History Interview

with

HON. HOWARD J. THELIN

Los Angeles Superior Court Judge, 1976-1988
Los Angeles Municipal Court Judge, 1967-1976
Member of the California State Assembly, 1957-1966

April 16-17, 27, 1987

May 4, 18, 1987

Los Angeles, California

By Lawrence B. de Graaf
California State University, Fullerton

RESTRICTIONS ON THIS INTERVIEW

None

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PREFACE

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

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

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

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

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

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

John F. Burns
State Archivist

July 27, 1988

This interview is printed on acid-free paper.

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INTERVIEW HISTORY

The reader of published literature on California political history in the 1950s and 1960s will not easily find the name of Howard J. Thelin. His party was out of power for eight of his ten years in the California State Assembly, and he represented a wing of the Republican party that emphasized thoughtful conservatism rather than dramatic issues. He was not a leader of his party nor a conspicuous champion of any movement or major piece of legislation. Yet, these very traits that kept his name from prominence also mark him as an excellent narrator of the history of the assembly during a decade of great change in its workings and composition. He is able to recollect both the politics and policies of the period from 1956 to 1966 in a dispassionate and detailed manner, untainted by partisan bitterness or a preoccupation with any particular cause. From this interview, the reader should gain insight into the legislature behind the headlines and a greater appreciation for that large majority of the state's lawmakers who, like Howard Thelin, rarely capture headlines but nonetheless form the backbone of the state's legislative process.

Main Themes

This interview was conceived and carried out as an overview of Howard Thelin's ten years of service in the assembly, 1956-1966, with a short postscript of his career as a municipal and superior court judge. The interview was not designed to have any particular policy or period

focus. Thelin's career initially offers detailed glimpses of the organization and internal workings of the Republican party, the first in 1956, when it was still largely in control of California government and a unified organization whose primary planning enabled it to take advantage of the cross-filing system. The second was in 1962, when the rise of the radical right and the John Birch Society produced deep rifts within party ranks and shifted its positions in the assembly. The large majority of the interview will proceed session by session through the years Thelin was in the assembly. Periodically, the interviews will provide glimpses of the operations of the lower chamber and how key structural changes altered its atmosphere and makeup.

In each interview session, major legislation is discussed. Thelin speaks with equal poise both on issues he supported and those he opposed. In the section covering the 1957-1959 session, there are comments on the State Water Plan, fair employment practices legislation, taxation measures, and cross-filing. In dealing with the 1961-1965 period, he discusses the Rumford Fair Housing Act, Medi-Cal, mental health acts, farm labor laws, and rapid transit issues. Perhaps his most insightful and original discussions concern conservative proposals which in many cases did not create such notice as did the predominantly liberal agenda. He personally sponsored a Taxpayers' Bill of Rights in his freshman year and subsequently proposed shifting state elections to odd-numbered years to increase voter attention to state issues. He also proposed a bill to ban strikes by public employees. He talks at considerable length about conservative issues such as combating crime, antipornography initiatives, anti-Communism, right-to-work laws, and

Proposition 13, which would have repealed all previous fair housing legislation.

Through all these issues, the theme is clear: the absence of a comprehensive legislative agenda on the part of the Republicans in the legislature. Reflecting upon the 1959 session and its many landmark liberal measures, Thelin notes:

The Republicans in these years had no program. I think in my last four years . . . I tried myself to initiate and create a kind of positive program. But it's almost impossible because everything you suggest, they throw up their hands, and somebody says, "Oh, no, no." You couldn't reach a consensus in a Republican caucus for a program. (78)

Research and Arrangements

The research for this interview began in 1986 when several basic works on California history were reviewed for the period from the start of the governorship of Goodwin Knight (1953) through that of Edmund G. Brown, Jr. (1982).¹ From this review, a chronology of major issues, legislation, election results, and campaign highlights was compiled. This chronology has been the foundation for all subsequent interviews with former legislators.

The coverage of Howard Thelin's personal life was restricted to a few biographical sketches, especially in reference works on the California State Legislature. Therefore, more in-depth information on

1. Of particular use in compiling this chronology were H. Brett Melendy and Benjamin F. Gilbert, The Governors of California, 1849-1862 (Georgetown, Calif.: Talisman, 1965), and Jackson K. Putnam, Modern California Politics 1917-1980 (San Francisco: Boyd & Fraser Publishing Co., 1980).

the assembly and its workings and issues during his career was sought in several monographs and texts on his period. Particularly helpful were Gladwin Hill, Dancing Bear (1968) and Richard B. Harvey, The Dynamics of California Government and Politics (1970). Specific legislation was traced through volumes of the Final Calendar of Legislative Business during the years of Thelin's service. Although it did not commence publication until four years after Thelin left the legislature, issues of California Journal provided insightful background on long-standing issues and political trends. This source was indispensable in compiling a background history on California courts and judiciary for the years of Thelin's career on the bench.

Arranging the interview at first proved surprisingly difficult. I knew of Howard Thelin's activities in the Republican party during his term in the legislature and so began efforts to contact him by telephoning various Republican central committee offices. All of these proved fruitless, testimony to the paucity of records kept by party organizations. I finally procured Thelin's home address and sent a letter introducing him to the State Government Oral History Program and inviting him to participate. Arrangements were quickly finalized thereafter.

Interviews

The interviews were all taped in Judge Thelin's office on the fourth floor of the Los Angeles County Courthouse building on North Hill Street, since he preferred not to do the interviews at home on evenings or weekends. Since he is still a sitting judge, these had to be worked into one-hour periods between the end of a day's court session and his

departure for home. Therefore, the interview required five separate sessions spanning a period from April 16, 1987 to May 18, 1987.

The conduct of this interview, in a series of one-hour sessions with intervals of up to two weeks between, was a mixed blessing. The judge's quarters were spacious and quiet, since all interviews were conducted after all court business had ended and the staff had gone home. The time gaps between sessions gave both parties time to reflect on previous meetings and to modify questions and responses as the main themes of the interview became more clear. I was particularly able to understand Judge Thelin better and to shape questions around his character and values. But the brevity of each session resulted in some awkward termination points, and interrupted meetings have probably cost some sense of continuity. These shortcomings were lessened by the fact that Judge Thelin was a very attentive interviewee, recalling what had been covered in earlier sessions and rarely repeating information and ideas.

The interview was preceded only by a letter and a follow-up telephone call in which general areas of questioning were outlined. There was no preinterview session. From these sketchy advance notices, Judge Thelin prepared himself well. At each session he had a file of old bills, correspondence, and notes on the period and topics we expected to discuss, and these were consulted occasionally during the interview with the result that the details are usually quite precise. There were few instances in which he did not recall what had happened.

Like many persons in the legal profession, Judge Thelin was cautious in making judgments on colleagues. The only exception was his discussion of the 1966 primary election in which he lost his bid for the senate

nomination to John Harmer. This was obviously his most bitter political experience, and he did not attempt to conceal his feelings. On most other topics he was dispassionate; his statements were carefully phrased and he often considered his responses for some time before expressing himself on tape.

The result of this series of sessions with such an interviewee is a document which should be especially valuable for its detailed recounting of political issues and legislation and the reflections of a moderate conservative who found himself increasingly at odds with the more partisan and ideological developments in his own party. These feelings culminated right after his primary defeat, when the opposition party governor, Edmund G. Brown, Sr., offered Howard Thelin a judicial post and he accepted. This interview should provide a fascinating microcosm of the political odysseys of other legislators of similar outlook and an insightful perspective on a decade of great change in the history of the California legislature.

Limited personnel at California State University, Fullerton during much of 1987 and many other commitments on the part of the interviewer combined to cause considerable delay between the conduct of the interview and the editing and final processing. Transcription was completed by Garnette Long, and the tapes were audit-edited by the interviewer. David Cox drew up the discursive table of contents and subsequently modified the wording to include terms that would interact with RLIN indicators. All editing revisions were encoded by Gaye Kouyoumjian. Final editing

was performed by her and Shirley E. Stephenson, who also rendered the final proofreading.

California State University
Fullerton

LAWRENCE B. de GRAAF

Biographical Summary

HOWARD J. THELIN

Born:

February 7, 1921
Van Nuys, California

Education:

Glendale High School, Glendale California, 1939
University of California, Los Angeles, A.B. 1946
University of Southern California Law School, LL.B. 1949

Professional Career

1949-1956 In private legal practice
1956-1966 Member of the California State Assembly (R., Forty-third District)
1967-1976 Judge, Los Angeles County Municipal Court
1976-1988 Judge, Los Angeles County Superior Court

Military Service:

U.S. Army, Twenty-seventh Infantry Division, 1942-1945

Family:

Married to Vivien Odell, November 8, 1958
Children: David Paul, William Howard, and Richard John Thelin

Awards:

Holmes Memorial Award, given by the Young Republicans of California, 1953
Romminger Award for best editorial in an American Legion Publication, 1953
Freedom Foundation Award, 1955

I. BACKGROUND

[Session 1, April 16, 1987]

[Begin Tape 1, Side A]

Family History

de GRAAF: Judge Thelin, a few biographical things to begin with. You were born in 1921 in Van Nuys?

THELIN: That's correct.

de GRAAF: Have you lived most of your life in southern California?

THELIN: All of my life.

de GRAAF: All of your life, except for your military service.

THELIN: Yes. I spent three years in the army during World War II. All but about two to four weeks were spent overseas.

de GRAAF: You were sent over right after induction?

THELIN: Yes. I took my basic training--I, and the others who were with me--in the Hawaiian Islands. As far as I know, we were the only group that had that experience. We went to Schofield Barracks, and we had our basic training there on Oahu. Actually, as I recall, after I was inducted, we went to the Presidio of Monterey, and from there we went down to [Camp] Stoneman and they took us to Oahu. We never went back home after leaving, until the end of the war.

de GRAAF: Before we get up that far, though, where was your precollege schooling?

THELIN: My precollege education was in the Glendale Unified School District. My parents moved to Glendale when I was about a year and a half old. So all of my education through grade school, junior high, and high school was right there in Glendale.

de GRAAF: Since part of mine was, too, I'd be curious which side you were on: Herbert Hoover High School or Glendale High School?

THELIN: I was Glendale all the while.

de GRAAF: I was, too. Were there any things in your childhood or your high school experience that you feel particularly shaped your later political views or career choice? Any Depression experiences?

THELIN: That's a very interesting question; but, somewhat difficult to answer, because all kinds of things influence you and you're hardly conscious of it. I do recall, when I was very young, becoming tremendously interested in politics. I can remember discussing the Herbert Hoover-[Alfred] Al Smith presidential campaign, which was in 1928. So I must have been seven years old at that time but already interested in presidential elections, at least. And that interest has always stayed with me. Somewhere along the line I equated politics and government with the profession of law. When I was about in the fourth grade, I think Buron Fitts ran for

lieutenant governor; he was the district attorney of Los Angeles. Somehow that aroused my interest. At that time, Mr. Fitts had sort of the image of the crusading district attorney. He ran for the Republican nomination and lost it to [James] "Sunny Jim" Rolph, who was a very popular mayor in San Francisco. I got very interested in Buron Fitts's campaign; and, at that time at least, I saw him as the young, progressive Republican trying to get the nomination.

de GRAAF: That would have been the 1930 campaign?

THELIN: It must have been, because I was in the fourth grade. I would have been . . .

de GRAAF: Nine years old?

THELIN: About nine years old, yes. So it must have been that campaign in 1930. That sort of stayed with me, and I felt an interest in the Republican party.

de GRAAF: Had your parents been Republicans?

THELIN: Well, my parents were unregistered [to vote] aliens, so they couldn't have been anything.

de GRAAF: Aliens from where?

THELIN: They came from Canada. My father was born in Sweden and came here with his parents when, I think, he was about eight or nine years old and went to Minnesota. Then he drifted over to British Columbia in Canada, and met my mother there, and they were married. I, in fact, was almost a Canadian. I

think my mother was carrying me when they moved down here. So they didn't have much influence that way. Of course, maybe he was a conservative from Canada, because he was a businessman there and a cigar manufacturer. But I've always remembered those things about Buron Fitts and the Hoover-Al Smith campaign, in which I equated myself with the side of Herbert Hoover. I can remember the election of 1932 when Hoover was defeated by FDR [Franklin Delano Roosevelt]. I can remember a debate in the Montrose Elementary School at that time--we'd moved up to Montrose, which is now part of Glendale, but it was not at that time--and debating on the Republican side. So I guess I really had an early identification, although I've never quite thought of it that way before.

Education

de GRAAF: It sounds like it. Did you continue debating or otherwise engaging in politics through your high school days?

THELIN: No, I didn't have any active political experience, in terms of walking precincts or passing out literature or anything like that during my school days. My interest was all, you might say, theoretical. I read everything I could, books and magazines, and constantly talked about politics with those of my classmates who were interested in such things.

de GRAAF: Then you went to UCLA [University of California, Los Angeles]. What did you major in?

THELIN: I majored in history. The reason I did that was because at that time at UCLA they didn't have any prelegal major, and I always had this ambition to be a lawyer. So I was advised that I could take anything that was in the social studies field. Most prelegal students took political science; but I had always liked history, so I majored in that.

de GRAAF: Did you recall any classmates [at UCLA] who became prominent later on?

THELIN: Oh, several of my classmates became superior court judges, [though] some of them I didn't know very well at that time: Robert Fainer, who is now one of my colleagues here, and Jesse Whitehill, who has taken a disability retirement, but who is also a judge here. Judge Robert Weil in this court was at UCLA at that time; and, there are doubtless other people who subsequently have become well known.

de GRAAF: Do you recall that UCLA had any particular influence on your political views?

THELIN: I wasn't active in any campus political organizations. I was rather shy. Also, I had to commute back and forth from Glendale, and I really didn't have much time. I didn't have much on-campus activity other than going to classes. UCLA was extremely active in terms of political interest by the students. These were the days just before Pearl Harbor. The war was going on in Europe, and there was a lot of interest in whether or not the United States should become involved. There was quite a strong isolationist movement at that time.

de GRAAF: On the campus?

THELIN: Oh, yes. There were many people who felt that we shouldn't be involved or that we were getting involved by the war profiteers. I remember there was a "Yanks Are Not Coming" group, which was definitely isolationist.

de GRAAF: Were there any students pushing the so-called Oxford Pledge, students pledged not to engage in war in any form?

THELIN: There probably were some, but I was not aware of that movement at the time. It made no impression on me, if that was the case. But I can remember we all had to take ROTC [Reserve Officers Training Corps] training at that time. It was mandatory in the California state universities that you take the first two years. After that, of course, it was voluntary. The students who wanted a reserve commission continued it. They would wear uniforms, officers' uniforms two or three times a week. There was quite a contrast between having that constant military image before you and observing the "peace at any price" kind of feeling among a substantial number of students. It was a very interesting place for a young person interested in politics. However, I can't say it influenced me because of my own personal participation in groups. But I used to go to rallies with friends of mine. Some of the professors certainly shaped some of my thinking by what they said and the interesting lectures they gave. UCLA really offered me a great

opportunity in the sense of being able to hear articulate and intellectual people discuss events. It was a great thing for a boy in my circumstances who did not hear that kind of conversation in the family home. UCLA was so economical then; I remember our tuition was thirty dollars a semester. So I've always been grateful to the people of California for affording me that wonderful opportunity.

de GRAAF: Did the war interrupt your further education at that point, or did you go to law school before the war?

THELIN: No, I finished three years, and then I was anticipating being drafted, so I didn't go back in September of 1942. It took them until December 1942 [to draft me], so in a sense I did interrupt my education. That summer a friend and I worked in a defense job up north, in Susanville, California, where they were making what they called "igloos," little round, steel, cavelike structures that they were going to store munitions in, which was an interesting experience. I think we got paid \$1.25 an hour, which was magnificent wages at that time. Yes, the war did interrupt my education, for I had completed three full years [of college].

de GRAAF: So you came back after the war to get your B.A. and go on to law school?

THELIN: That's right. I got out of the army in December of 1945, because I was three years overseas. I went back for that spring semester at UCLA, and then I went through the summer

session. I finished about the end of August, and the next week I went to law school. It was quite a struggle getting into law school though, because at that time all the veterans were trying to get in. I was trying to get to USC [University of Southern California], and it didn't look like I was going to make it. Then, at the last minute, they added a new section, so I got in.

Military Service

de GRAAF: Before we move on too far beyond your military service, were there any experiences you had in the military which you think in any way helped to shape your later political views or your career? Any personal contacts you made?

THELIN: Well, I can't think of any particular individuals who changed my career plans or influenced them or firmed them up. I think in a way the war was a little disillusioning in terms of my concept of people. I probably idealized the common man perhaps too much when I went in the service. It might have been typical of young college people of my time who were interested in public affairs and public matters. But I saw a lot of different kinds of people during the war. My particular division was extremely interesting. I was with the New York National Guard Division, and there were very few Californians there. We were sort of caught between the contending forces of the Civil War, because half of the division appeared to be young men from New Jersey and New

York, and they were, for the most part, Italian, Irish, Jewish, and Polish--an urban oriented group of individuals. The other half were replacements who had come in basically from Texas and some from Arkansas and Missouri. They were more agricultural than the boys from New York. At that time, Texas was really, as I saw it reflected in my division, a lot of ranchers. They all were oriented that way; they were not city boys. I noticed the contrast when you had to go out on a detail to dig a hole, and as an enlisted man, I got a lot of that sort of stuff. It was great to have those big Texans [with you] because they knew how to use a shovel and they weren't afraid to do it. Those boys from the big city tried to avoid all of that as much as they could. So I saw different kinds of people. For the first time in my life, I met people who had never learned to read, who were really illiterate in the true meaning of the word. That came as a surprise to me. I wasn't conscious of meeting anybody like that before in my life. Those influences, what I saw and how people were, how you handled people in a large organization. . . . I think the army made an impact on me in that way. It taught me how to organize. I learned something about how organizations operate.

de GRAAF: For better or for worse?

THELIN: Well, for better, I think, because I needed that. I thought things just automatically happened in life and suddenly I

realized it didn't, that you had to tell people how to do things. I also observed that there are a great many people who can't make decisions for themselves very well, for one reason or another; somebody has to make decisions for them. I guess I got increased respect for leadership and authority. I don't know how that's been reflected in my own life, but at least I feel that away about it.

Law School and Practice of Law

de GRAAF: You came out of the war, returned and got your degree at UCLA, and went to USC law school. Did UCLA not have a law school at that time?

THELIN: Correct, they did not.

de GRAAF: So you had to go to your arch rival to get a degree?

THELIN: Yes. I was thinking of going out of state for awhile. I was thinking about some places like Columbia [University]. I was in a good situation economically then because the G.I. Bill of Rights was applicable, and I hadn't used it up from my undergraduate work. So I had it available for law school.

de GRAAF: It did apply for professional degrees?

THELIN: Yes. It was a wonderful thing, in that respect.

Economically I had much more choice that I would have had if I had not gone to war.

de GRAAF: Were there any ways in which your veteran's status proved to be advantageous in later years?

THELIN: I can think of two offhand. I think it was an asset

politically to be able to say you had served in World War II and had been in three campaigns overseas with an infantry division. From a practical political standpoint, that was a good thing to be able to say. The other benefit was that it qualified me for the American Legion. The American Legion, of course, is not now, and has not been for a good many years, the potent political force that it was one time in American life. It helped me in the sense that I joined an active post in Glendale and soon became active in it. There were other veterans of World War II at the time, and I also made some good contacts with some older people in the community who later became very helpful to me in my political activities. Through the help of one of the commanders there who was a businessman in town, I got an opportunity to speak, not only in my own post, but other posts. He thought I was a good speaker on Americanism type topics. So that was good experience for me, and a side benefit of being in the war.

de GRAAF: I notice you also were in the Veterans of Foreign Wars.

THELIN: Yes.

de GRAAF: Was that a comparably important political group, or did it not have as much impact on politics?

THELIN: It had much less impact than the American Legion in my particular city, at least. You have to be careful about this, because I think it might vary from one city to the other or one part of the country to the other. But as far as

my experiences in Glendale were concerned, the Veterans of Foreign Wars just did not have the potency and vitality of the American Legion Post. Many prominent businessmen in the [Glendale] community who were veterans of World War I belonged to that post, Number 127, which was a well-known post in southern California at one time. The VFW just did not have a comparable roster.

de GRAAF: One final thing on veterans: Going through the California Legislative Calendar in preparing for this and another interview, and I was struck by the fact that as late as the early sixties, when they had a roster of legislators, they had an asterisk after each one who was a veteran. Did the legislature place some special importance on veterans' status?

THELIN: That's surprising to me, because I cannot remember any instance where it made any difference at all up there in the legislature.

de GRAAF: Generally speaking, the calendar is pretty cut and dried: the things that are important for business and that's it. But there was an asterisk after everyone, including yourself, who was a veteran.

THELIN: I'll be darned.

de GRAAF: To go on, you received your degree from USC law school when?

THELIN: June of 1949.

de GRAAF: Were you a full-time student, or were you already in some line of work while going through law school?

- THELIN: No, I was a full-time student because I had the G.I. Bill. Not only did we receive our tuition and our books, but we got a small stipend of thirty dollars a month. So that gave me a little spending money. I lived at my mother's home in Glendale and I was unmarried, so I could get along very economically. Of course, I worked in the summers.
- de GRAAF: You came out in 1949. How long after that did you set up the law firm of Thelin, Yates, and Morris?
- THELIN: I don't think that particular entity was formed until 1963.
- de GRAAF: Oh, that was after you were in the legislature?
- THELIN: Yes. When I got out of law school, there were several different alternatives I was considering. I very foolishly just took the money I had saved up during the war and started my own law office, which is a very tough way to do it, at least in Glendale at that time. If you were going to do that, it probably would have been very smart to go out to the San Fernando Valley, because it was expanding. Glendale was a much more set and established community and all of the good legal business was tied up. It was a very tough community to break into as a young lawyer on your own. But that's what I did.
- de GRAAF: I'm interested in one thing: Glendale was obviously quite a conservative area, and had been for some time. I'm interested in what groups--the American Legion you've already mentioned--or people in that area you recall being influential in shaping your political views or career.

THELIN: Well, you really asked me two questions there. You say, "shaping my views." I don't remember any person shaping my political views. I pretty much developed them by my reading and conversations with people. In other words, I didn't follow any particular person.

Influence of Glendale, California on Political Philosophy

de GRAAF: Let me rephrase that. Did you feel that the conservative nature of most of the Glendale community affected the political views or positions you would take in the legislature?

THELIN: Well, definitely that's an influence, and I'm sure the prevailing attitudes in Glendale influenced my own conclusions in arriving at convictions concerning political issues, as I grew up and lived there. I was raised in a city that was extremely conservative and typically middle-class America. Some sociologist at one time described it as a bit of the Midwest or South dropped in the middle of southern California. So certainly that community must have affected me. But I also always had the feeling that I was something of an outsider. I was probably overly sensitive to the fact that my parents had very little money during the Depression era, and as I grew up, I was always aware that they were aliens. Of course, I wasn't. I was a natural citizen, but they were not. And I wasn't in the ruling part of the community. I felt that we were defenseless, and our family

had some unpleasant experiences as I grew up. We were evicted from one house because my parents couldn't pay the rent. We had hard times. My parents were so hardworking and so conscientious and honest, yet, they couldn't seem to make ends meet. We lived in the southern part of the town, not up there in the Hoover High area where I live now. While it was a conservative community, and I was certainly influenced by that, still in a sense I was not a part of it.

Just the other day, my wife brought home a carton of candy she bought at Smart and Final [Iris Company], and it brought back a sharp memory to me of one time when we had moved to Lomita Street in Glendale. My parents had started their own grocery store several times, always looking for that opportunity. We had a little place where there was sort of a store in front and we lived in the back. In their simple way, they would buy these cartons of candy from Smart and Final and put them there [on the counter] to sell. I remember the marshal coming one day and seizing those cartons while my mother was crying. That was because there was an execution on the judgment for rent due on the place where we had formerly lived. The candy must have been worth just a few dollars. They were just trying to get started and it was grabbed away from them. I felt it was unfair. I suppose I had some hostile feelings about the Establishment and had all the makings of a rebel. But I guess a rebel from Glendale is less rebellious than they are in other places. [Laughter]

II. POLITICAL PARTICIPATION AND ASSEMBLY CAMPAIGN

Republican Party Organization

de GRAAF: We're interested in the backgrounds of people that go into political office. The other thing I guess I was wondering is, just to throw out a name . . . your immediate predecessor in the Forty-third Assembly District, H. Allen Smith. Did you have much contact with him prior to running for office?

THELIN: Oh, yes, because I'd been sworn in as a member of the Bar and started my law office in 1950 in Glendale, I threw myself into political activities. Carlos Moorhead and myself--Carlos is now the congressman for that area--were classmates in law school, and we both started our law practices in an old walk-up building in Glendale, so we were pretty good friends. There was a Young Republican group starting in Glendale, so we went there together when we saw a notice in the paper that this group was being formed. I became very active in that. H. Allen Smith was in pretty close contact with the Republican organization, so I got to know him quite well. Because of the enthusiasm and drive I had in those days, I was at a meeting every night. He'd be there when he was in town, so we got to know each other quite well. He was the igniting force that caused me to run for the assembly nomination when he announced that he was not going to run anymore. There was a meeting of the seven members from our assembly district who were on the [Los

Angeles] County Central Committee. Our local unit used to have regular meetings. The Republicans were very well-organized at that time, compared to most places. I remember him saying he wasn't going to run, and he didn't know who was going to take his place. Several people had been mentioned, and I remember Al turning to me and saying, "How about you, Howard?" I was just waiting for somebody to say that; I would never suggest it myself. [I was] very modest and unassuming, but I was burning to run for something. So his just saying that gave me a chance to say, "Well, I'd like to, but I'm afraid I wouldn't have enough money to run." He urged me to run. Then they organized a fact-finding committee to select the Republican candidate, because they did not want to have a contested primary. So the big thing was getting the endorsement of that fact-finding committee. I immediately, with that encouragement, went out the next day and started calling everybody I knew that would be on that fact-finding committee.

Republican Party Central Committee and Nomination

de GRAAF: Was this a committee of the Republican district central committee?

THELIN: It had been. By this time, we had known that H. Allen Smith was not going to run again. The chairman of our unit there in the Forty-third Assembly District was Mrs. Virginia Herzog, an excellent and very active chairman. She wasn't

going to let this thing get out of hand. We were all aware—but she particularly—that the fact-finding committee process had worked well over in Whittier when they got Richard Nixon to run. She liked that process, so she saw that we carried that out. I give her most of the credit for that. The assembly district central committee took it upon itself to create a citizens' fact-finding committee to select the Republican nominee. I don't think you could get away with that these days, but that was the decision. So we did form a committee, and it was an excellent committee. They had representatives from every one of the volunteer Republican organizations; it may have been the president of each one of them. In addition, there were a certain number of members, the seven members of the central committee itself and then citizens at large, a whole bunch of prominent Republican citizens, you know: bankers and insurance men, et cetera.

de GRAAF: Was it a fairly balanced committee, as far as the different positions in the party, or did it tend to be stacked in a conservative direction?

THELIN: Well, it was not deliberately stacked that way. I remember well the discussions about it, and nobody said, "Well, leave him off because he's too liberal or too moderate." It really wasn't necessary to say that because there didn't seem to be too many of them around. The main thing was to get people

who would actively work at the job and who would be representative of something. In other words, you wanted all the volunteer organizations to be represented, and, of course, the central committee, which is the official body, and then the community at large. In regard to the community at large, the main thing was to get people who would give the committee prestige and recognition. We wanted it to be a broadly based committee, in terms of representing all of the various groups that you could.

de GRAAF: The idea was that once all of these people agreed on a candidate, it would really be folly for anybody else to file for the Republican nomination.

THELIN: Yes. There were four of us who presented ourselves to the fact-finding committee. There were two others that were thought about, one of whom I think could have easily gotten the nomination: a very prominent lawyer in Glendale, now probably the most respected and prominent lawyer there. He was about a half a year ahead of me in law school. But he chose not to be a candidate, wisely, probably, because he had and has a very successful law practice. I think it would have been difficult to maintain that as a legislator, so he chose not to run. So there were four of us who ultimately went before the committee and made our presentation and filled out all the questionnaires they wanted us to fill out. I emerged successful and got the endorsement of the

committee, and then the other three dropped out. One of the questions on the questionnaire was, "If we didn't get the nomination, would we plan nevertheless to campaign?"

[Laughter] If you said you would plan to campaign nevertheless, I don't know what effect that would have had on your possible selection, but they wanted to know that anyway.

de GRAAF: All right, that's one person who influenced your career. I'm not aware of this next person, but I'll throw his name out: the predecessor of Smith, a C. Don Field. Had you ever known him, or did he have any particular influence on you?

THELIN: It's a name that comes out of my past because I read about C. Don Field and was very much aware of him and his successful career in the legislature.

de GRAAF: Yes, he ran for sixteen years.

THELIN: Yes, and he'd win the nomination of both parties in those days, and he was a prominent man. But I never met him.

de GRAAF: One other name that sometimes comes out in your area is the preacher who had come from Louisiana to Glendale, Gerald L. K. Smith. Did you know him, or did he have any impact in your case, or in politics in general, during your time in Glendale?

THELIN: He had no influence at all in Glendale. I think at one time he had his headquarters there.

de GRAAF: Yes, he did.

THELIN: But I don't think anybody was very proud of that. I never

met him. I have heard him speak at some of his rallies, but he counted for nothing in the political picture in Glendale.

Conservatism and Awards

de GRAAF: The final thing I think I'd like to ask before we get into your political career is, I noted that in both 1953 and 1955 you won awards. In 1953 I think it was the Romminger Award. What was that for?

THELIN: That's an award that was given by the American Legion Press Association for the best editorial appearing in any American Legion publication. In all these posts, most of them put out a bulletin or something of that sort. It was the best editorial in any post publication. I had written an editorial, and the editor of our publication was G. H. Gilliland, the businessman I referred to earlier who helped me a lot in the American Legion. He took one of my editorials and submitted it to that competition and, amazingly enough, I won.

de GRAAF: Do you recall the topic of it?

THELIN: Let me see. I think it had to do with the necessity for the American Legion having a definite program and being committed to it in order to attract new members.

de GRAAF: Then in 1955 you won the Freedom Foundation Award for an essay on Americanism.

THELIN: Yes.

de GRAAF: What was your understanding at that time of Americanism?

THELIN: Well, I don't know that I ever thought that through too well. I suppose that means a dedication to the principles of free enterprise and limited government and constitutionalism: the sort of thing that [Clarence E.] Dean Manion used to talk about at the time. I remember reading some of his essays and being impressed with them at the time. He was extremely conservative. That's this man whose son had all that trouble being appointed recently . . .

de GRAAF: . . . to the Federal Court of Appeals, yes.

THELIN: Yes.

de GRAAF: Now, from these two, I gather you were something of a writer as well as an attorney.

THELIN: Well, I've always liked to write, but I don't know that I would say I was anything of a writer.

de GRAAF: Have you done any free-lance writing?

THELIN: No. I've always thought that when I retire from this job maybe I'll try to do that. I won the Holmes Memorial Award from the Young Republicans of California for writing "The Need for Principles." My feeling then was that the Republican party needed to have a definite set of principles to adhere to.

de GRAAF: That was in the early fifties?

THELIN: Yes.

de GRAAF: These themes suggest quite a conservative vein of thinking. Did these conservative influences in any way conflict with

what was currently going on in Republican circles, as represented by Earl Warren or Goodwin Knight? Did you find yourself aligned, either philosophically or politically, with one group opposed to the moderate Republican influences of Warren or Knight?

THELIN: Well, that's again a very interesting question. As I grew up, I think I identified with moderate or progressive Republicanism, as we used to call it. I remember when [Raymond] Ray Haight ran in 1934 for the Republican nomination and lost to [Frank] Merriam, who went on to defeat Upton Sinclair in that very interesting campaign, that I identified with Ray Haight. As I grew up, I pretty much felt that way. But then a few years before I went into the legislature, I began reading the National Review. [William F., Jr.] Bill Buckley started his magazine about that time. He was a very potent influence through his writings, in the National Review. These conservative ideas were being presented in an intellectual way that impressed me. I'd never seen that before. There was a lot of extreme right-wing kind of writing and speaking that really had no intellectual content at all, so I was sort of attracted by what I'd call the "Bill Buckley kind of thinking" about this time. So when I got into the legislature, I think that I was identifying with this more conservative viewpoint.

[End Tape 1, Side A]

[Begin Tape 1, Side B]

Primary Election

THELIN: In addition, I was saying that my predecessor, H. Allen Smith, was pretty well recognized as being a conservative legislator. I felt a duty to carry on in Al's tradition, to some extent. And that, with the Bill Buckley kind of influence, really pushed me toward the more conservative wing of the party. Earl Warren, of course, was gone by the time I had gone up there. But Goodwin J. Knight was there, and I got along very well with Governor Knight; he was always a very gracious, kind individual, as far as I was concerned. So I was always able to work with what you might call the moderate Republicans who were certainly running things when I went up to the legislature.

de GRAAF: They were?

THELIN: Yes, because Governor Knight was certainly adopting a moderate stance. Speaker of the Assembly Luther Lincoln was definitely a moderate. He had a very pragmatic approach to governmental issues, and his appointments to committee chairmanships were pretty much the moderate Republicans. I was identified with what you might call the H. Allen Smith group that was a little out of favor: people like Frank Lanterman, Harold Levering, [Joseph C.] Joe Shell, and others of that sort. So I certainly was not favored by the prevailing Republican group at the time. But, you know,

these things generally aren't all that definite. We were all Republicans and we tried to work together.

de GRAAF: Was there any particular leader of the more conservative wing of the Republican legislators when you first went up there?

THELIN: Oh, yes. Of course, we [Republicans] were in the majority when I went up there. I forget that sometimes because it didn't last very long. It was two years and we were out. The conservative group was led by Harold Levering and Joseph C. Shell.

General Election and Cross-filing

de GRAAF: This very nicely brings us down to the 1956 election. You have indicated that you had no primary opposition, thanks to that fact-finding committee?

THELIN: That's right.

de GRAAF: Did your opponent, the Democratic opponent, bother to cross-file?

THELIN: The Democrat? No, he did not cross-file.

de GRAAF: You did cross-file, didn't you?

THELIN: I think so. You know, it's been so long ago I can't remember, but I'm sure I did.

de GRAAF: You did, at least in 1958. I don't have the data for 1956.

THELIN: I hadn't thought about that, but I probably did. It was legal then.

de GRAAF: Yes, you just had to indicate your party affiliation, which did somewhat, I think, reduce the effect of cross-filing.

But I was amazed that as late as the 1959 session, over half of the senators were officially listed in the calendar as either "D-R" or "R-D," indicating they had won in the primary election.

THELIN: Oh, yes. Many assemblymen did that, too. Cross-filing certainly had its effect.

de GRAAF: Who was your opponent in 1956?

THELIN: Richard Rogan.

de GRAAF: Did you have any particular platform that you . . . or any strong platform issues that you recall?

THELIN: Not really that I recall. I just stated the normal conservative positions that fitted in with the philosophy of my district.

de GRAAF: I would imagine, given your district and your subsequent elections, that the general election was not really in doubt?

THELIN: I don't think the general elections ever were in doubt in my terms in the assembly. Of course, I never spent the money that was spent in other districts, but we never just sat back and said, "It's a cinch," because we had such an excellent organization. Our Republican precinct organization was just excellent. Our central committee, our assembly district committee, would always meet with representatives of the volunteer organizations once a month in a Republican council. It was such a well-coordinated organization, and we kept it that way by being active. You'd have to say we

certainly had a great advantage, because the district was about 58 percent Republican. Given the Republican tendency to vote according to their registration--you know it was much higher than the Democratic--with a 58 percent district, you've got an excellent chance to win.

III. CALIFORNIA STATE ASSEMBLY (1957)

Organization, Leadership, and Interns

de GRAAF: Did you, even in your first election--but I'm also thinking of subsequent elections--spend part of your time during a general election helping other Republican candidates who were in more marginal districts?

THELIN: I always helped if I was asked to do so. I was a very loyal partisan in those days. I would at times go over to Burbank if there was a joint meeting where they wanted me to be there on the platform or something. I never went speaking in other districts; I never was invited to, actually. But I did appear at rallies and meetings when requested to do so. I can remember going and working in special elections in other districts after I became a legislator. Sometimes we'd get groups of Republican legislators and we'd go into one of those districts and work the precinct door to door and do whatever we could.

de GRAAF: Going into the 1957 legislative session. First, I'm kind of interested in the old, prereapportionment assembly, although it [reapportionment] didn't affect the assembly nearly as

much as the senate. First I would like to discuss the power of the speaker. You noted that Luther Lincoln was a moderate Republican. Did he have a great deal of influence over the conduct of things in the assembly, who got committee assignments?

THELIN: The speaker of the assembly has full power, and appointments is his big weapon. At that time it was, and I suspect it still is, a big weapon. He could appoint the chairmen of committees. When you can do that, you've got a big whip hand on the minority. There are always some minority assemblymen who want to be chairmen of committees, and they're willing to be cooperative occasionally in exchange. You know, these things don't have to be said. It's just understood sometimes.

de GRAAF: As a freshman assemblyman going in there, did you have much choice as to what committees you wanted to be on?

THELIN: I certainly didn't have any choice, because seniority always plays a part in these things. The custom then was to appoint freshmen to [the] vice chairmanship of committees. I was appointed to one, but it was the most insignificant you could have. It was the [Committee on] Legislative Representation, which is the committee that deals with lobbyists. It was not an important committee. The thing is, my predecessor, H. Allen Smith had run for speaker of the assembly and had been defeated by Luther Lincoln. It was very, very close.

I think the votes of [Charles J.] Charlie Conrad and [Charles E.] Charlie Chapel down here defeated Al, or else he would have been speaker of the assembly. Then he probably wouldn't have stopped being an assemblyman. That was a rather bitter thing, and such a close election there were strong feelings. So as Al's successor, I really couldn't expect any favors from Luther Lincoln. If I'd been more conciliatory, I probably could have mended those bridges. Luther did come to see me once, but in those days, I was quite rigid. I felt very strong loyalty to where I had come from and to Al for his help to me, and I didn't want to do anything that might appear that I was not supporting what he had left behind. So I didn't encourage Luther Lincoln. Looking back on it now, I can see that it was probably a foolish thing for me to do. Al himself once told me, to his credit, "Don't carry on my fight there." Al was not the kind of man to want you to carry on a dying crusade; that would've just embarrassed him. So it wasn't because he was pressuring me or anything like that; it was just the way I felt. I have to say, Luther Lincoln did make gestures towards me; he didn't want to carry on any feud. I'm afraid I rejected those advances. So I was not in a position where I could expect any favoritism; as a freshman, I certainly couldn't have expected it anyway.

Assembly Speaker and Leadership

- de GRAAF: I've heard him referred to at other times as "Abe" Lincoln. Is that a nickname he commonly went under?
- THELIN: Yes, that was his nickname. Yes, "Abe" is what everybody called him.
- de GRAAF: When you first went there, who were some of the other people besides the speaker that you recall as being dominant or very prominent members of the assembly?
- THELIN: Well, Caspar Weinberger. [Thomas W.] Caldecott, I think, was chairman of the Ways and Means Committee, and [Richard H.] McCollister was the majority leader. [William A.] Bill Munnell was the minority leader. Jesse Unruh was a prominent Democrat.
- de GRAAF: Even at that time? He was only in about his second or third term.
- THELIN: Oh, yes. He and Bill Munnell would harass the governor as much as they could by remarks on the floor. I've forgotten some of the names now. There were several very prominent assemblymen from up in the north. Here from the south, [Augustus F.] Gus Hawkins, now a congressman, was prominent there. [W.] Byron Rumford was chairman of the Health Committee. I guess that's about it for the moment.
- de GRAAF: Then, of course, we come inevitably to the so-called Third House, the lobbyists. Did you become aware of them quite quickly after arriving in Sacramento?

THELIN: Oh, certainly. Yes.

de GRAAF: How did they greet a freshman legislator?

Lobbyists

THELIN: They were all very nice to me. My predecessor, H. Allen Smith, helped me with my campaign. He had me go up there to Sacramento, and he put on a luncheon for me at the Sutter Club and invited the members of the Third House—the ones that he approved of. He didn't approve of all of them. They were pretty much the conventional, business-oriented representatives. I had met them early and they were all very nice. I was very much aware of them.

de GRAAF: Do you recall that they had any particular influence in the way you voted on legislation or on the bills that, whether you liked it or not, got passed or didn't get passed?

THELIN: I can't say that any of them influenced my vote while I was there, although I knew many of them quite well. I could never figure out why they were taking me out to dinner and wining and dining me, to tell you the truth, because nobody ever came around very much and asked me for a vote. I suppose I was predictable. I think people pretty much expected me to vote a certain way, and I did, so they didn't worry about me. I don't think there were many occasions when I was an uncertain vote. The people that really have pressure put on them are the people that are going to have that swing, or undecided, vote. I generally

had pretty definite ideas about everything in those days, so nobody had to waste much time with me. They knew I was either for them or against them. As far as their influence is concerned, I think they had a certain amount of influence then, as now, mostly through campaign contributions, although I think much more now than at that time.

de GRAAF: Ironically, after the Political Reform Act,¹ we still find the situation much the same, don't we?

THELIN: I think it's worse, from what I read. Of course, I'm not as much in touch with Sacramento as I once was. But I see the tremendous sums of money that are expended, far, far beyond what we would ever have thought about in my days, even taking inflation into consideration. And then having the speakers accumulate these large sums of money and doling it out to others. . . . I don't think there was much of that in the early days when I was there. I'm sure that Jesse, after he became speaker, actually developed that to a point far beyond where it had been before.

de GRAAF: [Are you sure no speakers before Unruh accumulated campaign funds and passed them out to other candidates?

THELIN: I didn't say that no speakers before Jesse Unruh accumulated funds and passed them out to other candidates. I would have no basis for making such a statement. My point is that, if

1. Enacted as Proposition 9, June 1974 (Calif. Stats. 1974, A-163), it established the California Fair Political Practices Commission (FPPC) to regulate campaign and lobbying practices.

the process existed previously to the extent that it involved securing money from lobbyists and using these funds to elect legislators favorable to the speaker; Jesse developed and refined the process far beyond what had been done in the past.

de GRAAF: Was there no Republican counterpart to Unruh doing this sort of thing during your years in the assembly?

THELIN: Undoubtedly the Republican leadership made some efforts to raise funds for Republican legislative candidates, but it would be ludicrous to compare those efforts to those of Jesse. In the first place, the lobbyists had nothing to fear from the minority leadership. It had no power to exercise. Secondly, raising funds to finance legislative races is not the same thing as raising funds to keep a speaker in power.

de GRAAF: Did any particular corporate contributors essentially play a similar role within the Republican party?

THELIN: I know of no corporate contributor who played an Unruh like role in the Republican party.]*

Overview of 1957 California Legislation

de GRAAF: Let's move into some of the legislative issues. Overall, I'm interested in one thing. Many of the history works and political science works that have been written about recent California history and government give little notice to legislatures in the mid-fifties. The big splash always

*Judge Thelin and Dr. de Graaf added the preceding bracketed material during a review of the draft transcript.

comes in the 1959 session, with all of the legislation that [Governor Edmund G.] Pat Brown, [Sr.] and the Democratic majorities put through. But I noted that at least up to 1965, the fifty-seventh session was actually, in terms of the number of bills involved, the most productive that had ever occurred.

THELIN: Is that right?

de GRAAF: Of 6,800 bills introduced, 2,669 passed both houses, and 2,400 were signed by the governor. As of 1965, according to Don Allen's Legislative Sourcebook, no single session had passed as many bills. I'm wondering if you were particularly aware that your first session was that productive or if you can recall what all the production was about.

THELIN: Well, not at all. I never dreamed that it was that productive a session. I wonder what the reason for that was. As far as the assembly is concerned, I think that Luther Lincoln was a good manager. I think perhaps the reason for this is that in this period we were still in the nonpartisan era. All that changed with Pat Brown. He had cross-filing abolished after that. In 1957, there was actually a coalition working in the assembly between the Republicans and the Democrats. Democrats were given chairmanships under "Abe" Lincoln. Now, it's still done. Of course, it [giving chairmanships to the party, to some extent] always has been in the legislature but, I think, more

so under Luther Lincoln. But I would suspect that it was done because "Abe" was the sort of person who wanted it to work. I didn't conceive of him as being an ideological zealot. He wasn't a strong partisan Republican, in my opinion. He was a very decent man and he had appeal to both the Republicans and Democrats. He really wasn't trying to embarrass the Democrats or hurt them. I think there was a feeling about this, which would explain why it [the legislative session] was more productive. After that period, you always had a minority party that felt it was being abused and probably was in some instances.

de GRAAF: Now, you say it was a coalition. Did Lincoln have a counterpart in the Democratic rink?

THELIN: Well, I don't know if you could say there was any Democratic leader [among the cooperating Democrats]. Definitely, though, he could work with most people. He couldn't work with, say, Unruh and Munnell and [A. Phillip] Phil Burton, because they wanted to push the Democratic party.

de GRAAF: Going over to the other house, Hugh [M.] Burns, for instance?

THELIN: Well, the senate was always nonpartisan. Everything, like committee chairmanships in the senate, always went by seniority. It didn't matter whether you were a Democrat, Republican, or what. The rule in the senate was a senior man was going to be the chairman. So it was always nonpartisan, even after Pat Brown came in, although there were some of the

new senators that probably tried to steer it in the other direction. But in the assembly, under Luther Lincoln, there were Democrats who would be cooperative to the extent they could be without hurting themselves and their district. People like [Vincent] Vince Thomas were going to cooperate, and they were going to be helped, too, because they did cooperate.

State Water Plan Issue

de GRAAF: Now the other thing I would note about the 1957 session is that there were some important issues raised that didn't seem to be resolvable. The most prominent example would be the state water plan. What was the main issue? Obviously, it was the north versus south. Was more than that holding up the state water plan?

THELIN: Well, I think it basically was a north versus south situation. At first, the Metropolitan Water District, which, of course, was vitally interested, was opposing the plan. Gradually, the plan took a shape where they felt they should go with it, and they ultimately did. First of all, of course, it was a very complex issue. I found it very hard to get hold of when I went up there and started studying it, because there are so many aspects. There's this acre restriction, and what are you going to do with the water when you get it down here, and how much you're going to charge the users. There were many, many technical and difficult

questions. But, basically, you had to overcome the opposition of the north, and that was pretty hard to do. An outstanding achievement by Pat Brown, was bringing that about. Particularly with the senate being, in those days, so heavily oriented to the north, it was a miracle to get it through.

de GRAAF: [You refer to Pat Brown's obtaining northern California support for the State Water Plan as a "miracle." How do you recall he achieved this miracle?

THELIN: I really cannot answer this question. I wish I knew how Pat Brown accomplished the miracle of obtaining northern California support for the State Water Plan in the senate, but I do not. My speculation is that he was able to obtain the passage of S.B. 1106¹ by appealing to the Democratic senators to help the relatively new Democratic administration achieve this notable legislative accomplishment that the previous Republican administration could not accomplish. I remember now when S.B. 1106 came over to the assembly, we assemblymen were told we had to take the bill as is, that the senate would not accept any other water bill.]*

1. S.B. 1106 concerned the development of water resources, which was to be paid for under a bond measure to be presented to the voters. The measure appeared as Proposition 1 (The California Water Resources Development Bond Act) on the ballot of 8 November 1960, and was passed by a margin of 173,944 votes. (Calif. Stats. 1959, ch. 1762; A History of Ballot Measures, 1884-1980, compiled by the office of the secretary of state.)

*Judge Thelin and Dr. de Graaf added the preceding bracketed material during a review of the draft transcript.

de GRAAF: In the 1957 legislature, do you recall, did the assembly pass a water plan bill, only to have it bottled up in the senate?

THELIN: I can't remember if we were ever able to get a bill through or not. We probably did, because we certainly had the votes from the south. But it was useless to send a bill over there to the senate that they weren't going to accept. I think we did enact a bill, probably several of them.

de GRAAF: Did the Republican party itself have a position on the water plan?

THELIN: No, not at all. It was not a partisan type of issue because we couldn't get the north and the south together, and we had both northern and southern Republicans. I can remember constant caucusing by the Los Angeles County delegation. We'd all get together with our one senator that was in when I went up there, Richard Richards. We would always talk about the problems and we were all unified in the end, but everyone had something to say. I marvel at the way Richard Richards would sum things up after we had talked for several hours. He had an amazing facility for being able to say, "Well, then I guess it's the consensus of opinion," and in beautiful, flowing sentences, he would articulate and sometimes bring it together in a way that it hadn't been together before he would say that. He provided excellent leadership on the water problem for our delegation, as did Carley [V.] Porter in the assembly. They were the two leaders, and their

expertise was very helpful to us. But it was definitely not a partisan issue. It was far beyond that.

Fair Employment Practices Bill

de GRAAF: Another issue that seems to have been stalled for some time was some sort of fair employment practices bill. Again, got resolved in 1959, but not in 1957.

THELIN: Yes.

de GRAAF: One thing that interested me very much was that in 1957 there was an effort at a senate constitutional amendment—I don't know if this had a counterpart in the assembly or not—that would have called for a constitutional amendment about a fair employment practices act. I was struck that some rather prominent conservative names, John Murdy, [Jr.] of Orange County, for instance, were endorsers of that. Murdy was a fine person, but I never associated him with being an avid backer of fair employment. Was this a ploy in hopes that the voters would kill fair employment?

THELIN: I think so, because one year Gus Hawkins in the assembly, and the next year Rumford—they were the two black assemblymen at the time—would trade off. They always had a fair employment practices bill in. When I got up there that year, it was introduced, and we had a big debate about it. And it was getting growing support. Every year they'd get more votes for that. I think that constitutional amendment was probably an answer. "Let's get it settled once and for all, because

the people will not support it if you put it on the ballot," I think was the feeling. "Let's take the heat off and let the people vote on it, one way or the other."

de GRAAF: Now, was the Republican delegation largely opposed, or were there divisions within the Republican party on FEP [Fair Employment Practices Commission]?

THELIN: As I recall, there were divisions. I do believe that "Abe" Lincoln favored that at the time. The more moderate Republicans and definitely the more conservative ones did not. Probably the bulk of the Republicans would have voted against it.

de GRAAF: It would have been probably a tough thing to carry in Glendale, wouldn't it?

THELIN: Oh, gosh, yes! I don't remember what the vote was on it in 1957. It'd be interesting. I don't know what the roll call vote on that was. There must have been one.

Taxpayers' Bill of Rights Amendment

de GRAAF: I'm sure there was, yes. Was there much debate going on about that time about tax matters? I know Brown brought up a lot of things in 1959. I was wondering if taxation was much of an issue in 1957?

THELIN: Well, that's the year I introduced my Taxpayers' Bill of Rights bill and tried to create a stir. I couldn't get it out of committee, but I got a lot of publicity and support for it.

de GRAAF: What was the essence of that bill?

THELIN: Basically it was a constitutional amendment to establish certain rights for the taxpayer, some of which have now become law. We wanted to put them into the Constitution, and I had some support for that one. . . . I had a copy of it, I think, here.

de GRAAF: It sounds like a very catchy title, Taxpayers' Bill of Rights.

THELIN: Here it is. Here's an editorial from the [Los Angeles] Times that supported it. Dean Kingsley, who is now a justice of the appellate court, was supporting it. He wrote me a letter about it.

de GRAAF: Now, your name comes first. Were you the principal author of this Assembly Constitutional Amendment 28?

THELIN: Yes.

de GRAAF: And you said it was buried in committee?

THELIN: Yes, they wouldn't give me a break on it, so we got defeated. I think [John A.] Busterud requested an analysis of it by the legislative counsel. It's hard to sum it up because it has all those provisions.

[End Tape 1, Side B]

[End of Session 1, April 16, 1987]

[Session 2, April 17, 1987]

[Begin Tape 2, Side A]

Interstate Highway System and Freeway Planning

de GRAAF: Mr. Thelin, when we left off last time, we were finishing up the 1957 legislative session. There are only two things left I'd like to ask you about. One is, the year before, 1956, the federal government had passed the Interstate Highway Act. Did this have immediate repercussions on what you did in the legislature?

THELIN: I don't have any specific recollection of that being a factor. It could well have been, but at this time I don't have any recollection about that.

de GRAAF: In session after session, did funding new freeways tend to be sort of a perennial issue?

THELIN: Oh, yes. Freeways were a very big issue during my years in the legislature. I think it was during this period that we saw that tremendous expansion [of freeways]. Ultimately, of course, it had a tremendous effect in my own district because in the city of Glendale and also the adjoining

cities through which the freeway went, all of which were in my district. There was a controversy as to whether or not the freeway should go through the north or south of the city of Glendale. There were very strong feelings in the city. So as the assemblyman, I was certainly very much aware of that, although that didn't occur in 1957, I don't believe, or 1959. I can't remember what year the decision was made by the commission as to what the route should be. But, yes, we did have these kinds of controversies throughout my legislative tenure, basically, as far as the legislature was concerned, over where the freeway should go. The commission would make a decision and then sometimes the local groups would want the legislature to reverse that decision. It may not be so important to the other assemblymen, but it's very important to the assemblyman whose district was affected.

de GRAAF: For the record, by the "commission," you're referring to what?

THELIN: The California Highway Commission. I think the law was, and still is, they select the routes. They hold hearings in the districts that are affected, and then, ultimately, make a decision.

de GRAAF: Now once the highway commission had decided on a route, realistically, how much chance did a local assemblyman have of getting it changed?

THELIN: Not much of a chance. The reason is, obviously, once you

start going that route, the whole process is going to be held up indefinitely. There were some very hotly contested routes that did become matters of legislative discussion, but I can't remember which ones.

de GRAAF: The only one that comes to my mind is the long delay in the Century Freeway through south central Los Angeles.

THELIN: That's correct; that is one of them. But it was certainly not the usual thing, and it's a good thing, I believe, for the welfare of our state, because once you turn to the legislature and the political ramifications are going to be prevalent. The idea of having the commission is to have some gentlemen who will be above that, hopefully. But the advent of the issues concerning freeways and their routes did have the effect of causing the introduction of a lot of bills concerning eminent domain. We used to have to deal with them in the Judiciary Committee. In the eminent domain procedure the property owners often feel they are treated unjustly and they're being moved aside and not being given fair compensation for all the various kinds of damages they have. So during the period that I was there [in the legislature], the law really developed in that respect. Such things as severance damages became part of our law, along with things that, before this period, no one ever really thought about too much, because they didn't happen very frequently. So I suppose the federal [highway] law had an effect over the years, obviously, a great effect.

de GRAAF: In looking at the calendars for another interview, I could not help but be struck by a whole series of bills in 1957 on eminent domain, authored in the senate by Donald [L.] Grunsky. Was he either a chair of the Judiciary Committee there or otherwise active in this whole issue?

THELIN: Well, I think that Don was the chairman of the Judiciary Committee and, of course, all those bills would go to his committee, plus interested people would be coming to him to have him introduce their bills. Of course, the big man on transportation in the senate was Senator [Randolph] Collier. Because of the way the senate worked in those days, the chairman was a very, very important man and could decide what was going to happen in his particular field. So some of those bills, I suppose, could have gone through [the] Transportation [Committee]. But, basically, when they're changing the law concerning how eminent domain was carried out, I think most of those bills probably went through Judiciary. However, that is something that's within the discretion of the presiding officer and, in the case of the senate, that would be, of course, the president pro tem of the senate.

de GRAAF: Can you recall any other issues we haven't covered that were particularly important to you in your first legislative session?

THELIN: Well, it's hard to differentiate between these years without

reviewing materials that would help out. I can't think of anything offhand.

IV. CALIFORNIA ASSEMBLY SESSION AND ELECTIONS (1958)

Budget Session and Legislation

de GRAAF: Then let's move on to what I'm sure must have by this time become something of a misnomer, the 1958 so-called budget session. Actually, it had ceased to be strictly a budget session, hadn't it?

THELIN: Well, the tendency increased while I was in Sacramento to call special sessions in conjunction with the budget [session], thus extending it in time and, of course, in issues to be considered. That method put a tremendous amount of power in the governor's hands because, in effect, he could create the agenda for the legislature. There wasn't much the legislature could do about it except, if they felt inclined, to say no to his proposals.

de GRAAF: You couldn't initiate things of your own if the governor did not specify that a special or extraordinary session was to deal with those?

THELIN: You can't introduce anything unless it has to do with the topic that he has placed on the special session. Now, of course, sometimes it's a rather complex legal issue as to what comes under what they could say was the governor's call or not, as you can well imagine. So I think governors

probably try to state the subject of the special call in as limited a way as they can, unless they want to invite a lot of bills on a topic. Yes, "the budget session" became a misnomer. I'm not sure what happened in 1958. I do know that later on we certainly had longer sessions and more of them.

de GRAAF: Now, there were in 1958 two so-called extraordinary sessions. Is there any difference between an extraordinary and a special session?

THELIN: No, not that I recall. I think that's just two names for the same thing.

de GRAAF: One issue that comes up in a budget session is the budget itself. Here the one problem that seems to have arisen by this time was the so-called rainy day fund that Governor Knight had been drawing on. Was this, by 1958, in peril of drying up?

THELIN: I think that fund was a very wise thing for Governor Warren to set up. I can't remember what the state of that was when I got up there. I guess they had already started to chip away at it, and I don't know how much was left in there. As I recall, that was \$75 million. Now, that would seem like nothing [Laughter] because of inflation and the increase in the size of our budgets. But at that time it was a pretty healthy amount. As I recall, it was very definitely in danger because, when there's money there, legislators, in those days at least, tended to spend it.

de GRAAF: This must have raised the issue of alternative means of amplifying the state's budget. Do you recall if taxation or at least alternatives to rebuilding this rainy day fund was a big issue?

THELIN: I can't remember any extensive discussions about that. I don't think in those days there was a fear about that. I do know what happened in 1959 when Governor [Pat] Brown came in and instituted his tax increase. But I don't recall that kind of worry about the budget, particularly in 1958. Of course, Republican conservatives were always calling for more economy and were always shocked by the size of the budget. But, in retrospect, when you look at the size of them now, it's hard to be alarmed about it.

de GRAAF: Was that your position in your first term?

THELIN: In my first term I probably was concerned about the size of the budget. But I wasn't on the Ways and Means Committee, and I can't remember that we had any extensive discussions about cutting the budget or anything of that sort.

Primary Elections and Cross-filing

de GRAAF: Then we get to the 1958 election. In the primary you cross-filed, but you came in behind your Democratic opponent, a fellow by the name of Weltner, was it?

THELIN: Yes, Al Weltner.

de GRAAF: He ran at least twice against you, didn't he?

THELIN: Right. He got to be a pretty familiar figure.

de GRAAF: By this time, it seems that cross-filing was not as successful a technique of winning. Was that because party identification now appeared, or do you think there were other reasons that, in spite of beating him very handily in the final election, you weren't able to overcome him in the primary?

THELIN: In my particular district, I think it was due to the fact that we had an active Democratic organization at the time, although I don't mean to overemphasize that. They were outnumbered, but there was a certain amount of enthusiasm in the Democratic party throughout the state. By that time, the California Democratic Council had emerged and was generating a lot of enthusiasm, which in turn causes more precinct work. I think there was more awareness among the Democrats, for some reason, of their party and issues that they were concerned with. In my district, I think that was reflected in the ability of Mr. Weltner to prevent me from getting the Democratic nomination, although, truthfully, I didn't really try hard to do it. I felt confident that with the Republican majority there I could win. I also think I was identified as a very conservative Republican, as far as the Democrats were concerned, which undoubtedly helped to spur enthusiasm among them for Mr. Weltner's campaign.

Analysis of Republican Party Defeat

de GRAAF: The statewide elections that year certainly were nothing for the Republicans to celebrate. I'd like your reflections on what you think contributed to such a widespread Republican defeat. First of all, how much of an impact did it have on Republicans that [U.S. Senator William F.] Bill Knowland worked out that swap of offices with Governor Knight? Did that tend to be disillusioning or upsetting to a lot of Republicans?

THELIN: I think it caused the defeat of the Republican party. My opinion is that if Governor Knight had run for reelection he would have won easily. That view is held by a lot of other people. Governor Knight was operating on what could fairly be described as a nonpartisan basis in relation to the legislature and in relation to his program. It's an interesting thing how positions change, if you're thinking in ideological terms. That type of thinking is dangerous when you analyze political events, because you tab somebody as conservative or reactionary or moderate and liberal, and the next thing you observe, they're really not following that mold. The reason for that, at least my conclusions now in my mature years, is that government is a pragmatic thing. You have to take care of problems and you have to respond. Talking about political principles is one thing; administering a government is another. The interesting thing

is that Governor Knight, when he was lieutenant governor, was sort of the champion of the conservative Republicans, and sometimes he would make statements that would seem to be a little at variance with the program of Governor Warren. Governor Knight was building up a following among the people who felt that Governor Warren was too moderate or too liberal. Yet, when Goodwin J. Knight became governor, he really followed the same pattern that Earl Warren had established, and it worked. I think it worked in the legislature. You indicated yesterday that the sessions of 1957 and 1958 were very productive. And Governor Knight was very popular with the people of California. He had labor support and endorsement. If he had run for governor, he would have run with labor endorsement, perhaps not the Teamsters, but I'm talking about the AFL-CIO [American Federation of Labor-Congress of Industrial Organizations]. He had a very fine relationship with [Cornelius J.] Neil Haggerty and the other labor leaders of the AFL-CIO. And when a Republican can get labor endorsement, he's pretty hard to beat. I think that Governor Knight would have been very successful. The feeling among many Republican assemblymen was that that was all blown out of the water when Governor Knight chose to run for the [U.S.] Senate under pressure and compulsion. I must say, some Republicans at the time felt if he had just dug in and fought it out he would have defeated

THELIN: Senator Knowland in the primary, if Senator Knowland had entered against him, which he was threatening to do, and been successful in the general election. So yes, I think the entry of Senator Knowland and the championing of the right-to-work proposal--although I supported Senator Knowland when he was our nominee and his support of the proposition--were not acceptable to the people of California at the time.

de GRAAF: That Proposition 18, right-to-work proposition, must have really done havoc with all the goodwill Knight had built up with organized labor.

THELIN: Oh, yes, the whole thing changed. Republicans since that day have never had the support of the labor unions, even of the more conservative labor unions. So it was a fatal thing. It was also very important that because of that Republicans who are in marginal districts had a difficult time sustaining themselves. Up to 1958, my observation was that the Republicans were carrying many assembly districts where Democrats were in the majority, because Republicans could win if there was a 55 percent Democratic registration, in those days. Some people, like Glenn [E.] Coolidge there in the Santa Cruz district, were successful in 1958, of course. But he didn't run as a champion of Senator Knowland and Proposition 18! He, in effect, just ran his own campaign and won. There were assemblymen like that, but the party on

a whole couldn't sustain it. Some of them [Republican assemblymen] were not as fortunate as Glenn Coolidge. In those marginal districts, registration was starting to go against the Republicans. So when you had this kind of extreme position taken by the Republican party, it really hurt us in the legislative races as well.

de GRAAF: I know that Knowland first announced that he was going to seek the governorship back in 1957. Do you recall that any group within the Republican party, the California Republican Assembly, or the [Republican] State Central Committee, or anyone else tried to dissuade him from that?

THELIN: Well, I don't have specific knowledge about that, but I'm sure such attempts were made. It seems to me that Frank Lanterman, who was the assemblyman in the La Canada area right next to mine, had told me at one time that he told Bill Knowland that he shouldn't enter the race. Anyone would say Frank was certainly a conservative legislator and a man of conservative philosophy, but he just felt that it would be disastrous. I'm sure there were others who also told Senator Knowland the same thing.

de GRAAF: Was Knowland's prestige such that he was able to pull this off? How do you account for Knight's backing down and Knowland following through on his plans?

THELIN: I think that Senator Knowland was a very strong man. I believe he had strong support from business elements who

could provide a lot of financial support. I think also that within the Republican party itself, among the precinct workers and people who dedicated a lot of time to the party, there was a feeling of frustration, that Governor Warren and Governor Knight were not representing the true Republican philosophy. I think Senator Knowland just emerged at the right time, as happens in history so often when events and the man come together. So I think, in part it was that Senator Knowland was a very strong personality and an imposing looking person: tall, and with a voice that could be heard. He had that advantage. He had, of course, a prestigious position in the United States Senate. Secondly, he had no worries about financial support. Also, that financial support that he could command, he could also take away from Governor Knight. Some of the same people who supported Senator Knowland financially had also in the past supported Governor Knight. I suspect, and I'll never know for sure, that Governor Knight figured he couldn't raise the money for a good campaign if opposed by Knowland. Thirdly, though, you have to recognize there was this growing. . . . I don't like to say conservative movement, but there was this growing group within the Republican party that felt frustration and a feeling of betrayal.

de GRAAF: Would this be the same group that would subsequently unite behind [Barry M.] Goldwater?

THELIN: To a large extent. Of course, Senator Goldwater brought in a lot of other people, too, good, average Republican people who were simply charmed by his personality and his frankness. Barry Goldwater had many admirable qualities in the way that he would answer questions forthrightly and didn't dodge issues. He'd say it like he saw it, and that has an attraction, particularly among people of the Republican way of thinking. So he added more to it. But I think those people certainly did back Senator Goldwater's candidacy and were happy with it.

de GRAAF: You made the comment earlier that you thought that had these positions not been swapped, Goodwin Knight might have defeated Pat Brown. How effective or imposing a candidate did Brown make in 1958?

THELIN: As a gubernatorial candidate, I don't think he was too impressive. I think that he just happened to be the beneficiary of a favorable situation. It must be said for Pat Brown that he was one of the friendliest, most gregarious personalities you'll ever meet in your life. Wherever he goes, he talks to people, so he didn't do anything wrong. That is a talent, too. So I wouldn't want to demean him as a candidate that year. But I still don't think there was anything astounding about him. He was not the world's greatest speaker. On the other hand, I remember somebody writing an analysis in some magazine, a little smart-alecky

comment that was hard on both the candidates. He said, "Well, Bill Knowland ran and his billboards made him look like a tough prison guard." [Laughter] "And Pat Brown is the kind of man who'll wear black socks with brown shoes." [Laughter] A rather harsh comment, but a little humorous anyway.

de GRAAF: Any other thoughts or interesting recollections about the 1958 campaign or election?

THELIN: Not offhand. I think that about sums it up.

V. ASSEMBLY SESSION (1959)

Democratic Party Majority and Legislative Leadership

de GRAAF: Now we go into the 1959 legislative session. The first thing I'd like to know is, with the Democrats now having a majority for the first time in a long time, did you notice a significant difference in either the way the assembly was conducted or the general mood of the legislature?

THELIN: Oh, yes, very much so. It became very partisan, because you had Democrats who were very much aware of themselves as Democrats. The more partisan Democrats now emerged as the leaders. The more--I call them--"gentlemanly Democrats of the old school," such as, say, Vince Thomas and Gus Hawkins, did not emerge as the leaders of the assembly. The people who took charge were Bill Munnell and Jesse Unruh and Phil Burton and people like that. Ralph Brown was the new speaker, and I describe him as a moderate sort of man and

really not too interested in partisan politics either. But, he was not really, in my opinion, setting the tone of the legislature in the way that I think "Abe" Lincoln did. Governor Brown emerged with a liberal program that appealed to the liberal Democrats who were active and who wanted a partisan situation. So there was a marked difference between the 1957 and 1959 sessions because suddenly politics became the theme. It had been nonpartisan under Governor Knight and Speaker Lincoln, and that was gone. We had a much more partisan feeling in the house. Of course, the Republicans had been reduced in numbers. As soon as you get a smaller group, well, our partisanship began to increase. So Joe Shell became the minority leader, and Joe was definitely considered to be in the conservative camp. I think there developed among those who had been leaders under Luther Lincoln, people like Bruce [F.] Allen and Jack [A.] Beaver, a feeling of a lot of frustration because they certainly were not in charge of the caucus anymore and Joe Shell was. So it was a different legislature. Governor Brown came up with quite an active program and was quite successful, like most new governors when they come in with a substantial majority of their own party. Things are fine; they get a lot of bills passed. I remember Vince Thomas who was, of course, a Democrat, from a district where he was very much aware of and represented the laboring man and so forth. I remember him

THELIN: commenting to me, "Well; Howard, you know, with the Democrats in power now, you're going to see more screwballs around the capitol than you ever saw in your life."

de GRAAF: [You state that Luther Lincoln and others were frustrated over Joe Shell becoming minority leader. How do you explain his obtaining that position?

THELIN: No, I did not say Luther Lincoln was frustrated at Joe Shell's becoming minority leader. At that time, Lincoln was no longer in the assembly. He did not run for reelection. Those remaining who had been Republican leaders under Luther Lincoln were frustrated. Joe Shell became the minority leader because several of the moderate Republicans were no longer in the legislature, men such as Weinberger, [Francis C.] Lindsay, and [Thomas J.] Doyle. Moreover, Joe was personally a very likable person and greatly admired by many members of the caucus. He had been a leader all his life, and conservative members looked naturally toward him for leadership; some moderates did so as well.]*

[End Tape 2, Side A]

[Begin Tape 2, Side B]

Yes, I think what happened, too, is there were a lot of groups of people who wanted certain laws to be passed in Sacramento and who had been frustrated over a number of

*Judge Thelin and Dr. de Graaf added the preceding bracketed material during a review of the draft transcript.

years. It had been pretty close in the past, but they just didn't have enough votes. Now they felt they had them. There were people that wanted cross-filing eliminated. There were people who wanted to do something about capital punishment. We had the blacks and people interested in their problems who wanted FEPC passed and wanted to do something about housing and senior citizens. Assemblyman Burton was always very interested in increasing the benefits for everyone who received welfare. You had a lot of different groups that suddenly, I think, said, "Wow! Now we have our opportunity." So it was an active session.

de GRAAF: Before we get completely into that new activity, there are two figures we talked about that I'd like to know what happened to. Lincoln, you have indicated, was no longer the minority leader. What was his fate? Did he stay in the assembly for several years?

THELIN: I can't remember if he tried to run for a state office, one of the constitutional offices, or not. But he didn't run for reelection to the assembly. He may have just retired, gone into business. I think that's what happened.

de GRAAF: And in the Democratic side, Ralph Brown was the speaker for the 1959-1960 session, and by 1961 Unruh was the speaker. What happened to Ralph Brown?

THELIN: I think Ralph must have retired. He had a short period there. Ralph's dead now. I can't remember when he passed

away, but I think he just retired after that two-year session. I suspect he saw the energetic Unruh waiting in the wings and felt it was a good time to go. [Actually, Ralph Brown was appointed to the Court of Appeal.]

California State Water Plan

de GRAAF: All right. Now on to some of the legislation that came up in 1959. As you say, there was quite an agenda that Governor Brown and the legislature had. Probably the one that is most frequently mentioned is finally ending the stalemate on water and getting the Burns-Porter Act and the 1960 bond election passed. What do you feel were the crucial things that finally broke the long stalemate on the state water plan?

THELIN: I can't remember any specific event that brought it about. I think the final thing was when the Metropolitan Water District finally got it in shape so they felt they could support the governor. As long as they were not happy with it, it was very difficult for the assemblymen from L.A. County to go along, and without L.A. County, nothing was going to pass. At the same time, you had to satisfy the north. You had the northern senate. Somehow Governor Brown managed to get the senate to go along and got the Metropolitan Water District in the south to go along. Exactly what changes he had to make in order to get it passed, I'm not sure.

de GRAAF: You said the Metropolitan Water District had long been

dissatisfied. Did this revolve around an insistence that the 160-acre limitation ought to be written into the state water plan?

THELIN: I don't remember them as being concerned so much with that. I think that it was the labor unions that were tremendously interested in that. No, I think that the Metropolitan Water District just wanted to make sure the water would get here. They didn't want to support a bill that wouldn't be effective in getting us the water. I also think that they had to be satisfied that there were enough commitments here that it couldn't be stopped.

de GRAAF: You had said yesterday it was more of a north-south issue than a partisan issue, but once this bill came on the floor, do you recall that there was any particular effort of the Republican party to take a set position one way or another on it?

THELIN: No, I can't remember a single partisan meeting about the water plan. I'm sure some of the northern Democrats felt impelled to vote for it in order to support the governor, who was very popular. That probably was a factor in helping to get it through, because a lot of them weren't too enthusiastic about any water plan that was going to take the waters of the north, but I think they all realized that if the water plan didn't go through, it would be a defeat for the governor. I think it's to his credit--after all, he was

a northern Californian, too--that he stuck to his guns and did force it through.

de GRAAF: This was by no means the end of water as an issue, was it? In the rest of your legislative career, do you recall that water periodically resurfaces as a political issue?

THELIN: After the California Water Plan was passed, I don't remember it again ever creating as much of an issue as it did at that time. Offhand, I don't recall any substantial battles after that. I'm sure there were some water issues that had to be resolved. But as to those of us from the urban areas, I don't think it got our interest very much.

Tax Program of Edmund G. Brown, Sr.

de GRAAF: You mentioned earlier that Brown also called for tax hikes. Do you recall exactly what the essence of his tax program was?

THELIN: It was the largest tax increase ever enacted in the state of California up to that time. Of course, Governor [Ronald W.] Reagan outdid him later. It was a tax increase on the banks and I think the insurance companies. Maybe there was not a general income tax increase. Cigarettes and alcohol were hit. I think that's basically what it was. He raised the cigarette and alcohol taxes and [taxes on] banks and insurance companies. There was no general income tax increase.

de GRAAF: I think he advertised it as shifting the burden from the average person to the business, the typical liberal

approach. Do you recall the Republicans having a set position on this, or an alternative plan?

THELIN: Oh, definitely. We were against it, very much against it. We couldn't hold all our members on it by any means. But we were opposed to it on the whole.

de GRAAF: Feeling that a state could very well do its business without such a tax increase?

THELIN: Yes, there was a feeling that expenses should be reduced, such things as a 10 percent reduction in all of the departments, or something of that sort. I think I had a bill in to reduce the income tax by 10 percent that year. [Laughter] But we [the legislature] were raising taxes, not reducing them. Oh, yes, partisanwise, the Republicans tried to make as much of an issue out of it as they could.

de GRAAF: The fascinating thing is that, unlike 1978, there didn't seem to be any Howard Jarvis or any taxpayers' concern with this.

THELIN: There was not. I mean, it was a strange thing. Of course, it wasn't going to hit property taxes, and that's a whole different field, so to speak. As I recall the program, it was basically hitting these corporate entities that produced cigarettes or tobacco and beer and wine and the banks and insurance companies. And I think the Bank of America was split off. Banks were all in opposition at first, but then the Bank of America threw in the sponge and it went through. Of course, they had to get a two-thirds vote in order to get it through, so they needed and obtained Republican votes.

de GRAAF: It also suggests that perhaps, for once, the lobbyists were not that effective. Certainly in raising alcohol taxes, Brown was going against one of the most powerful lobbies in the state, wasn't he?

THELIN: Well, they were certainly there lobbying, and still are. But yes, they couldn't really sustain the support they needed to stop that tax increase.

de GRAAF: [Do you have any further thoughts on why both parties were willing to raise taxes on certain items in 1963 in contrast to the virtually blanket antitax hike atmosphere of previous years?

THELIN: In answer to the question, I think one can only say that public attitudes change and these attitudes are reflected in legislative attitudes, albeit sometimes tardily. Nineteen sixty-three was not 1976-1988 obviously. It would require a detailed analysis of public opinion and how it is formed to answer your question concerning the attitudes of the parties on raising taxes.

In my opinion, there is more hypocrisy in the discussion of public finance than in any other area. Every interest group is eager to get as much money from government as it can without regard for other legitimate interests in government. This includes interests that we would all consider good, such as education and aid to the disabled. If these interest groups of every kind are not controlled, government will soon

become bankrupt. On the other hand, it is not morally wrong to tax in reasonable amounts for the legitimate needs of government. In fact, it is the duty of the governor and the legislature to do so. When they say they would never vote for a tax increase under any circumstance, they are saying they will not do what may be their duty under certain circumstances, and no one can predict what circumstances we may face next year, next month, or even the next day.

Also, it is honest to bring about a balanced budget without raising taxes and then finance the needs of government by using bonds. Borrowing money, in effect? I think not.]*

Fair Employment Practices Issue

de GRAAF: On FEPC, you were indicating that the Republicans themselves were somewhat divided over it. Do you recall that that was a particularly large or stormy issue in the 1959 session?

THELIN: FEPC passed that session, didn't it?

de GRAAF: Yes, it was passed.

THELIN: Oh, yes, that was a stormy debate when it passed on the floor. I can remember speaking against it myself. But there was a split among the Republicans. The Republicans who were in the marginal districts certainly didn't want to vote against it, so it passed and there was a lot of debate about

*Judge Thelin and Dr. de Graaf added the preceding bracketed material during a review of the draft transcript.

it on the floor of the assembly. Of course, sometimes what that indicates is that there are a lot of people that want to speak in favor of something; they all want to take part of the credits, you might say, on a winner. And there was a lot of speaking about it. It was an emotional issue and did attract some attention. It went through the state senate, too.

de GRAAF: Do you recall your arguments against it?

THELIN: I was arguing that it was an interference with free enterprise and the rights of people to hire as they want if they've invested their money. I was trying to make a point that racial discrimination is something that you can't eliminate by passing laws, that it's a state of mind, and FEPC represents an attempt to exercise control, which it is impossible to do by passing a law. Why people are motivated to do something might be a very difficult thing to prove in a court of law. Enforcing this act would have all kinds of complications and difficulties. I made a very excellent speech, impressed a lot of people at that time. But, of course, it's become law and it's gradually been accepted and seems to be working quite well now. Now, even though we've had some conservative administrations, it hasn't been getting much attention lately. So I guess it's being administered in a rather evenhanded way, or there'd be hearings about the difficulties. But I was impressed with the difficulty of enforcing such a law fairly and equitably.

de GRAAF: Probably the nearest thing we can think about today to that problem is going to be the enforcement of this new immigration act against anybody hiring undocumented workers.

THELIN: Yes, I think it has some of the same elements to it. Things like that are rather difficult. When you have to prosecute people and convict them on the state of their minds or why they did something, that raises a lot of legal problems that can be abused.

Mental Health and Welfare

de GRAAF: Another issue that arose was the mental health one, as seen particularly in the later enacted Short-Doyle Act.¹ As I understand, this essentially sought to take some mental health people out of state hospitals and put them into communities or clinics.

THELIN: Yes. Well, we passed that act. That presented some difficulty for some of us from so-called conservative districts, because there were a group of people whose thinking and conduct was rather erratic who felt that any effort to do anything like that was trying to punish people for their political thinking. It was something like the Soviet Union is supposed to do, take political dissenters and put them in Siberia. There was a whole group of people on what's been called the far right that were getting active in

1. Short-Doyle Act (Calif. Stats. 1968, ch. 989) was passed after Thelin left the legislature, but its issues were repeatedly raised from 1957 on.

things like that, and they would come up to Sacramento sometimes and create quite a stir about it. They seemed to feel that if we passed what I think was a very innocuous bill to provide for local mental health clinics, this was a symbol of communism and trying to punish people who were thinking wrong political thoughts and didn't do what you wanted them to do. They had the capacity for causing a little trouble in these conservative districts, but, numerically, I don't think they represented any substantial numbers. But I myself think that was a rather progressive and forward looking bit of legislation. The only problem has been we really have never built these clinics that we need desperately. We never provided the money for it.

de GRAAF: Do I gather that it was not a particularly partisan issue?

THELIN: I don't think so, no. I wouldn't say so.

de GRAAF: What about various social policies, such as welfare? You mentioned earlier that Phil Burton and some other liberal Democrats were for increasing welfare expenditures as early as 1959. Did that become a big issue in the 1959 session?

THELIN: I think all of those benefits were increased at the time, and there wasn't really much debate about it. Again, there wasn't really enough opposition from the Republicans as a party to cause any trouble. Certainly the Democratic party had been favorable to those things and wanted to make a point that they were going to outdo the previous moderate

Republican administrations who did something but didn't go fast enough, in their opinion. I think they wanted to make that point. But there wasn't much opposition to it because you had a certain number of Republican assemblymen who favored welfare. I don't know anybody who'd say they were just against all welfare in our times, and it was only a small group that felt the whole system was so outrageous that you have to vote against all these increases. The problem is setting it. How much? It boils down to that in the committees, and that's pretty much been worked out by the time it comes to the floor of the assembly. So you're going to get a favorable vote. And I don't think there ever was much discussion when it was on the floor.

Elimination of Cross-filing

de GRAAF: Then the abolition of cross-filing. Was that accepted by 1959 as sort of an inevitable, or was there a big issue over that?

THELIN: I think that was inevitable. It was an embarrassing issue for me because I was opposed to cross-filing, actually, although now, some thirty years later, I'm not so sure it was such a bad idea. It seemed to me it was a little deceitful, because people can be easily deceived. Many people vote rather carelessly, and to have a person running on the Democratic ticket when he wasn't a Democrat seemed to me to be kind of deceitful. So I felt it should be eliminated.

But there was some strong feeling among Republicans that it was a good thing. It was very beneficial, particularly for those Republicans in moderate districts. If they could win the Democratic nomination, they had it cinched, of course. More than that, though, if they could just be on the ballot as a candidate for the Democratic nomination and work the Democrats in a primary, then by the time they got to the general [election] they were unbeatable, because they were moderate men and had good appeal to both groups. So it was important to them. It was kind of a tough thing to vote against them, in a way, because I was always aware of the fact that I had a relatively easy run: a 58 percent Republican district and a district that didn't have a lot of problems. People weren't starving in my district and they weren't lacking water and they weren't asking for a lot of money from the state. But other men had difficult districts, people with a fifty-fifty registration, and some of them were fine men. And you hated to increase their problems. I didn't like cross-filing, and I voted against it, too, but it was seen by some as a Democratic vote. It made some people unhappy.

de GRAAF: Did that come back to haunt you in any way?

THELIN: No, not really, because it became a dead issue after it was passed. Nobody suggested reinstating cross-filing. I think maybe there'd be some benefit in eliminating parties altogether, but that's another story.

de GRAAF: [You stated that today you feel that cross-filing may not have been a bad idea. Why do you feel that way? Are you referring to cross-filing with or without party labels?

THELIN: I feel that way because I am not sure now after observing public affairs all these years that partisanship is a beneficial factor in legislative bodies. In my early legislative years, I perceived political parties as being a way of curbing the influence of special interests and also as a means of making sure that there was a legislature responsive to the will of the people. In other words, on the latter point, if the people voted for a majority of one party, it would mean they wanted the views of that party expressed in government; and the members of the party would have to vote that way or would obviously be violating the trust placed in them. In short, the party label would keep them honest.

However, my observations over the years lead me now to the conclusion that partisan activity does not work that way. Since the election of Governor Brown in 1959, partisanship in the legislature has been a very apparent fact of life. Nevertheless, the influence of special interests, in my opinion, have remained just as effective as before, at least, and probably even more so. It is no accident that campaign contributions are reaching obscene levels.

In regard to more responsive government by partisanship,

the results are horrendous. In the first place, our form of government just does not work the way a parliamentary form of government would work. How can we identify the will of the people when the people elect a chief executive with a partisan view completely contrary to the partisan view of the legislative majority? If both are to be completely true to their partisan constituency, governmental paralysis would be ensured. And, to some extent, it has.

While, as I have tried to say, my views on this now are in flux, I have a growing feeling that political parties, in their present form, at least, may be outdated and harmful. Perhaps people should vote for what they believe is right at the moment, without regard for what the party leader or a party committee desires. Legislators could be elected on the basis of their honesty, intellect, and experience rather than on the basis of a political label or on the basis of promises as to what they will do in the future when, in fact, they do not even know what the prevailing circumstances will be in the future when they must vote on those issues.]*

Republican Program and the Communism Issue

de GRAAF: The general view of this whole session and period is that the Democrats, particularly the liberal Democrats, had a farsighted agenda, and much of it was enacted under Brown.

*Judge Thelin and Dr. de Graaf added the preceding bracketed information during a review of the draft transcript.

At this time, did the Republican party have a comparable agenda, or was it largely reacting to Democratic initiatives?

THELIN: The latter. That's one of the unfortunate things: the Republicans in these years had no program. I think in my last four years, somewhere along the line, I tried myself to initiate and create a kind of positive program. But it's almost impossible because everything you suggest, they throw up their hands, and somebody says, "Oh, no, no." You couldn't reach a consensus in a Republican caucus for a program. So I would say definitely we were just reacting.

de GRAAF: Was there any lingering left of--I know this is a senate committee, but I'll use it for lack of anything else--the old [Jack B.] Tenney Committee, the Committee on Un-American Activities,¹ as a focus for a Republican stand?

THELIN: Well, of course, we didn't have any such committee when I was in the assembly there.

de GRAAF: I didn't think that the assembly did.

THELIN: No, I don't recall anything like that. We did have some bills to outlaw the communist party. I think I had one in there one time. But they didn't go anyplace; nobody was really worrying. The loyalty path, of course, stirred up a little excitement, because I think that was repealed. We had some hearings about it which were very interesting. Fighting

1. A committee established by Los Angeles Assemblyman Jack B. Tenney in 1941 that became controversial for its extreme charges of communist infiltration during his tenure (1941-1949).

the repeal stirred up a little enthusiasm among the Republicans. There were some of the older assemblymen who remembered the loyalty oath controversies of earlier times, and it was almost a personal issue with them. But other than that, I don't think there was anything of the kind that you're talking about with the Tenney Committee.

de GRAAF: The only reason I bring that up here is in 1960 there was that incident in San Francisco of students storming into the House Un-American Activities Committee hearings. I wonder if that tended in any way to reignite the anticommunism issue in the legislature?

THELIN: Well, that's the beginning of the student unrest situation, and, yes, it did stir up some uneasiness there. My last session was 1966, and we had had some riots in Berkeley before then. I think 1964 was when Mario Savio started his business there, and that's when it really began. But the result of that, unfortunately, wasn't so much to revive anticommunism as to wreck our state university. Up until that time, my feeling, at least, was that the legislature was very friendly to the university and to higher education in general. We developed the state college; that was a very exciting program. I don't think it had ever been equaled anywhere in the United States, and perhaps the world, as an experiment in democratic education. We had money for education. Of course, you never have enough to satisfy all

the educators; there's always a need for more. But nevertheless I think there was always a response by the legislature based on the concept that education was a good thing. But in my opinion, those riots in the sixties just destroyed all that good will, and we're only now starting to come back from it. I think it was one of the worst things that ever happened in this state. But it didn't result in this old anticommunism reaction.

VI. ASSEMBLY SESSION AND ELECTIONS (1960)

Donahoe Act and Master Plan for Higher Education

de GRAAF: Since you've gotten into education, why don't we continue on that, because, as you suggest, there was some significant education legislation passed--mostly, it seems, in 1960. You obviously were referring to the Donahoe Act, the Master Plan for Higher Education in California.

THELIN: The master plan, yes.

de GRAAF: Was there any partisan debate on that, or was it pretty much a widely supported move?

THELIN: I think it was widely supported. There probably was some opposition from pockets in the educational system who felt that maybe it's doing too much for the University of California and not enough for other aspects of the picture. But there was no partisan opposition to that at all. As I recall, the plan was to have 10 percent of the students go to the UC [University of California] system, and . . .

de GRAAF: Those are the top 10 percent or 12.5 percent, I think it was, grades go. . . .

THELIN: . . . and about 30 percent to the state colleges, and then the community colleges would take care of all the rest. I thought it was an exciting, desirable kind of approach. And, I think it's largely been successful, although I guess it's under fire somewhat today.

de GRAAF: It's being reconsidered. Periodically, they have reviews of the master plan, and this one apparently is arousing a bit more attention than some of the others have.

THELIN: Right.

de GRAAF: Do you recall any of the prominent educators, like Clark Kerr, coming before the assembly to lobby one way or another on the master plan?

THELIN: No, I don't. Of course, I wasn't on the Education Committee, which is where that would have occurred. I don't recall people coming into my office and talking to me about it very much. I think basically it was pretty widely supported and needed. I think having the state colleges expand as they did, assemblymen got interested in having a state college in their district. As a matter of fact, we probably have some of them too closely together as a result of that. We did start [California] Cal State [College,] Northridge, this big expanse of land, muddy but with construction going on. It's now, of course, a big school out there. That was going on

all over the state. It was a big thing, and, I think, widely supported. But I don't remember any specific lobbying going on for it.

Other Education Issues

de GRAAF: This expansion of state colleges particularly was tied to the so-called teacher crisis, the idea that with more baby boom kids going into school, we were lacking in teachers. Do you recall that being a big issue in your period in the legislature?

THELIN: It was a topic that was certainly talked about and that we were interested in solving. We always had representatives of the California Teachers Association [CTA] that were with us constantly. There was a lot of communication from people about this, but it certainly was not a partisan issue.

de GRAAF: You were saying earlier that until the student demonstrations, education was sort of a sacred cow as far as appropriations and so forth were concerned?

THELIN: Well, they always felt they had to fight for their appropriations, I know. And there were always disputes with the governors about how much it was going to be. That's a continuing thing, because it's kind of a housekeeping chore. There's only so much money available, and you have to decide who's going to get what. Much like a family, you've got to decide how much you're going to spend for food, furniture, and all the other demands. So there was always an issue in that

regard. But otherwise, I think you could go on the floor of the assembly and talk about education like you could motherhood and you're going to get a response. There were always assemblymen who just couldn't find it in their hearts to vote against an education bill. If you needed something for the University of California, there were a lot of us on the floor there who had been educated under that system, and at least I always felt a deep debt to the people of this state for providing that for me. So why shouldn't it be provided for others? So a sacred cow, I think that describes it, although I am aware, if [Douglas] Doug Corey were here, or some other representatives of the CTA in those years, they would have said, "Oh, no. You're not paying teachers enough, and you're not doing this or that." There undoubtedly was some merit to that, but education was well looked on in those days.

de GRAAF: Do you recall in the early sixties that much was made about what subsequently emerged in the Serrano v. Priest decision,¹ that the state ought to try to redistribute local revenues?

THELIN: Equalization. Yes, that did come up, and Governor Brown had to wrestle with that problem. I do recall that was something that was hotly debated. But financing of education is such a

1. 487 P. 2d 1241 (1971), a California Supreme Court decision that invalidated the traditional school financing system and mandated a more equal allotment of property tax revenues among the state's school districts.

technical thing that I think the truth is very few legislators really have a grasp of it to the point where it can be discussed. The Education Committee has to deal with that thing constantly, and undoubtedly they do. There are some people there who understand it. But as far as arousing deep feeling, I don't think it was understood that well. The complexities of state support for the local school districts, that formula is such a difficult thing to understand, and with all of the exceptions to and variations of it, it's hard to see that as being hotly debated on the floor of the assembly. But, yes, this matter of equalizing support for the school districts was certainly an issue and an important problem.

de GRAAF: One aspect of education did become an issue in the 1962 campaign. [Maxwell L.] Max Rafferty, [Jr.] was to make a great deal of the shortcomings of so-called progressive education and the idea that California needed to drastically change the type of teaching that went on in its schools.

[End Tape 2, Side B]

[Begin Tape 3, Side A]

de GRAAF: Do you recall that prior to 1962 progressive education, or the content of instruction in the public schools, was much of an issue?

THELIN: No, I don't think that was much of an issue. There are always some who feel that we ought to get back to reading,

writing, and arithmetic, and that there's money wasted teaching basket weaving and things like that. But that also was never an issue that stirred many hearts while I was there.

Caryl Chessman and Capital Punishment

de GRAAF: Nineteen-sixty was the year that Caryl Chessman was put to death, and either that or his own personal feelings led Governor Brown to come before the legislature suggesting that the death penalty be rescinded. Did this become a hot issue then or in the years immediately thereafter?

THELIN: Yes, it did. There was always agitation to abolish the death penalty. We would have bills introduced to do that and bills introduced to provide a moratorium and see how it worked. The moratorium was an interesting suggestion. On the Chessman thing, Governor Brown called a special session on the capital punishment issue, the idea, I think, being to save Caryl Chessman. Apparently the governor didn't want to pardon him, but he also didn't want to see him or anyone else put to death by execution. I think that that publicity and the drama of calling us into special session and then having us reject his plea really increased the feeling among the public in support of the death penalty. During these years, of course, there was a fifty-fifty division on the issue of the death penalty. In other words, it was a kind of issue that whichever side you stood on you were going to get a lot of heat from the other side, because there was no consensus

in our state. But I think events following that Caryl Chessman decision, combined with the increase of crimes of violence in our state, ultimately led to a change in public opinion, finally, to the election of last year, in which the voters rejected some members of the supreme court. Caryl Chessman's crimes were of such a shocking nature that I think people reacted just contrary to the way the governor was hoping they would react. It was a very dramatic thing to be called into session on that issue.

de GRAAF: Prior to Brown's calling the session, had the death penalty been particularly a partisan or an important issue? Were Republicans clearly lined up on one side and Democrats on the other, or were there definite divisions within each party?

THELIN: It was not a partisan issue in that neither party passed any resolutions in support of it. When I say that, I'm talking about the caucuses in the legislature. I'm not suggesting that the Democratic party never passed a resolution. They might well have done so, because there was strong feeling among many Democratic activists that the death penalty should be abolished. It was a very strong issue when I was there. There was always a bill in to abolish it. Assemblyman [Lester A.] McMillan would always put it in every year, and there would always be a tremendous debate about it because of the strong feelings. Some Democrats were very much in favor of the death penalty, such as Assemblyman [Thomas J.]

MacBride from the Sacramento area. The Sacramento Bee has always been strongly in favor of the death penalty, so usually the assemblymen from Sacramento were also very much for it. They were Democrats, but they always spoke in favor of the death penalty. We had Assemblyman McMillan who always wanted it abolished and who would always suggest that if you're in favor of it, go and witness some of these executions and you won't be. We had Assemblyman [Bruce] Allen, who was a moderate Republican on most issues, but he was for the death penalty, very strongly so. He would always make a very emotional speech in favor of it and against its being abolished. And, of course, it's the kind of issue on which one side will talk about the horrors of the gas chamber and the other side will talk about the brutality of the crimes and stranglings and senseless murders by these people who almost seem to be less than human. I always found it an unpleasant topic myself, but it was always there and we had to face it. I've always thought it was one of the most difficult subjects to deal with because I've always felt that taking a human life is something we don't want to do. A human life is a sacred thing, if anything is in this world. But on the other hand, how do you protect society? In those days there was no life imprisonment without possibility of parole.

de GRAAF: That's right.

THELIN: In fact, the statistics showed if you gave somebody life imprisonment, they'd usually be out in seven years. They wouldn't permit us to pass a law to tell the jury that. So the prosecutors could not tell jurors that if somebody is given life imprisonment, he might be out in seven years. So you had extremes on both sides. It was a difficult issue and one hotly debated.

[End of Session 2, April 17, 1987]

[Session 3, April 27, 1987]

Local Primary and General Election

de GRAAF: Judge Thelin, we left, I think, in the 1960 budget session, and where I'd like to pick up is the 1960 elections, the first of several rather fascinating campaigns that you, perhaps, can shed some light on. First, do I gather again you had no opposition in the primary that year?

THELIN: I had no Republican opposition. Yes, that's right. Of course, cross-filing had eliminated any possibility of running in the Democratic party by that time.

de GRAAF: Is this again a tribute to the fact-finding functions that you detailed earlier of the Republican party?

THELIN: Well, I don't think so because once you've got an incumbent you don't have any fact-finding process anymore. That was a device where you had an open seat without an incumbent. If you have a Republican incumbent, the party certainly wouldn't go through a fact-finding committee.

de GRAAF: The party at that time did not have a mechanism to review incumbents to see if they were queuing to the party line?

THELIN: Oh, nothing like that, no. I think the fact I didn't have any opposition was due to several factors. One, I think people in my district, generally the Republicans, were pleased with my performance. Second, I think any possible candidates, looking at the district and seeing how well organized it was, would feel that it was an impossible task to root me out of there. I hadn't done anything that had excited that much opposition in my district.

de GRAAF: OK. And you also had an easy win, I believe, in the general election.

THELIN: Yes, yes indeed.

Richard M. Nixon

de GRAAF: Let's turn our attention, then, to the statewide elections. First of all, I'd like to start at the top and work down. Nationally, of course, this was a very close race between Nixon and [John F.] Kennedy. Was this your first affiliation with Richard Nixon, or had you known him earlier?

THELIN: Well, let me see. I had met him earlier in some of his various campaigns. I had never been actively engaged in his particular campaigns in his [congressional] district; so, I would say probably this was about the . . . Well, of course, he had run for U.S. Senator and I had then campaigned in my district on his behalf. So I had some connection with him before.

de GRAAF: Did you take any part in his 1960 presidential campaign?

- THELIN: Nothing in particular, just the normal things an incumbent Republican assemblyman would have done, I think, in his district. I can't remember any particular organizational work, as far as campaign offices or anything like that.
- de GRAAF: At that time or subsequently, did you form any particular impressions of him and his impact or role in the Republican party?
- THELIN: I think it was obvious that he had made a tremendous impact on the party. He was always an individual, I think, who excited a great deal of admiration on the part of some and, at the same time, had just the opposite effect on others. Of course, from the time of his first campaign against Helen Gahagan Douglas, there were many people who just would become livid at the mention of his name. They, you know, objected very much to his campaign against her.
- de GRAAF: Well, this was obviously true of Democrats and liberals in general. Did you find at this time Republicans who, to use your phraseology, would get livid at the mention of his name?
- THELIN: No, not at all, not in the sense that, you might say, that liberals would. On second thought, there were some liberal Republicans in those days as well who perhaps had that attitude. But they were a very, very small minority and really wouldn't count for much, as far as any election day results are concerned. I think the opposition--to the extent there was opposition in the Republican party--stemmed from

those who felt that perhaps Dick Nixon was coming too fast and was threatening their particular candidate or influence. I think in this era you had a kind of tripartite leadership of the party in California. You had Knowland, Knight, and Nixon, and, of course, Warren until he left. So there is always a little intraparty strife, I think, when you have strong leaders. And we had Senator [Thomas] Kuchel, of course, at that time, who was definitely a leader of the party. But that's the kind of normal sort of strife you always have. You also had certain conservative elements, interestingly enough, on the extreme, who had felt that Nixon was unreliable, that he showed sometimes some liberal tendencies and wasn't outspoken enough in espousing what they felt was the conservative position. However, I think, in my district and in the districts around mine, Dick Nixon always had a tremendous following. In all wings of the party, he was a vote getter.

de GRAAF: Now, you mentioned the party in California--I imagine you were referring to--being, having tripartite leadership, one part of which was Nixon, while he was holding national office, vice president, and then running for president. Did Nixon try still to be a power in California politics even while he was holding national office?

THELIN: My opinion is that he was always a power in California, and going to Washington simply increased his influence. In his

early campaigns he had developed an organization that extended far beyond his district. Of course, it started there, I'm sure. But there was a group of young Republicans—at that time young Republicans—people like [Patrick] Pat Hillings, [Joseph] Joe Holt, and others who were Nixon people, and felt that way about it. Certainly I would say that he had a following and was a factor in California.

Impact of John Birch Society

de GRAAF: OK. Now, one other thing I'd like to know about the 1960 campaign. Do you recall that as yet the issue of a John Birch Society and its influence within the party had arisen? We know it's going to become an issue in 1962. I'm wondering how far back it goes.

THELIN: Now my memory has failed me and I can't remember when we first heard about the John Birch Society. But I guess it probably had its beginnings in 1960.

de GRAAF: It was formed in Massachusetts in 1958, and I'm sort of wondering when you were first aware of its beginning to become a factor in California politics.

THELIN: My first real feeling the impact of it, I think, occurred in the general session of the legislature in 1961, in the sense, I think, I began getting mail about it, et cetera. I don't recall that in 1960 there was that much discussion about it. I don't remember it playing much of a part as far as the presidential campaign goes at that time.

de GRAAF: One other sort of corollary question. It was in 1960 that Barry Goldwater brought out his Conscience of a Conservative, an effort to draw a more ideologically oriented agenda for the Republicans. While, as I recall, he did loyally support Nixon in the 1960 general election, do you recall that either Goldwater himself or his ideas were beginning, as early as 1960, to become a significant factor in Republican politics?

THELIN: I think definitely. I think that identification as conservative Republicans was constantly gathering force at this time. Yes, I think The Conscience of a Conservative helped, and, I think, so did the influence of the National Review, founded by Bill Buckley, before I became an assemblyman. Obviously, the magazine was expanding all the time and gathering more interest. And I do think Barry Goldwater was emerging as a more significant figure in the Republican party all the time. The frustrations that stemmed, I think, from Dick Nixon being defeated in 1960 also helped to build up and unify the so-called conservative Republican forces. They always felt that Nixon had not drawn the line definitely enough on the differences between the two parties, that he was too middle-of-the-roadish, and that was blamed for the defeat.

de GRAAF: Now we go into some of the later sessions, starting with the 1961 legislative session. First, I'd like to pick up with something you said just a moment ago: that it was in this

session that you first became aware of the John Birch Society, because you began receiving mail from, I gather, members or people who at least liked some of their ideas?

THELIN: Yes. If I'm remembering the year correctly, I think it was 1961 I began getting letters from some of my constituents, asking me what I thought about the John Birch Society and somebody telling me how they had joined and found this wonderful group of people. Then, I believe, this was the time we had a series of articles commence to run in the Los Angeles Times about the John Birch Society. So all of us, I think, became much more aware of it than we ever had before. Then, of course, I soon became aware that there were several John Birch units very active in my district and in some of the districts that were adjoining mine. So yes, it made itself felt and known then.

de GRAAF: As you think back, were there any issues in particular that you recall, those affiliated or influenced by the Birch Society brought out?

THELIN: I don't remember offhand any particular issue on which it made its voice known or people picked it up. I think the general issue of the influence of communist infiltration into our governments was where it suddenly began to play a role. We had, of course, already gone through the period of [Wisconsin Senator Joseph R.] McCarthy and [Dwight D.] Eisenhower and the criticism of Mr. [Robert H. W.] Welch,

[Jr.], I guess it was--the founder of the John Birch Society--that somehow or other President Eisenhower was a dedicated agent of the communist party and those shocking words. That was the kind of thing that galvanized attention their way. But I don't remember any specific state issue or national issue in which their particular point of view dramatized their existence or anything like that. Peculiarly enough, you'd think there would be something like that.

VII. ASSEMBLY SESSION (1961)

Reorganization of Executive Branch

de GRAAF: Another issue that stands out in some of the political science works. Apparently, it was about 1961 that Pat Brown asked the legislature for a rather substantial reorganization of the executive branch. He wanted to take a lot of the existing agencies and condense them into a few very large ones, like Natural Resources, Health and Welfare, and Highway Transportation. Do you recall if that was a particularly significant or partisan issue?

THELIN: I don't remember it as being a strongly partisan issue. I'm sure there were some Republican assemblymen that viewed it with a great deal of suspicion, as we viewed anything that was happening in executive government that way in those days. But I don't really remember it as exciting anybody very much.

de GRAAF: Do you recall whether this reorganization was presented as

part of his whole legislative program, or more of just a general Hoover Commission type streamlining of the government?

THELIN: I think the latter more than as part of his partisan program or anything of that nature.

de GRAAF: By the way, that raises something that's often, I think, shunned to the sidelines: the so-called Little Hoover Commission [Commission on California State Government Organization and Economy] that continued making recommendations in the sixties, didn't it, on California government?

THELIN: Yes, that was still there, and their recommendations would come down; and sometimes we'd adopt them. Generally, they had quite a bit of support, I think.

de GRAAF: Were you ever affiliated with it in any way?

THELIN: No, I was never a member of it. I think I would have enjoyed being on it, but I was not.

de GRAAF: Were there any particular recommendations you can recall as either being important or stirring a lot of interest?

THELIN: I don't remember any at the moment. Undoubtedly there were some, but I just can't remember them.

Antinarcotics Program, Crime, and Cahan Decision

de GRAAF: Brown also, about this time, advocated, and I believe the legislature dealt with, an antinarcotics program: harsher penalties, but at the same time clinics to deal with narcotics as an illness, which to some people were

diametrically opposite ways of dealing with the program. Do you recall the Republican response?

THELIN: Well, at that time we thought that heroin was a terrible danger, and we were very, very much concerned with it. Of course, I think the use of narcotics and drugs has just constantly increased and probably gone far beyond what we were dealing with then. I think the Republicans saw this as an issue, and an important issue, very sincerely, that should be dealt with. I don't think the Democrats were very enthusiastic about it. I think they were compelled to pay some attention to it by law enforcement, which has a significant voice in our state, perhaps in most states, because people generally--the kind of people that vote, at least--have a very favorable image of law enforcement for the most part. And there was an increase in the crime rate in this period. I know our Republican congressmen felt that these were important issues that we should speak out on and ones where the governor was weak. Basically, the prevailing Democratic image then was the liberal Democrat. A kind of CDC [California Democratic Council] aspect of things was the dominant role in Pat Brown's administration. It was very difficult for them, I think, to call for strong law enforcement, et cetera. They were compelled to put in some bills on narcotics because I'm sure all we Republicans had bills to increase penalties for narcotic uses, et cetera. I

think the Democrats were reacting to the voice of the opposition. We did, I think, pass some bills. I think the mild version of the governor's bills were passed and the others were pretty thoroughly bottled up.

de GRAAF: Yes. Now you're saying this all comes, as far as you can recall, in the 1961 session before the Goldwater campaign will make crime in the streets the big Republican rallying cry.

THELIN: Yes. I think we tried to make it an issue in 1962, and it didn't work. In political realities, it didn't work. People weren't that upset about it yet.

de GRAAF: That's an interesting point. Besides narcotics and the general rise in crime, were there any other aspects of the crime issue that you recall being a special concern to you or the Republicans in general?

THELIN: Well, the search and seizure issue had been a constant concern. And, in, I guess 1957, 1959, and 1961, there were probably a multitude of bills in all sessions dealing with various aspects of search and seizure, trying to limit the results of the Cahan decision,¹ and restrain it in some respects. But the course of judicial decision was against that. There was no enthusiasm in the Democratic ranks, and they had the votes to stop any changes or restrictions like that. They were all for giving [a chance for] this new

1. People v. Cahan, 282 P. 2d 905 (1955).

concept to be maintained in California. The federal government had the exclusionary rule for a long time. But this was becoming a constitutional issue because the United States Supreme Court was indicating that this was a federal constitutional provision. So trying to deal with it legislatively became difficult because of questions about the constitutionality of any bill that you got might succeed in making law. By this time, the Criminal Procedure Committee was getting infamous for stopping any suggestions like this. So all measures limiting the Cahan decision they were all pretty much bottled up. But it was an issue, again, because law enforcement kept bringing it up and felt that they were being handicapped in fighting crime and enforcing the laws.

de GRAAF: What, briefly, was the gist of the Cahan decision?

THELIN: Evidence obtained illegally is inadmissible, i.e., evidence obtained by means of an unreasonable search and seizure.

de GRAAF: I see, yes.

THELIN: It had always been admissible in California until that time. In federal courts, of course, it was not admissible. Years ago, you know, Justice [Oliver Wendell] Holmes said it was a dirty business for government to be in something like that. But [California] had permitted it. So law enforcement suddenly found itself facing the situation where they couldn't use that evidence, which was very frustrating.

de GRAAF: Do you recall when the Cahan decision was handed down?

THELIN: I think just before I came in the legislature. It must have been around 1955 or 1956, something like that. So it was newly applied in California, at least, and law enforcement had to learn to live with this. In the meantime, they were protesting that and the legislature was attempting to meet that—at least Republican members, I think, and some Democrats who were very pro-law enforcement—were trying to introduce legislation to respond to that feeling. But those efforts all failed.

de GRAAF: [Did you say that the Criminal Procedure Committee blocked legislative efforts to modify the Cahan decision on search and seizure?

THELIN: Yes. I am saying the Assembly Criminal Procedure Committee blocked such efforts.

de GRAAF: In so doing, was the committee following a general mandate from Democratic leadership or from Unruh?

THELIN: If by general mandate you mean some kind of formal order, I have no knowledge of anything like that. But I think the committee acted in conformity with the views of the Democratic leadership and the views of Speaker Unruh. The Republicans on the committee did not share those views.]*

de GRAAF: Other legal or criminal related issues you can recall in the

*Judge Thelin and Dr. de Graaf added the preceding documented material during a review of the draft transcript.

early sixties? Was indeterminate sentencing yet a major legislative issue?

THELIN: We've always had indeterminate sentencing here until just five or six years ago, when the legislature for the first time passed the determinate sentencing law.

de GRAAF: Was there any sentiment for such a law in the early sixties?
Pornography Law and the Francis Amendment

THELIN: No, there was no talk about that, as I recall. In fact, it's not really significant. I don't know if it was about this time that we had the drive on pornographic literature, or not.

de GRAAF: The [Louis] Francis Amendment came out in 1962.

THELIN: When did the Francis Committee. . . . When was that formed? That was a subcommittee.

de GRAAF: I'm not sure, but the amendment was on either the June or November ballot in 1962. Proposition 24, I believe it was called.¹

THELIN: Oh, that's right. They put something on the ballot. That was put on by initiative, though.

de GRAAF: I think it was, yes.

THELIN: The legislature never adopted it.

de GRAAF: But it was referred to, as I recall, as the Francis Amendment.

1. Officially titled "Subversive Activities (Initiative Constitutional Amendment)," Proposition 24 appeared on the November 6, 1962 ballot and was defeated.

THELIN: Yes. That was 1962. So probably it might have been in the 1962 or maybe 1960 interim sessions that we had the Lou Francis subcommittee, on which I served.

[End Tape 3, Side A]

[Begin Tape 3, Side B]

THELIN: I don't think there was any particular event [that led to the formation of the Francis subcommittee]. During this period, our society was becoming much more relaxed as far as standards of behavior and standards of what you can read or what can be shown to the public, as reflected in motion pictures and books and magazines. So whenever you have that increased, the society becomes more tolerant of behavior that would have been condemned rapidly a few years past. Then there's the reaction of the people who are fearful about this and are trying to stop it. The Lou Francis subcommittee was formed, I think, in response to Lou's own energetic drive and ambition. He felt something must be done and he was a very active individual. There's always support for these movements to control pornography by some of the churches and people who are interested in protecting the young and others. They combined to create enough interest so that the subcommittee was formed. That also gives a reason for a committee to kill all such bills and send them out to interim study. That in turn leads to the formation of a subcommittee for interim study.

de GRAAF: Do you recall any particular end result of your subcommittee work?

THELIN: There were some changes made in the [obscenity] statutes. But instead of tightening things up, they made the law more flexible, I think, by adding those words that it must be something "utterly without redeeming social value," which later on became a source of much irritation to some people who were interested in trying to make the law stricter. They found that it, in fact, had been made more tolerant. However, I think it has to be noted that that language was taken from the decisions of the United States Supreme Court and would have to be construed as a part of any law that was enacted anyway. The legislature was simply expressly saying what was constitutionally already the law, so I don't think we can be faulted too much for making that change.

de GRAAF: No.

THELIN: But the resulting legislation,¹ I think, was a disappointment to the people who felt that this material should be suppressed.

de GRAAF: And that, you think, may have led to the Francis initiative appearing on the 1962 ballot?²

1. Referring to A.B. 1979, enacted as Calif. Stats. 1961, ch. 2147, which made the publication and distribution of "obscene materials" a misdemeanor.

2. A misleading question. Proposition 24 would have imposed many restrictions on persons or organizations defined as communist or subversive, but it had nothing to do with obscenity.

THELIN: Oh, yes, I think it gave these people an opportunity to take their case to the people, so to speak. I, myself, was interested in this field from the standpoint of minors, and I think we did enact express legislation in regard to minors. But it was a difficult field to work in because of the constitutional restrictions, if you're going to be realistic about it.

de GRAAF: Do you recall much about Proposition 24, or the 1962 election as far as that was concerned? Did you involve yourself at all in the campaign for it?

THELIN: I was opposed to the proposition. I felt the language would never be upheld and could be misconstrued. I don't recall the express language now, but my feelings were that it was a badly written measure, and I refused to endorse it. That made me some problems, because there were some people in my district who were enthusiastic about it. They felt this somehow showed you weren't on the right side. But it was clearly going to be defeated, I don't think there was any question about that.

de GRAAF: So this was not something in which all the Republicans lined up on one side and all the Democrats on the other?

THELIN: No, definitely not. I think not all Republicans endorsed that by any means.

Lobbyists and Jesse Unruh

de GRAAF: The final thing I think I'd like to ask you about the 1961

session, this was the first one that I believe Jesse Unruh was the speaker of the house. We've talked somewhat about his impact, but a couple of things I don't think we covered. One was the consequences of his leadership on the role of interest groups, if indeed there was any. Did you find that under Unruh interest groups became more prevalent? Everybody is fond of quoting his famous saying that "Money is the mother's milk of politics." Did this mean that lobbyists or others that would dispense money became more noticeable after 1961?

THELIN: That's an interesting question. But did he come in 1961?

de GRAAF: I believe he became the speaker in 1961.

THELIN: I thought he wasn't. . . . I'm looking at the Legislative Handbook, and Ralph Brown is down as the speaker.

de GRAAF: Perhaps I had that wrong.

THELIN: I was wondering when Jesse actually became the speaker.

de GRAAF: I'll have to check on that. I had thought it was 1961.

THELIN: Of course, it's possible that in the middle of 1961 or something, Ralph resigned. I can't remember how he left. But with regard to whether or not under Jesse's leadership there was more lobbying activity, I don't think that Jesse created lobbying activity as such. I think there would have been the same amount whether he was speaker or somebody else. I think what he did as speaker was, he more efficiently collected money from the various Third House

members and spent that money on candidates that he favored or candidates that would favor him. He probably was much more efficient and direct in getting money from the lobbyists for his side, because of his ability to deal with these people. To some of them, he was a very frightening person. Because of his general demeanor and build and all of these physical things, they were afraid of him. Jesse had never been a great favorite among Third House members. I don't think they had been very successful at cultivating him and probably felt that they had little in common with him. He was identified at the beginning as part of that very partisan, liberal wing of the Democratic party that centered around Bill Munnell and Phil Burton and [Robert W.] Bobby Crown. But Jesse was somebody they had to deal with as speaker because of the tremendous power that a speaker has. So I think he went after them. But as far as his stimulating their activities, no, I don't think so. They would have been active one way or the other, whether he'd been there or not.

de GRAAF: One other idea which is sometimes attributed to his leadership is at least he made an effort to increase the prestige, or, within the circles of government, the relative power of a legislature in general and the assembly in particular. Do you feel that that occurred under his leadership?

THELIN: Yes, I do. In one sense of the word, I think Jesse

frustrated some of the influence of the lobbyists because he built up the office of the legislator. It hasn't had the effect that we at that time hoped it would have, because obviously the campaign contributions from the Third House are still a big part of the Sacramento scene, looking back at it over all these years. But at that time I used to hear stories of how it was before I got there. Some of them were really quite shocking about legislators going up there to Sacramento without a thing, you know, maybe a bus ticket or something like that, and the lobbyists then, by wining and dining them and providing a place to sleep, had a great deal of influence. So I'm sure there were instances when the legislator was very vulnerable because he was not important and didn't have resources at his command. With Jesse you had the appointment of administrative assistants for the legislator. There's no longer any excuse for saying, "Well, I don't have time to research something, so I've got to find out from somebody from the Third House what it's all about."

Legislative Staff Augmentation

de GRAAF: What sort of staff had you had before this?

THELIN: When I got there all we had was the services of a secretary, and that was it when we were in session. You didn't have any staff really. Out of session, of course, you didn't even have your secretaries. The girls went home after the session was over.

de GRAAF: Were you not allocated any funds for a district office assistant?

THELIN: No, not in the beginning at all. Jesse brought all that in. No, we had never heard of such a thing. You didn't have any district office unless you used your law office, which I did and continued to do. But after Jesse, if you wanted to have a local office and use state furniture, you could. We also then got a full-time, all-year-round administrative assistant. You didn't have that kind of staffing before. It was really a part-time legislative job. So in that respect, Jesse built it up. There weren't any automobiles before Jesse came. After he came, everybody got to lease out an automobile at state expense and got credit cards for phones, which we hadn't had before, credit cards you could use all year round. It was supposed to be on state business strictly, but still that was quite a useful little item to have when you were traveling up and down the state. And let's see. . . . As I said, they now provided state furniture if you wanted to have a district office furnished. I think they pay so much for the rental of the state office. I never used any of those benefits myself.

de GRAAF: That's what I was going to ask. Were there some assemblymen who just said, "No, we don't believe in this and so we're not going to take part"?

THELIN: Well, I doubt that there were many of them who said they

didn't believe in it. I think most of the changes were very helpful. I didn't do it because I preferred to stay in my law office. I had to make a living as well as be in the legislature, and I was always working by myself most of the time, so it was more convenient for me to do everything out of my own offices and pay my own rent and not use any of the state funds. But for many it was very important, you know. Many legislators do not have any business office or law office or anything like that, and I think it's quite a useful thing for them.

Thelin Legislation for State Elections

de GRAAF: Any other issues you recall as outstanding in the 1961-1962 sessions?

THELIN: Nineteen sixty-one and 1962. [Looks through papers] Let me refresh my memory here. I had some good bills but they always got defeated. Oh yes, that's the year I proposed my constitutional amendment that would have had state elections occur on the odd-numbered years.

de GRAAF: On odd-numbered years?

THELIN: Yes. Actually, I got the idea from an article in the magazine of the Ripon Society. I don't know if you've heard of that.

de GRAAF: Oh, yes.

THELIN: Anyway, they had suggested it as a good thing because it would focus interest and emphasis on state issues, which tend to get submerged in national elections. To me, that made a

lot of sense, so I introduced a bill and a constitutional amendment to bring that about. That was A.C.A. 33.

de GRAAF: You introduced it in the 1961 session?

THELIN: Yes. I still think it's a very good constitutional amendment.

de GRAAF: It looks like you had some fellow supporters of it.

THELIN: Oh, I had Conrad, [Lou A.] Cusanovich, [Thomas C.] Carrell, Levering, Munnell, and George Willson, one Democrat. Well, two. I got Munnell, Democratic majority leader at the time. And I sweetened this up for the legislators by giving everybody an additional year in office. You need a constitutional amendment, of course, to do that. Legislators generally are always interested in being reelected; very few of them are planning to step out. So I was successful in getting it out of committee, and I got it on the floor of the assembly and I think I got it passed. I was going to get it through and get over to the senate with it. [Goes through papers] I had the roll call of that. On the floor of the assembly, as a guest there watching at the back of the room, was one of my constituents who was a very well-known Democrat, Carmen [H.] Warschaw. I don't know if you've heard of her or not.

de GRAAF: Sure.

THELIN: She was a very prominent and important person in the Democratic party. And she saw this as an attempt. . . . [Picks out paper] I think here it is. Yes. These are the

roll calls. I think I got it passed, and just barely got my fifty-four votes. Then she got hold of some of the Democratic assemblymen and said, "Hey, do you realize what this is going to do for our party? We won't be able to run with President Kennedy and get the benefit of his votes and all." And, you know, gradually my vote just faded away, because, you know, I had to get Democratic votes, of course.

de GRAAF: Somebody moved then for reconsideration?

THELIN: Yes. I think it was Tom Bane, but I'm not sure about that. But somebody did, and the troops all got stirred up and began to regard it as a Republican plot, I guess. So that was the end of that. But I had a lot of fun with it and I felt it was important and would have been a good thing for the state of California, although I guess it would have increased costs a little. That was the argument that was made against it.

de GRAAF: To the best of your knowledge, has anybody ever taken up that issue since then?

THELIN: No. Here's an analysis of it by the legislative analyst. "And our state costs would be for two additional holidays granted state employees under the government code on odd years, or approximately \$8,270,000 for approximately 1,260 man years of employee time." I don't think it would make anybody excited these days.

de GRAAF: Was [A. Alan] Post the legislative analyst then?

THELIN: Oh, yes. A very good one, too. He is just a fine man. But

that went down to defeat. The holidays wouldn't be an issue anymore because they've eliminated elections as holidays. But anyway, that was an interesting deal that year.

de GRAAF: Yes, it does seem like an interesting one. Any others that you raised that you think would be worth preserving on tape that might particularly give us some insight into the type of legislation being proposed in those days?

Thelein Legislation on Public Employee Strikes

THELIN: In 1961 I had the bill to make it illegal for public employees to strike. I had a little fun with that, but I couldn't even get that out of committee.

de GRAAF: Was that a bill of your own interest or were you carrying that for the party?

THELIN: Oh, no. I put that in on my own. I didn't have any support. Of course, after I put it in we got, I think, the California Manufacturers Association or groups like that to give it some support. But, no, I was pretty much on my own. That was A.C.A. 23.

de GRAAF: That would have been a constitutional amendment?

THELIN: Yes. Then, of course, you always have a statute underneath that is implementing the constitutional amendment. But 1961, of course, was reapportionment year. So that was the big, big bill that year. I don't know if you're going to get to that or not.

de GRAAF: I will, certainly, yes. But, first of all, since you raised

this interesting issue, let me ask you to carry this along. Was there any particular condition or other idea that led you to put forth this bill to prohibit state employees from striking?

THELIN: I just had a kind of a personal feeling that it was wrong to have these strikes against government, at least by employees who are in governmental functions. Of course, as you expand governmental activities, you bring in a lot of people that you normally would think have just as much right to strike as anybody else, for example, bus drivers. I think at this time there had been a big strike from the local transit district. I forget what we called it then. Metropolitan Transit District, I think, or something like that.

de GRAAF: Could be, yes, Metropolitan. Yes, the Rapid Transit District hadn't been set up yet.

THELIN: Yes. Later, it became the Southern California Rapid Transit District. But, anyway, it seems to me like there had been a major strike that had kind of brought it up in my mind. I didn't, you know, have any particular feeling about bus drivers as such. But the whole issue of whether or not government employees should be allowed to strike against the sovereign, I wanted to try to excite some discussion about it. But I don't think I did excite much intellectual discussion.

de GRAAF: The Republican party itself didn't unanimously adopt this?

THELIN: Well, the way it was, the caucus didn't, you know, vote on all these bills and decide to take or not take a stand. I think basically everybody feels happier if you don't take a stand and they don't have to commit themselves on some issue that might not be popular in their district. So the number of bills where the caucus officially takes a stand, in those days at least—I don't know how it is up there now—but in those days was very small. It had to really be something world shaking to get them to take those kinds of positions.

Election Districts and Reapportionment

de GRAAF: Let's move, then, to reapportionment. Obviously, this is something that to this day both parties try to do to their own benefit, and by 1961 the Democrats were firmly in control of both houses, weren't they?

THELIN: Right.

de GRAAF: What are your recollections of reapportionment? Did you and the Republicans feel it was being unfairly drawn?

THELIN: Well, I have all kinds of recollections of that issue. That was my first reapportionment struggle. It always follows the even numbered year every ten years, so you don't go through too many of those as a legislator generally. This was my first one, and I found myself prominently featured in the first draft of the bill. I was in a district with, let me see, three other Republican assemblymen, as I recall. They drew a real long district. They started with Frank Lanterman

up there in La Canada, who was to the north of me. Then they included me, plus [Chester E.] Chet Wolfrum just to the south of me, and Joe Shell, who was way down in Los Angeles. They had all of us there. I am trying to remember if they had put [John L. E.] Collier in that district, too. It's possible, I can't remember. But they had at least four of us, and that caused quite a bit of hullabaloo, as you might think. You have to remember reapportionment is life and death for all legislators concerned. There was a big picture on the front page of the [Los Angeles] Times of we Republican assemblymen who had all been put into this one district, so that shows you how much public interest there was in it. Of course, Republicans were complaining loud and strong, and I was contacted about possibly moving out of my district to make room for somebody else so the situation could be resolved.

de GRAAF: Contacted by somebody within the Republican party?

THELIN: Yes. I think Joe [Shell] may have mentioned it to me. Nothing serious, just talking about possibilities. Somebody had asked me if I would be willing to move. Of course, I owned my home and didn't really want to move out of the district where I had been raised, so to speak. Anyway, that was the way the reapportionment battle started up. Reapportionment is a psychological thing. The prevailing party, the majority party, always wants to have votes from the opposition party so they can't be accused of a grossly

partisan reapportionment. So the way the game is played is, you try to draw districts so that you can get some opposition votes, and to do that you use psychological warfare. If you're a chairman of the elections committee which does the reapportionment, I guess it was called Elections and Reapportionment in those days, you call the man in. Everyone wants to see the proposed district. You say, "Well, how do you like that?" If he likes it, then the next question is, "Well, would you vote for it?" [Laughter] By that method, you try to divide up the opposition, because when that man is called in there, if he's feeling nervous enough about his district, he's just going to be thinking about himself. But in order for him to get a beautiful district, his neighbor may have been destroyed. So that's the sort of thing you have going on.

de GRAAF: All right, that's one side of the game. Now did the minority party, in this case the Republicans, try to counter it by any strategy of keeping all of their people in line with their own plan?

Joe Shell and Republican Party Leadership

THELIN: Well, Joe Shell was our minority leader then, and I think Joe tried, but it was impossible. It got to be every man for himself, to tell you the truth. The way that the operation went, the Democrats latched on to some of our weaker brethren early and split them off. Once you do that, once they've

made a commitment to vote for the bill, it's hopeless. And you've got to remember there weren't too many of us to work with, anyway. They don't need to get a lot of Republican votes.

de GRAAF: [Who were the "weaker brethren" who committed themselves to Democratic sponsored bills in the early sixties?

THELIN: My reference to "weaker brethren" was specifically in regard to reapportionment in 1961. I do not choose to name them.]* Anyway, it went on over weeks and weeks. The first version where I was in the district with all these other assemblymen was changed. It was a little too gross, and it was just an opening gambit, anyway. They wanted to show us what they could do and scare the bejabbers out of those who were nervous nellies. So we lost some of ours and, therefore, we lost our effectiveness to negotiate as a caucus. Joe, for whatever reason, couldn't hold it together. I have to say Joe's influence just wasn't that strong. It would have taken an extraordinary leader, I think, to hold it together. But in any event, a very interesting thing had happened in 1961. There was a new group of young Republican assemblymen who came in, high caliber men. I, myself, and, I think, others saw in them hope for the future of the Republican party.

de GRAAF: Who were some of these?

*Judge Thelin and Dr. de Graaf added the preceding bracketed material during a review of the draft transcript.

THELIN: I can tell you specifically, because the ones I worked with and liked were [Robert T.] Bob Monagan, [William T.] Bill Bagley, [Houston I.] Hugh Flournoy, [John G.] Jack Veneman.¹ The five of us worked together on reapportionment because our districts were OK. We were going to survive, but we thought, well, our caucus isn't going to hold together. Perhaps if we went as a block, the five of us--with Chet Wolfrum who was to the south of me and had a terrible district but was the incumbent--could try to save Chet and some other assemblyman. I can't remember who they were now. We traded our votes for that to try to save Chet's districts and the other districts, and our own. We had satisfactory districts for all of us and we could do this without hurting any other Republican, so we made the best deal we could for the benefit of our party. For me it was a wonderful experience, because the five of us for the first time--with Chet, six of us, really--got to work together, and that was the basis for the Nixon team in 1962. But that was, you might say, our first joint experience. For me, it was just a great experience working with these high quality men, and I was hopeful that we could really do something for our party.

de GRAAF: [What impact did these young GOP [Grand Old Party]

1. Veneman actually took his seat in 1962, winning a special election in January 1962 to fill the seat of Ralph M. Brown, who had retired.

assemblymen who came in 1961 have on specific Republican positions?

THELIN: I can only speak of the impact of the new young assemblymen of 1961 on Republican positions in general terms. I have already indicated the impact on reapportionment. They helped to firm up Republican positions on the budget, social welfare, and, ultimately, on the disability issue. But you must understand that there were few "Republican issues" as such because the caucus endorsed very few positions.

de GRAAF: If I correctly perceive these as moderates, were they and some of their positions at odds with Joe Shell, the Goldwater movement, or Reagan?

THELIN: I do not recall specific instances of them taking on Joe Shell publicly on an issue. We Republicans were too few in number to be fighting among ourselves. We were trying to attain some unity, not division. As to Governor Reagan, he was not in Sacramento during my years there.]*

de GRAAF: Pardon this question, but I'm intrigued that you refer to these four as high quality men, the inference being that legislators you had worked with before then had not been of comparable quality.

THELIN: [Laughter] Well, you might read that implication into it, but that would be a wrong implication because there were

*Judge Thelin and Dr. de Graaf added the preceding bracketed material during a review of the draft transcript.

certainly many, many other high quality men. But these were young men who were ambitious and who were looking to develop a program that we could act together on that would be intelligent, who would have enough appeal to win the state. I didn't find that kind of thinking too common in our caucus, to tell you the truth. I'm not being critical. By high quality, I don't mean to infer that the others were low quality. There were many, many fine men, but they just weren't in a position . . .

[End Tape 3, Side B]

VIII. CALIFORNIA ELECTIONS (1962)

[Begin Tape 4, Side A]

Primary: Nixon versus Shell

de GRAAF: Let's move directly into the 1962 gubernatorial campaign.

You've said something that I was not aware of, that you and the other four assemblymen, Veneman, Flournoy, Bagley, and Monagan, were the core of the Nixon campaign in 1962?

THELIN: Well, I don't mean to imply by that that we were the center of the Nixon campaign, but as you probably know, all of us endorsed Dick Nixon in the Republican primary, which was a hotly contested one between between Joseph C. Shell and Richard M. Nixon. It was thought by many people that I, as a conservative legislator and one who had been close to Joe Shell over the years--relatively close, I should say--would be endorsing Joe. It was felt that most of the incumbent

Republican assemblymen in southern California would be going along with Joe. I didn't, and I and the other five people I referred to, we endorsed Richard Nixon early, so we got into his campaign. Eventually, of course, Dick Nixon designated me his [legislative] liaison in that campaign.

de GRAAF: What were your reasons for this move, that is, endorsing Nixon and not endorsing Shell?

THELIN: Well, they were practical political reasons, I guess, first of all. We felt that Dick Nixon would have an excellent chance to defeat Pat Brown. We did not think that Joe Shell would because we felt that Joe would be taking more extreme positions that would not be acceptable to the voters of California. It seems ludicrous now, in view of Ronald Reagan's success, but that's the way we thought in 1962. You have to remember, in those days California was still considered a state where moderate Republicans had been very successful, and it was thought they would be in the future. So we saw Dick as a person who could win. We also felt that he would be a better organizer and would, in fact, be easier to work with.

de GRAAF: Easier to work with?

THELIN: Easier to work with even though Joe personally is a very friendly and fine gentleman. My personal contacts with Joe Shell over the years have always been very pleasant. But it was hard to ever feel that you were close to Joe. We did not feel that he would be able to have much influence in those

districts where you had Republican legislators who were trying to save marginal districts for the party. Joe's political views were such that he would not get along well with them. There was some resentment that he didn't appreciate their situation.

de GRAAF: Did he tend to be more ideological than Nixon?

THELIN: Oh, I think very much so, yes. Joe in those days certainly was. Of course, it's very hard to define Richard Nixon in regard to ideology. He had tremendous appeal to many that you might call right-wing people because of his condemnation of communism and the Alger Hiss thing.¹ He was in some ways a hero to them as a strong backer of the loyalty oath and things of that nature; he had tremendous appeal to them. At the same time, however, he had an image that generally put him in the ranks of the moderate Republicans, I think. So we felt he would just be a stronger candidate all around.

Impact of John Birch Society

de GRAAF: One problem I would like to bring up is the issue that I raised earlier, just to see if it had been an issue as early as 1960, that we definitely know is an issue by 1962, and that was the influence of the John Birch Society in the Republican party. Was there not quite a difference between

1. A reference to Nixon's role as a congressman in sustaining the House Un-American Activities Committee investigation of former State Department official Alger Hiss, which eventually led to Hiss's conviction in 1950.

Shell and Nixon in that campaign? Nixon, in effect, said he would not accept the support of the Birch Society, whereas what was Shell's position on it?

THELIN: Definitely. I don't think Joe ever came out and said, "I endorse the John Birch Society." However, he never condemned them either, and Dick Nixon did. And that probably hurt him [Nixon] to some extent in the Republican primary, because by this time, there were John Birch societies in all the strong Republican districts. I don't think you'd find any in the marginal districts, but you certainly did in places like my district and Frank Lanterman's. They had influence, and they were all for Joe Shell and backed him 100 percent.

de GRAAF: Even before Nixon made his declaration that he wouldn't accept their support?

THELIN: Well, I'm not sure when that declaration was made, but it seems to me that that was made pretty early in that year, and so I think Nixon had made his position clear quite early.

de GRAAF: There are two other areas in which the Birch Society seemed to be evident. I'd be interested, first, in any recollections you have of why there were a few candidates that were running who made no secret of the fact that they would either be endorsed by or were members of the Birch Society. I think particularly of the two congressional candidates, John [H.] Rousselot and Edgar [W.] Hiestand. Did they have some assembly counterparts?

THELIN: I can't remember any assemblyman in my time there who said he was a member of the John Birch Society.

de GRAAF: Oh.

THELIN: I just can't remember them doing it. There may have been some, but they were mighty quiet about it if they were.

de GRAAF: Do you recall the Rousselot and Hiestand candidacies?

THELIN: Yes, I do. And when did [H. L.] Richardson come in? He ran for the state senate. That must have been after I left. Yes, he was elected the year that I ran for the state senate and was defeated, 1966. Nineteen sixty-seven was his first year in the legislature. But that, yes, I remember Hiestand's campaign and Rousselot's. I had known him [Rousselot] for years in the Young Republican organization. He started out at least being considered as kind of a progressive Young Republican. He was a very articulate, very intelligent person, and commanded a following. Edgar Hiestand, of course, was a rugged conservative of the old school. Everybody in the Republican party had a lot of respect for him.

de GRAAF: Did their candidacies cause a great deal of talk or controversy within either the Republican State Central Committee or caucus?

THELIN: No, I don't think they did. They were pretty much district affairs. People didn't get too concerned about them.

[End Tape 4, Side A]

[End of Session 3, April 27, 1987]

[Session 4, May 4, 1987]

[Begin Tape 4, Side B]

Analysis of Republican Party Conservatism

de GRAAF: Judge Thelin, last time I think we were in the midst of the 1962 campaign, so I'd like any further thoughts you have on, first of all, the impact of John Birch Society candidates like Rousselot and Hiestand and, particularly, the attempted and sometimes successful takeover of groups like United Republicans of California [UROC] by Birch Society groups. Do you recall if this had a significant impact on either your thinking or that of your fellow Republicans?

THELIN: Well, I think it was a beginning movement, probably more than beginning by 1962. But I certainly think what's come to be called a conservative movement was building at that time, and I think in 1962 it probably was a significant factor in the Republican primary that contributed to then Assemblyman Shell's bid for the Republican nomination. It was my feeling at the time, and I think of others, that Joe was surprisingly strong, considering the status of Richard Nixon. After all,

he had been vice-president of the United States and a significant personality in California politics for quite a long time by then. I think that Joe sort of personified the feelings and aspirations of what I, as well as others, call the hard right. But I think the growth of the conservative Republican movement is exemplified by the development of the UROC clubs and the activity of the John Birch Society. They may not have been large in numbers, but I do think they were able to raise money. Many people with feelings as strong as those that Birch Society members had, if they were financially able, tended to be generous in supporting those causes in which they believed. So yes, I think it had an impact in the campaign. Without doing any research of the statistics or anything of that sort, my impressions at the time were that it affected the outcome of the general election. I think with the victory of Richard Nixon in the primary that many of the Republican adherents who normally would have been enthusiastic workers and campaigners simply lost their enthusiasm after Richard Nixon won the nomination. Of course, as always, the loyal party members rallied around and did their very best. But there are a lot of people who are not that committed to the party as such. They are important because you're never going to win a campaign just with the votes of those people who will be working for the party, come what may, day in and day out.

THELIN: You do have to appeal to many, many people to whom [partisan] politics is not the only thing in their lives. I think there was a significant number of people who ordinarily might have been enthusiastically supporting the Republican cause who did not support it as vigorously in the general election. I think it was a significant factor in the defeat of the Republican party, although it can be overemphasized. I'm not saying the election was lost because of that. More importantly, I think we simply could not create any fire about the issues that we were proposing to the voters. We were concentrating on the increased costs of state government and the crime and the narcotics question and that just didn't catch fire. Political history in California has shown that when you're running against an incumbent governor, you've got to have something going for you by way of issues and personalities if you're going to defeat the incumbent.

de GRAAF: That really anticipates another question I had. By 1962 do you recall that the Birch Society and parallel groups had influenced the shaping of policies or issues by the Republican party?

THELIN: I don't think they had. I think the Republican party, as far as its platforms and positions were concerned, was pretty much where it had been over the years. I think we were getting to the point where that influence was going to be felt at [Republican] State Central Committee meetings and

elsewhere, but I don't think it had by 1962. I was just reading a summary the other day about the state central committee meeting in 1964, the year of the Republican convention. The commentator makes the observation that while the conservative movement was very strong then, because after all Barry Goldwater was very popular here in California among the Republicans, nevertheless, when it came to a battle for the vice chairmanship of the state central committee between Bill Halley, who was considered a moderate at that time, and Vern Christina, who was a conservative, Bill Halley won. That was in 1964. So in 1962, I don't think that influence was really playing a significant part in forming Republican policies.

Robert Gaston and the Young Republicans

de GRAAF: Do you recall that either you or other fellow Republican legislators who had been in office awhile were particularly resentful of that sort of a Young Turk orientation or makeup to these right-wing people?

THELIN: I'm not sure that I understand the question.

de GRAAF: I was thinking of the fellow that took over the L.A. County Central Committee, I think his name was [Robert] Gaston. Was there a feeling that this group of people who had not really spent a long period of time in the Republican party were now trying to move in and take things over?

THELIN: Yes. I see. I think you're asking about the sudden

enthusiasm among a younger group of people for the conservative cause. It did reflect itself in the presidency of the Young Republicans of Los Angeles County, I think it was, in the person of Bob Gaston, who later, I think, became state president of the Young Republicans. Yes, I remember him. And it's true, there was that enthusiasm. As always, I guess, some resentment is generated when that happens. However, I don't really feel that there was a lot of resentment because of the age issue. After all, there were many, many conservative people--strong conservatives--who were middle-aged and older, and they welcomed this enthusiasm of these young Republicans. So I don't really think that that was too important a factor in Republican affairs at the time.

IX. CIVIL RIGHTS AND THE WATTS RIOT

Rumford Fair Housing Act

de GRAAF: Let's move on to the 1963-64 sessions. One issue that certainly seems prominent--I'd be interested in knowing your views on it--was the Rumford Fair Housing Act that came up in 1963. More broadly, of course, by this time, it was part of the whole civil rights issue nationwide. Do you recall that when the Rumford Act came up it was a strictly partisan vote, or were Republicans and Democrats to be found on both sides of the issue?

- THELIN: Well, let's see. Are we talking about the year when it passed?
- de GRAAF: Well, perhaps the whole issue, because it had come up earlier, had it, unsuccessfully?
- THELIN: Well, I think there had been versions of it. I was trying to think. Was it in 1963 when the Rumford Act passed?
- de GRAAF: That's when it passed, yes.
- THELIN: Well, as far as the whole civil rights issue goes, the entire issue of civil rights nationally was certainly a very hot issue, with the happenings down south and television being full of it, and we had our own Watts riot.
- de GRAAF: No, that came in 1965.
- THELIN: There were strong feelings about all of these issues. I don't think it ever was a partisan issue as such, because certainly there were always a number of Republican assemblymen who felt very much in favor of something such as the Rumford Fair Housing Act. I can think of people like Jack Beaver and Bruce Allen, the group who normally would have been called in the old days moderate Republicans. I believe Bruce Sumner was. I'm not sure if he was still in the legislature at that time. He may have been appointed a judge before that. But he would have certainly voted in favor of that civil rights issue and the Rumford Fair Housing Act had he been there. There was always a group of Republicans who would go along with that: Hugh Flournoy, I'm

sure voted for it. Most of the Republicans, certainly, voted against it. By this time, you're feeling the effects of the whole conservative movement getting stronger. But I don't think it was presented as a party issue on the floor of the assembly or elsewhere. It was a very important issue in my life because it probably changed my whole career due to the fact that I voted for concurrence in the senate amendments to the Rumford Act. When it first came up from the floor, I voted against it, and then when it came back for concurrence in the senate amendments, I voted for it.

de GRAAF: Would you like to amplify, first of all, exactly what you mean by concurrence, and what were the senate amendments?

THELIN: Whenever either house amends a bill after it's gone through the other house, it must be returned to the first house to see if they will concur on the amendments that have been enacted. As far as the Rumford Act was concerned, it was introduced in the assembly by Byron Rumford and it was passed. Then it went to the senate, and after a struggle there it was passed with amendments. It came back to our house, and the issue presented to us was whether or not we would concur in the senate amendments. The amendments were significant to me in that, as I recall, they eliminated any penal sanctions for disobeying the law, which I felt was quite important. I was afraid that if we did not accept those amendments, we might get something worse, so I voted

for concurrence. That vote came back to haunt me when I ran for the state senate in 1966, because John Harmer, who defeated me, was constantly telling people in my district that I was in favor of the Rumford Act and had voted for it. It put me in a bad position because, trying to explain the complications of voting for concurrence in senate amendments, I was always on the defensive. It was probably the most important factor in my defeat. So it changed my life considerably. As I recall, the Rumford Act was only passed in the state senate after a very bitter fight in which Senator [Edwin J.] Regan, I think, finally cast the vote that decided it in the senate, much to the annoyance and anger of Senator Burns and others. So it was one of the big pieces of legislation of that year. But it became even more significant in the years that followed because first of all we had a proposition passed to repeal it.

Rumford Act and Proposition 14

de GRAAF: That was Proposition 14.

THELIN: Fourteen, which got the whole state stirred up. Then after the people voted for it, the supreme court declared it unconstitutional. All of these things happened before the campaign in 1966, and by that time, people in districts such as mine were just furious about this act. It was really a tremendously important piece of legislation, not only for the effect that it may have had on the rights of minority people

in our state but also because it probably ended a lot of political careers. In Republican districts, people were falling over themselves to say they opposed the Rumford Act. Strangely enough, though, after Governor Reagan was elected in 1966, I didn't see anybody suggesting a repeal of the act. They could have done so, even though Proposition 14 had been declared unconstitutional. Not even my opponent in the 1966 election, who became a senator--I never even heard of him introducing a repealer. So it's kind of strange because you have to consider the election in 1966 a tremendous triumph for, you might say, the extreme conservatives in the Republican party. You would have thought the Rumford Act would immediately have been attacked, but perhaps they had the wisdom not to do that.

de GRAAF: When a constitutional amendment like Proposition 14 is passed--let's overlook the subsequent court case--what is its effect on statutory legislation such as the Rumford Act? Does it remove it from the books?

THELIN: As you ask me that question, I'm trying to remember exactly how Proposition 14 was phrased. It was written in such a way that it would have made it impossible to enforce the Rumford Act.

de GRAAF: As I recall, it said something to the effect that the state shall do nothing to prevent a homeowner from deciding in his

own discretion who he wants or does not want to sell or rent or otherwise convey his property to.

THELIN: Some wording like that, which the [state] supreme court said was unconstitutional; and the United States Supreme Court also said so. It was a very dramatic series of events.

de GRAAF: Was the supreme court case that declared Proposition 14 unconstitutional Mulkey v. Reitman?¹

THELIN: Yes, I think that was it, yes.

de GRAAF: Once the court decided that, then the Rumford Act was once again in effect reinstated?

THELIN: Oh, yes. It had always been on the books; it had not been repealed. It's just that it could not be enforced if Proposition 14, if that had been the law. When the supreme court decided that Proposition 14 was unconstitutional, then the Rumford Act was still in full force and effect.

Lobbying on Fair Housing

de GRAAF: I'd like to pursue this a little bit more, because you have raised one interesting point already. You say most of the fury you can recall over this came after the act was actually passed in Proposition 14 and all of the debates that came in its wake. Do you recall a lot of mail or pressure in any way when the Rumford Act was actually being passed by the legislature?

THELIN: Well, you know, it's strange, but I don't really remember a

1. Lincoln W. Mulkey et al. v. Neil Reitman et al., 64 Cal 2d 529 (1966).

lot of agitation about it. Of course, in my district I wouldn't expect to have a lot of people writing in and urging me to vote for it, but I would have expected the other. But I think a vast number of people in California had no idea that this was actually being enacted. It was only after it was passed that suddenly we had these big headlines. I remember after the vote on concurrence, for example, I think it was the [Los Angeles] Herald Examiner had a headline, you know, "Passed" and then it gave the names of the assemblymen who had voted for concurrence, and those who had voted against it. That very article was reprinted again and again and used in the 1966 campaign. So I think the real public awareness of this happened after it had been passed. For some reason, then the real estate association and all these brokers suddenly got very, very upset, and I think they stimulated much of the activity that resulted in the enactment of Proposition 14.

de GRAAF: Do you recall a great deal of lobbying by the California Real Estate Association or any similar groups when the Rumford Act was actually going through the legislature?

THELIN: Well, there was some lobbying. Again, I don't think anybody bothered me very much about it because, basically, I would be considered a pretty safe bet to vote against it. You have to remember that the assembly at that time had a liberal commitment. The liberal Democrats were in control and felt

very strongly about this. This was one of the important, basic tenets of that liberal Democratic movement that had started perhaps in 1958 or a little earlier. So really, I would say that the California Real Estate Association had just no chance of stopping it in the assembly. In the senate, they did. There was a real battle in the senate. Of course, I would not have personally felt the effect of that, but I know there was a real struggle there. Perhaps they felt sure they could stop it in the senate; I suspect that was really the feeling. I think it all boiled down to the vote of Senator Ed Regan, it was that close.

de GRAAF: Other issues came up that seem to me may have been of importance. Education--we were now in the midst of the teacher crisis and schools being formed and so forth. Do you recall any particular issues, either funding or otherwise, revolving around education in 1963, 1964, or 1965?

THELIN: Well, I think we talked about the Serrano [v. Priest] decision a little, and I've been trying to remember. It seems to me that the governor did have a bill on that, but, for some reason or other, I don't recall it ever passing. So I don't know that much was done about that. We did have the agitation on the college campuses that came along with Mario Savio and all that, which we already discussed, and I sure remember that. But I don't remember any significant issue in 1963, 1964, or 1965.

de GRAAF: Although it didn't make headlines for several years, it was in 1963 that the case of Crawford v. Los Angeles was filed, asking the unified school district of Los Angeles to desegregate.¹ Do you recall at that early time that de facto segregation became much of an issue in the legislature?

THELIN: I remember the filing of that case, of course, and it causing a lot of concern. I think we were there in the period where we were moving from this concept of de jure segregation and going to de facto segregation, which suddenly became an issue. But I don't remember a lot of discussion about it per se in the legislature at the time.

Political Impact of Watts Riot

de GRAAF: Moving ahead, to keep on this theme, you can undoubtedly recall the Watts riot of August 1965. Did that particularly surprise you or your fellow legislators, or cause a great deal of immediate discussion or reaction?

THELIN: Oh, yes, it came as a surprise to me. Nobody ever expected a terrible riot like that down here. It was the cause of a lot of concern, mainly because some of my constituents were concerned. I can remember the night it happened I think I was at a baseball game in Dodger Stadium. I remember getting out and seeing a lot of smoke in the air and wondering what

1. Crawford v. Board of Education of the City of Los Angeles, 551 p. 2d 28 (1976) was the California Supreme Court's upholding of a 1970 Los Angeles Superior Court ruling that made desegregation a major local issue. That case was a revival of legal efforts begun in 1963.

it was, was there a big fire someplace, and then getting home. Then my phone started ringing right away. I can remember a man calling me up in a very excited way and saying that his son was in the National Guard and they were going to send them down there to Watts without any ammunition; [he was] very concerned about that. People were calling up that had heard that people were getting in automobiles in Watts and were going up to Glendale to shoot people there. So there was a lot of rather wild and hysterical talk and reaction, and when you're in the legislature, you bear the brunt of a lot of this. I was getting some hysterical phone calls and there was a lot of excitement in the governor's office. I remember calling the governor's office to see what the situation was about the National Guard. I think it was a question of whether the governor was going to establish a state of martial law there or not. I think he would have to in order to send the National Guard, and I think ultimately he did. But it was a very exciting and unexpected series of events. It reflected itself in the legislature by bills that were introduced at the time in regards to riots and things of that nature. I don't think any really significant legislation came out of the period in that regard.

de GRAAF: Do you think it had a significant impact politically in reducing the popularity of Democrats and increasing the popularity of the Republicans?

THELIN: Oh, definitely I think it did. I think it frightened many people who were conservatively inclined, and I think it frightened a lot of Democrats, too. The idea of rioting and arson and complete disregard and contempt for the law was a very shocking thing. I think it ultimately contributed to the defeat of Governor Brown in 1966. It added a lot of steam to the transition of the voters of California from being moderately inclined to veering over to the more conservative point of view. Yes, it was a kind of dramatic event that does influence people and, importantly, it influences people who otherwise might not have much interest in politics or just a casual interest, but nevertheless who do vote. And those kind of people are the ones who change the course of campaigns and political history, I think. It certainly had that effect. Then, of course, Governor Brown had his study committee.

McCone Commission

de GRAAF: The McCone Commission?

THELIN: Yes, it was [John] McCone that headed that up. That took a little while. All of that, however, kept the thing going in a sense, I believe, because it inspired more public attention and everybody got to state their views of what had caused it and what was wrong. I think we still had Chief [William] Parker as our chief of police then, if I remember correctly, and I can remember, among other things, he thought it was

caused by the weather. I think it was a hot summer night. He thought that was the kind of climate that would incline people to riot more than they ordinarily might be inclined to do under the circumstances. Yes, it was an important factor, and it dramatized for us all, I think, the smoldering resentment that many blacks had, that they were not getting their share of the good things in life in our society.

de GRAAF: One other thing before we go on to that part. Governor Brown you say did set up rather quickly after the riot the McCone Commission, which was an executive commission. Do you recall that either house of the legislature made any effort at a parallel study of its own? Was there any special committee in either the assembly or the senate set up to look into it?

THELIN: That's an interesting question, but, you know, I can't remember any committees being set up to do that. I think the Democrats who were in charge of the legislature by that time probably decided to leave it in the hands of the governor and a citizens' committee. I think further that there was a fear among the liberal Democrats that there might be a reaction because of the riot that would destroy some of the progress that had been made, from their view, in civil rights, and that it could be also harmful to the Democratic party. I think they deliberately wanted to play it down. I don't have any hard evidence of that to present, but it is strange that there were not any real legislative investigations of the

causes of the riot and the rest of it. It would be interesting to ask Governor Edmund G. Brown why there wasn't.

Analysis of Watts Riot

de GRAAF: I think you're probably right that it was not an issue that they were particularly anxious to delve into. Now, many academics who have studied this have come up with at best mixed analyses: yes, it was a case of rioting, disrespect for law, and obviously frightening to people who had an established place in society; but, on the other hand, that it did lay bare a lot of grievances that had by and large been overlooked during a time when most people were looking only at the South as a place where blacks didn't get their share, and it brought to light that there were many aspects in life in the West and North that weren't equitable. Do you recall that both of these lessons, so to speak, from the Watts riot were discussed, either in Republican party circles or the legislature in general, or did the disrespect for law tend to overshadow the grievances that blacks were trying to put forth?

THELIN: I don't really think the riots helped the black community or our minorities generally, because I think the reaction was one of fear on the part of the community. That made people less willing to favor an extension of civil rights or, say, affirmative action type of legislation. Those things were getting along pretty well before the riots. It's not as

though we had the riots in Watts because the California legislature or state government had been backward in civil rights. We were probably one of the leaders nationally, and we had had a liberal Democratic administration. Pat Brown was certainly one to listen to the minorities, and he brought blacks into his administration among his personal secretaries. It was not repression that caused the Watts riot, if you compare the government of California with governments elsewhere. I've heard the comment from scholars that it's not the most oppressed people who revolt, and they'll point out the French Revolution. The people in France were probably more advanced than they were in any other western country, yet, that's where the revolution occurred. It may be that's the way it was with the Watts riot. So I don't think it did much to advance the cause of the blacks and other minorities, even though it certainly caught everybody's attention. I think the reaction was just the opposite. I think it put a lot more emphasis on the need to enforce the law, and whether you were black, white, or whatever, you had to obey the law. It frightened people and it gave impetus, I think, to the more conservative trends in state government here.

Law Enforcement and Reform

de GRAAF: Of course, blacks would say quickly that when you say California was very progressive comparatively speaking, that

would be in what they might say were the traditional views of civil rights. What the Watts riot brought up were issues that by and large had not come up hitherto. For example, alleged police brutality or the rather unsympathetic way in which some of the laws that seemed to favor blacks, like welfare, were actually being carried out, or the "internal colonialism" idea that blacks were grossly underrepresented in police, city administrators, things like that. Of these, probably the touchiest issue was police. Do you recall any significant legislative interest in either investigating alleged police brutality or discrimination or looking into police-community relations in the wake of the Watts riot?

THRLIN: You know, it's strange, but I don't really remember anything like that occurring. Of course, it's been a long time ago now, and I might just not be remembering, but I can't remember any major legislation coming before us that would reform police activity or something of that sort. I was on the Criminal Procedure Committee where probably such bills would have been assigned, at least in our house, but I don't remember that coming through. As far as the control of the police is concerned, the development of the laws, the constitutional interpretations that said evidence couldn't be used that's illegally obtained discouraged the police from using methods that were undesirable in obtaining evidence. That takes care of that problem to some extent. Then, of

course, we've had the development of the Miranda decision,¹ where you can't ask questions of somebody who's in a custodial situation without advising them of their rights, including the right to have counsel, and they don't have to answer questions if they don't want to. All of those things developed through the courts, but legislatively, I can't really think of anything of significance that came down to control police activity. Certainly you're correct that blacks would have responded to what I've said just as you have pointed out by saying that they were concerned about police brutality and the fact that if you're a black man you're more apt to be stopped in certain areas of the city than elsewhere. All of those things were significant problems that had to be dealt with. It is strange, though, that I can't recall any legislation of that nature being presented to us.

de GRAAF: Police review boards, I guess, would be strictly a community or city level development.

THELIN: We did have some bills put in on police review boards. and those bills never went anyplace. I can remember Chief Parker, I think, writing all of us in the legislature concerning the proposed police review boards; but they really never got off the ground. I don't know why we didn't have

1. Miranda v. Arizona, 377 U.S. 201 (1966).

some legislative studies. Maybe we did and I just don't remember them.

de GRAAF: One final question along this line would be the political impact of the whole police aspect of this issue. Do you recall that the Republican party made any particular effort to cultivate a "Support Your Local Police" type of motto in the wake of the Watts riot?

THELIN: Well, I think "Support Your Local Police" was a John Birch Society motto, if I remember correctly. But I don't remember the Republican party as such including something like that in their platforms. Of course, in this period of time we were coming out very hard for support of law enforcement and decrying the increase in crime. We were trying to point out that it was increasing and that we were getting into a very bad period. I think it certainly had an effect on the elections of 1966 and some in 1964 when Barry Goldwater ran for president.

X. ECONOMIC AND SOCIAL POLICIES

Economic and Welfare Programs of Edmund G. Brown, Sr.

de GRAAF: One other big issue that I think comes up during this period, starting perhaps in 1963 and going on through the mid-sixties, is the California version of federal social welfare legislation. I just seized on one thing; I don't know whether you recall it or whether it was a big event. In 1963 Governor Brown gave what I believe was the first Economic

Report of the Governor. And in it he called for full employment. I'm not sure where this ever went. Did he call for state funded public works, or the state to be an employer of last resort?

THELIN: No, I don't recall Pat Brown ever having legislation introduced of that type. It is kind of amazing with all of the kinds of liberal legislation that we had, but the emphasis didn't seem to be on that. I think the position of the Brown administration was that economically the state was doing fine; a lot of people were employed and unemployment was really not anything for us to worry about in California at that time. He did call for the creation of the Economic Development Commission, I believe it is. That was created and I think still is a part of state government. But that idea was to study what was happening and encourage economic development of California, sort of what I call a chamber of commerce approach. Basically, the position of the Republican party was that that was just a waste of money and that it was sort of a political gambit. But there was no full-employment kind of legislation. The emphasis seemed to be on welfare. Under the leadership of Phil Burton, who was the chairman, I think, of the Social Welfare Committee for awhile, a great deal was done as far as increasing welfare payments in various categories. I think it was A.B. 59 which really helped the counties by having the state pick up certain costs

of welfare and liberalizing Aid to [Families with] Dependent Children. At the time, that was a very controversial kind of bill that some conservatives were opposing, but basically the county governments were all in favor of it. The emphasis seemed to be on trying to promote social welfare rather than helping the unemployed, because I don't think anybody felt that was a problem in California.

Health Care and Medicare

de GRAAF: Along that line, there comes from Washington in 1965 particularly, an interesting series of bills that partly funded programs at the state level. The one that immediately comes to mind is Medicare or Medi-Cal, as it was called here, health care services for the poor. I'm very curious as to how you and the Republican party in general responded to these, because they must have presented a bit of a dilemma. Here was the federal government offering funds to the state if they would set up yet another layer of social welfare programs, which, I imagine, many Republicans were philosophically opposed to at this time. Yet if you carried your opposition through, you were forfeiting California getting a share of money. Was this a dilemma for you at the time?

THELIN: Well, yes, the federal government has that control over state activities, and we read about that every year in the newspapers. Just recently the turmoil over whether or not

the speed limit should be raised is tied in with the desires of the states to have federal funds. But, yes, I remember the Medi-Cal legislation. I think Jesse Unruh carried that bill. I didn't really have any problems with it, because, after all, that was providing medical care. Medi-Cal is for people who are indigent and can't really afford it themselves. It's not Medicare, where you're providing health insurance for people who are not indigent. Medi-Cal was for the indigent people, and that program I don't think any of us really had much of a problem with at that time.

de GRAAF: Nobody raised the old cry of "socialized medicine" when this bill was introduced?

THELIN: I don't remember that really creating or getting much attention. Medical costs, I think, are something that people have such a struggle with that the old cries of "socialized medicine" don't really ring as true as they used to. That bill was enacted at the time. It was a significant part of our legislation, and I'm trying to remember if we passed both the Medicare bill and the Medi-Cal bill at that same time. We may have done so.

[End Tape 4, Side B]

[Begin Tape 5, Side A]

Mental Health Services and Agricultural Laborers

THELIN: You referred to the problem that was still left, and that was to provide some kind of medical care for people who couldn't

even afford Medicare or didn't qualify for it for one reason or another. I would suspect that those bills passed by very wide majorities. There may have been some opposition, but I don't think it was significant at all.

de GRAAF: Do you recall other bills on large social programs at this time either tied to or paralleling what was going in the federal government? Was there still a great deal of debate, for instance, over mental health?

THELIN: I don't recall any significant debate about mental health issues at this time. We never did develop our mental clinics like we were hoping to do under the Short-Doyle Act, and that's a continuing problem in our state. I don't know why at this particular time we weren't able to do that. I guess there just wasn't enough money to go around.

de GRAAF: It was about 1965 that Cesar Chavez began his organizing of farm workers with the Delano strike. Do you recall that the conditions or rights of farm workers became much of an issue in your last years in the legislature?

THELIN: It was a growing issue, yes. I can remember Dolores Huerta, who now heads up the farm workers' union, at that time coming to Sacramento and lobbying on behalf of the farm workers. She used to come up there on a bus, and there was a growing interest in this particular kind of problem. Of course, the legislation establishing the Agricultural Labor Relations Board came after I had gone. So we didn't have any

breakthroughs in that particular field at the time I was there. There were efforts to get disability payments, to try to bring the farm workers into the system so they would be eligible for these benefits, such as workers' comp and disability and that sort of thing. But, as I recall, those efforts didn't really get anyplace.

Public Transportation and Rapid Transit Districts

de GRAAF: There's one other issue that certainly didn't seem very big at the time, but now that it's been changed recently, I'd like your reflections on it. It was, I believe, in the 1964 special session that the legislature set up the Rapid Transit District in Los Angeles, as well as in Marin and San Mateo counties. What was the whole purpose or expectation in doing that, do you recall?

THELIN: Well, I think what we did was simply revise the previous plan. We had a metropolitan transit district here in southern California, but it wasn't functioning very well, at least from the opinion of the legislature. I think it was [Thomas M.] Tom Rees that introduced a bill establishing the Southern California Rapid Transit District, which combined Los Angeles with other areas here in southern California. I think it was as a result of that that we did away with the streetcars and put the busses on all over. If I'm remembering correctly, there was a hope that forming this new organization that would be governed by representatives from

the counties and the various cities would somehow solve our mass transit problems here in southern California. Of course, about all we seem to have gotten is more studies. We've had plenty of studies about the feasibility of these various projects, but financing has always been a problem. It seems to me like we voted on something, put something on the ballot for the people to vote on as to whether or not they wanted to increase taxes to finance rapid transit. I can't remember exactly how that came up, if that was a county proposition of some sort, or not.

de GRAAF: Was this in 1964 or 1966?

THELIN: I think it might have been 1964 that that occurred. It was a complete reorganization of the system, and for awhile I think it looked like maybe that was going to do a lot of good. But now we're bogged down again, and the legislature once again is talking about reorganizing. So there doesn't seem to be any easy solution to our transportation problems here in this metropolitan area. More cars are on the streets. The only time we had any success was during the Olympic Games. I don't know if we can transmit that into our everyday living, or not.

de GRAAF: Do you recall that there were any arguments during the bill on the transit district that Californians, especially southern Californians, were completely wedded to the automobile and would never buy any sort of public transit system?

THELIN: Yes, I certainly can. There were many people of that point of view [who] felt that trying to develop rapid transit is simply a tragic mistake, because we are geared to the automobile in a way that no other part of the United States is. That having enjoyed the convenience and luxury of your own automobile, nobody's going to give that up to ride in public transportation--that was certainly expressed. There was a feeling among some of the ardent supporters of a purer free enterprise system that you don't really need it. If public transportation was in demand, it would support itself, which it never does, of course. It always has to be subsidized. Many conservatives feel that that indicates that it's not needed and the people don't want it. That point of view is expressed, and some people feel that if you took off the restraints and just allowed free competition, why, I guess private taxicabs would take care of it all. That point of view is expressed whenever you have these rapid transit proposals made. The fact that it always needs to be subsidized causes a lot of people to fight it. It's a difficult issue, really, and I wish I could say more about it that would be helpful, but the critics of the rapid transit plan had always seemed to me not to have much affirmative to offer, as far as solutions go. So they don't really attract much support because they're not offering anything by way of substitution. It's hard to beat something with nothing. So

with these plans for rapid transit districts, it really comes down to little modifications in them, or how are we going to do it, or who should be on the board, rather than some stirring debate as to basic issues.

Transportation and Metropolitan Planning

de GRAAF: Now, the formation of the district in the first place, was this an effort to provide another vehicle of fund raising, or was it an effort to bring together all the fragmented cities and counties in the area that would be involved?

THELIN: I think it represents, basically, a concept that goes beyond public transportation. All transportation, for that matter, goes beyond any city or any county, and you have to do your planning on a much wider level or wider basis because we're all tied together. It's just like air pollution. You can't isolate it; you've got to treat it as an area problem. If you're going to deal with the transportation problems around here, I think you have to consider Orange County and Los Angeles County, and you have to consider the metropolitan big city of Los Angeles and all those smaller cities. They're all tied together in this thing, and it would be foolish to approach it on an isolated, one-county basis. I think that's the important consideration. It's also true, of course, if you widen the basis of your organization, you're also going to widen the basis for taxes. But I don't really think that's the primary thrust of the planning. I think the

primary thrust of the planning is it's simply a problem that has to have a wide basis to be practical at all.

de GRAAF: Now, in the forties and early fifties, there were at least some academic studies to the effect that it simply made no sense to address this sort of issue, transportation--and it would go on to water and others--county by county or city by city, and that suggested the need for some sort of grander, metropolitan, integrated political unit. Do you recall there were ever any serious proposals to revamp local government in California while you were in the legislature?

THELIN: Well, I can remember agitation against any super local government concept from people of extreme conservative convictions who have as one of their tenets, of course, the support of local government. They're always worried about the city or county being thrust aside or some of its functions being taken away. You hear this agitation against metropolitan government. That's not just in our state; there's people all over the United States who always talk about Dade County. I guess there was some experiment in Dade County in Florida, and that was supposed to be the horrible example of what happens when you get into this kind of urban government planning. So I don't remember many affirmative efforts to establish that kind of government, but I can remember plenty from people in the extreme right who, at any kind of suggestion about the sort of thing we're talking

about--that is, air pollution control districts and transportation districts--immediately send up this flag of protest that you're destroying local government in favor of this big supermetropolitan government. It's a strange answer to your question, I know, but I have to say, no, I didn't see anybody urging a big supermetropolitan area to be formed. I'm sure there were some urban planners that had that in their minds, to some extent, but I didn't see any political movement of any significance. But I sure heard from some ardent opposition that thought that sort of thing was going on.

California Primary and Republican Party

de GRAAF: OK, quickly on to two things to wind up our session. One would be your recollections of the 1964 election, first of all the split in the Republican party between [Nelson A.] Rockefeller and Goldwater. Did this parallel in the people that chose sides, the Nixon-Shell split two years earlier, or was it a different configuration of Republicans?

THELIN: Well, to some extent it may have paralleled that. The most significant thing, I guess, was that my friends Bob Monagan, Hugh Flournoy, Bill Bagley, and Jack Veneman, who had all been active with me in supporting Richard Nixon in 1962, when 1964 came along, the four of them endorsed Nelson Rockefeller and became very active in that campaign. I did not, but that kind of parallelism went along. In other words, some of

those who would have supported Nixon against Joe Shell, because they identified themselves as moderate Republicans, consciously so, tended to go towards Nelson Rockefeller. On the other hand, people who supported Joe Shell certainly were rallying behind Barry Goldwater. But Barry got much more than that as well, because there were many, many conservative people who had supported Richard Nixon and had supported him throughout his career. He definitely had a big attraction among many conservative elements. But that part of his support certainly went to Goldwater. So there was some parallelism, but not exactly. The switch to Goldwater was much larger—I shouldn't say "switch"—the support of Barry Goldwater was much larger than the support that Joe Shell was able to put together.

de GRAAF: Did you play an active role in that campaign?

THELIN: No, I didn't. I was neutral. That caused me some trouble in my district, because I had many people who thought that by not supporting Barry Goldwater, I was in some way not doing what I should do. They felt it was sort of a crusade, and in this campaign certain elements of John Birchers started to play a very active role in my district. I guess I infuriated some of them by not declaring for Goldwater in the primary. I kept myself neutral, feeling that that was the best thing to do. I wasn't that enthusiastic about Nelson Rockefeller. At the same time, I felt that I didn't want to get involved

in choosing up sides in a primary that basically wasn't my fight. I didn't feel any tremendous enthusiasm either way. So it was a campaign that was difficult, because wherever I'd go during the primary, if I were speaking someplace, why, somebody'd ask me how did I stand. Who are you supporting for the Republican nomination for president? In some circumstances, it was a little difficult to say that I was neutral.

de GRAAF: Did you have primary opposition?

THELIN: Oh, no. I had no primary opposition. I had some in the general [election].

Analysis of Barry Goldwater and Presidential Election

de GRAAF: Any thoughts on the outcome of the whole 1964 election? Let me give you an observation. In one sense, it was one of the low points, it would seem, for the Republican party. Goldwater is swamped. The Democrats take a large majority of both houses of Congress, and, I imagine, did fairly well, except for the United States Senate race, in state elections. Yet, on the other hand, there's a growing body of literature, particularly written by conservatives, to the effect that Goldwater's run was an event that reinvigorated the Republican party. Do you think there's merit in both of those observations?

THELIN: Well, yes, I do. I think it was a defeat, a definite defeat for the party. But I think Barry Goldwater's campaign

certainly stirred up a lot of enthusiasm. This was a man that many Republicans had been waiting for. Conservative Republicans felt they finally had somebody who talked their language, that didn't equivocate, like Nixon and Warren and others had done, that now this was somebody that they could support 100 percent. These people had felt very frustrated, so a lot of new people came in who normally had not been active, and some who had been were reinvigorated. It gave Ronald Reagan an opportunity to be heard with his dramatic speech. So yes, I think both of those observations, strangely enough, are true. It had a deadening effect, I think, on moderate Republicanism, and if you're interested in that, I suppose you'd say it may have had a bad effect. But it was a smashing victory for the conservative wing of the Republican party; they swept everything before them from then on. California certainly changed its Republican image, I think.

de GRAAF: Yes. [One other interesting event of the 1963 legislative session was the "lockup" of the assembly by Speaker Unruh. Were you one of those locked up? What was the reason for this and how, exactly, was it carried out?

THELIN: I was one of those "locked up" by Jesse Unruh in late July 1963 because we would not vote for the budget. My recollection is that the Republicans would not vote for the budget because it was too much in the view of some of them,

myself included. Other Republicans were dissatisfied with the adequacy of the appropriations for education.

The "locking up" is accomplished by the speaker imposing a call of the house, actually by a majority vote of the members present and voting. The rules provide that the speaker shall immediately order the sergeant at arms to lock all doors and the sergeant at arms is then to search out all absent members and bring them to the chambers. He may be assisted in this by members of the California Highway Patrol, the state police and sheriffs or their deputies. No members are permitted to leave the assembly chamber except by written permission of the speaker. Of course, the call can be ended at anytime by a majority of the members present.

de GRAAF: Was this lockup done primarily to Republicans or were Democrats more free to leave? Did you quickly see that the Republicans were gaining publicity or sympathy from it?

THELIN: The members could not legally leave the chambers without permission of the speaker. No, we did not choose to be locked up for publicity's sake. All members were locked up, but, of course, the speaker could permit Democrats to leave if he desired to do so. I can't honestly say I remember if he did or not. I do not think there was any mass release of the Democratic members.

de GRAAF: Did this event significantly change your, or your party's, view of Jesse Unruh or increase partisan feelings?

THELIN: No, it did not change any personal view of Jesse. I found the whole thing rather amusing. I don't think it had any significant effect on Republican legislators, except some of them felt the whole thing made the speaker appear foolish to people who understood the situation, or as a bully or arrogant to those who were on the outside. Which was OK with us Republicans because either way it hurt the speaker's public image. The event sharpened partisan feeling in the assembly a little, in my opinion.]*

[End of Session 4, May 4, 1987]

[End Tape 5, Side A]

[Tape 5, Side B, blank]

*Judge Thelin and Dr. de Graaf added the preceding bracketed material during a review of the draft transcript.

XI. LEGISLATIVE REAPPORTIONMENT AND ASSEMBLY SESSIONS (1965-1966)

[Session 5, May 18, 1987]

[Begin Tape 6, Side A]

Effects on Senate and Assembly

de GRAAF: Judge Thelin, last time we were just to the brink of the end of your legislative career, and there are a couple of things left that I would like to talk about. The first of these is the reapportionment of the state legislature, which I believe occurred toward the very end of your career. First of all, the background of this. I imagine it stems basically from the 1962 Supreme Court decision of Baker v. Carr,¹ which began a series of cases that mandated, in effect, one man, one vote. Was it basically the California State Senate that was reapportioned, or did that case as reinterpreted by the California Supreme Court reapportion both houses?

THELIN: Well, let's see if I can recall what happened in connection with that. Some of the assembly district boundaries were

1. 369 U.S. 186 (1962).

altered as well, and I guess that was because the decision--well, not the decision, but I think implementation of it--required a certain ratio of voters or residents to the legislator involved. In order to come within the required parameters, as I recall, some of the assembly districts had to be realigned as well. I know that mine was.

de GRAAF: Oh, yours was.

THELIN: Yes, there were some changes made in the boundary lines. I know that occurred because of the fact I was entitled to take instant retirement, strangely enough, from the legislature at age forty-five, because I didn't run for reelection to my office as an assemblyman, and my boundary lines had been modified. And the way the statute read, if a legislator didn't run for reelection and his boundary lines had been altered, he could take immediate retirement.

de GRAAF: Even though his reason for not running, as I believe was in your case, was defeat in the primary election?

THELIN: Right, for another office. I ran for the state senate. I had no idea that I was going to fall under this statute, but it was just something that happened. I remember the legislation that created it at the time. I thought, well, this was going to help out some old state senator who's put in an entire career and is now going to lose his seat. But it illustrates the point that it's difficult to anticipate all the ramifications of a piece of legislation as it goes

through the legislative process. You set forces into being sometimes that you don't anticipate at all.

Reapportionment as a Political Issue

de GRAAF: Yes, that's a very interesting example of that point. Now, prior to this finally being worked out, because there was about a three year gap between the U.S. Supreme Court ruling and California's final reapportionment, was reapportionment a partisan issue within the legislature?

THELIN: No, I don't think it was a partisan issue as it developed over the years that I was there. Throughout the time that I was in the legislature, there were efforts to reapportion the state senate. I remember Assemblyman [Frank G.] Bonelli, who later became a supervisor of Los Angeles County, had a bill in to reapportion the state senate. Of course, these bills came from the south and not the north, because there's always been a feeling in the south among some that it was unfair to the county of Los Angeles and the southern counties that we had so little representation in the state senate. This feeling went on over the years, even before Baker v. Carr. There were these legislative attempts which were always defeated because they didn't have a chance in the state senate, where there were very, very hostile feelings towards any effort to reapportion that body. So it's something that one had to wrestle with, the principles involved, and think through one's position, even before Baker v. Carr occurred.

But Baker v. Carr compelled the reapportionment, even though the state senators themselves were bitterly opposed to it. But it was not a partisan issue. It was more a geographical issue, although I would have to say there were many in the south who didn't want the state senate reapportioned [and] who felt that it was a conservative control on the sometimes younger and more impressionable members of the lower house.

de GRAAF: Did you have a strong position personally one way or the other on reapportionment?

Theelin's Thoughts on Reapportionment

THELIN: Yes, I did. I found it a very interesting issue, and I could never find anybody else who quite saw it the way I did. I felt that our state senate really didn't make too much sense, being based on counties. I wasn't offended by the fact that they didn't represent many people in some instances; they represented miles, you might say. It always seemed to me to be a little ridiculous that some tiny little county would be entitled to a state senator, even though historically it had no particular significance. In other words, I thought there was something wrong in comparing the counties to the states. Historically, the United States Senate in the way it was organized made a lot more sense to me, because there was an historical reason for it. These, after all, were sovereign states, and they gave up something in joining a federal union. But counties are just a subdivision of state

government and for the most part never have been considered anything else but that. I didn't feel that justified having a state senator. Being from southern California, I could see instances where we really didn't have much weight on issues such as transportation and allocation of the gas tax. Our problems with water stemmed from our lack of weight in the senior house. I found that a little galling.

But, on the other hand, it didn't make sense to base both houses on population, which is what we've done now. It seems to me, if you're going to do that, you might just as well have one house. There isn't really any reason for two houses. At the same time, I felt that it made a lot of sense to have two houses because legislation does get looked at twice. One of the things I noticed in my ten years as a legislator is that it's very easy, even with two houses, for some badly written legislation to get through. Writing legislation isn't as easy as people generally seem to think. You have to analyze, you really should, paragraph by paragraph, to see what its effect is going to be. As a judge, I certainly know that how something is going to be interpreted depends many times on how that particular bill is written. But you have a whole bunch of legislators, nonlawyers, who don't really have a sense of that. They feel if you have a good idea, anybody can write a bill that's going to carry that into effect. It isn't that simple, so I

THELIN: felt it was a good thing to slow down the legislative process by having two houses. At the same time, it seems to me, having them both based on population was rather senseless. But what are the alternatives?

That's the interesting thing. I never could think of an alternative that seemed practical and could make sense, and certainly I could never get support for any alternative. One of the things I considered was that you could perhaps create senate districts that would be based on geographical areas, such as, for example, in Los Angeles County, you might say we have a San Fernando Valley, and a San Gabriel Valley, we have a coastal section. These units do have interests of their own, in a sense, that are entitled to representation. I'm sure up north you could do the same thing. You have mountain areas and you have agricultural valley areas. It seemed to me that, if you really tried, with the knowledge and expertise we have, you could create senate districts that would represent definite geographical areas and have forty of those and forty state senators to represent them. I never worried too much about the fact that you might not have equal representation in all these districts--in other words, a Baker-Carr problem. But I did feel we could have senatorial districts that made more sense. Of course, there's another alternative, and that's to have sort of a House of Lords that would be composed of distinguished citizens, maybe former

THELIN: governors, former members of the [California] Supreme Court, or people who've distinguished themselves academically or in the scientific world, people like that. That would probably be the ideal kind of state senate because it would probably be composed of people with a great deal of talent and integrity and reputations that have been made in their particular field of endeavor. That is not too democratic an idea, I guess, but it's another alternative. Neither one of those plans has ever been given any serious consideration by anyone, but those are the thoughts that went through my mind.

Implementation of Reapportionment

de GRAAF: Interesting. Did Governor Brown himself make a proposal prior to the California Supreme Court making its ruling?

THELIN: I can't remember if the governor sponsored a bill or not. It seems to me there were some bills introduced, but I don't think any of them actually got through and were adopted by the legislature. I'm not sure about that, but I don't remember anything like that being done. I think we finally were ordered by the supreme court to do it. Up to that time I don't think there was any bill agreed upon.

de GRAAF: One final thought comes to my mind. Did anybody propose anything like the recent [1983] Sebastiani Amendment or

Proposition 39¹ did, that some sort of a commission be set up to reapportion the legislature?

THELIN: Well, you know, that's an interesting suggestion, but I don't remember anybody among the legislators coming up with that at the time. I'm sure the state senate probably would not have been too friendly to that kind of suggestion either. That kind of thing was just not really considered at the time.

de GRAAF: So it did come down, as you say, to the California Supreme Court pretty much laying down the guidelines of reapportionment.

THELIN: Yes, that's the way I recall it happened. And, in a way, it created a revolution in its effect on legislation. I think that about this time Jesse Unruh made a suggestion that we have a unicameral legislature composed of 120 people, just have one house, which was kind of interesting, too.

de GRAAF: But that didn't go anyplace?

THELIN: No, it never got off the ground.

de GRAAF: I don't imagine the state senate would have been terribly happy with that, either.

THELIN: No, although I guess after Baker v. Carr they sort of saw the handwriting on the wall. But they were a strong-willed group of men. They weren't going to give up easily and did not.

1. The [Assemblyman Don] Sebastiani constitutional amendment proposed for the 1984 ballot actually would have required a new election of legislators and for that reason was stricken from the ballot by the California Supreme Court. Proposition 39 (1984) proposed a reapportionment commission but was defeated.

Effect of Reapportionment on State Senate

de GRAAF: You mentioned a moment ago that the reapportionment, you feel, was something of a revolution. As far as you could tell, what were some of its major impacts on the legislature or on legislation?

THELIN: I was thinking of it in terms of the flow of legislation and a transfer of power, because the state senators were really forty very powerful men. One thing that always impressed me was that the situation in the senate was such that the committee chairman really had life and death control over the flow of legislation in his particular field, because there was a tradition in the state senate that you would never have a roll call vote [in committee]. If somebody had asked for a roll call vote in those days, he just never would have gotten anything through the state senate again. It just wasn't done. It would have been legal, of course, but it was just not done. It was one of those traditions, an unvarying practice. It was a voice vote. Now that means, of course, the chairman decides whether the nays or the ayes have it, and that's it. You didn't even ask for a division of the committee in those days, after a senate chairman made his decision. Well, that's a tremendous power. Say the Transportation Committee where Senator Randolph Collier was the chairman. His views on transportation were going to prevail no matter what. In all those other areas, if a

senate chairman of a major committee wished to exercise his power, he certainly could. The senate was the place where a lot of bills died and was known for that. As a matter of fact, I think sometimes the assembly was a little reckless in what it passed because they knew that the senate would kill the bill anyway and that they didn't mind doing it. They [senators] were very independent. After all, in those small counties, if a state senator could make a relatively small group of people in his county happy, he didn't have to worry about anybody else in the state. I'm not suggesting that the state senators were irresponsible because that would be an unfair slander on some very patriotic, very dedicated men of strong character. Nevertheless, the fact does remain they had that power and they did exercise it. I think that's all gone now. If you were to ask me what dramatic changes have there been in legislation as a result of that, I guess I would have difficulty in precisely pointing out where changes may have occurred. But I suspect it has in the fields of transportation and taxes and other areas. Agricultural interests certainly do not have the power now in our state that they once had.

de GRAAF: That's a good point, yes. Do you feel that reapportionment increased the partisanship of the legislature, the tendency of people to vote the party line?

THELIN: Yes, I think it did, because the old state senate that I knew

when I was a legislator was a most interesting body. Basically, the old state senate was a nonpartisan body. The appointment of committee chairmen was strictly on seniority. It really didn't matter whether you were a Republican or a Democrat. If you were the senior man and were appointed to that committee, you were going to be the chairman. They had an existence of their own independent of party. This was very galling sometimes to strong partisans, I'm sure, in both the Republican and Democratic parties, but on most issues the state senate had a position and party didn't really matter much. When Governor Brown was first elected there was a tendency to get away from that, because with Governor Brown and the Democratic party, with the elimination of cross-filing, the whole partisan thing became much stronger. Part of it was bound to influence the state senate. In other words, I'm sure the state senate didn't stop the major partisan issues of Governor Brown for the most part, because there were more Democrats than Republicans in the state senate, too. Nevertheless, it was a nonpartisan body, and reapportionment knocked that out, I think. There's much, much more partisanship in the state senate now than there used to be, although, since the change, I haven't been up there to observe them as closely as I was before.

Disability Insurance

de GRAAF: OK, now 1965 was your last year in the legislature.

THELIN: Well, 1966.

de GRAAF: Pardon me, 1966. Do you recall any major issues that came up or the main bills you presented that you think were particularly noteworthy?

THELIN: Well, gee, offhand I don't know. [Looks through papers] Well, in 1965 I guess one of our key things was the disability insurance issue. There were certain suggestions made concerning increasing the payroll taxes on employees to support the unemployment disability system. We stopped those bills, and had that assigned to an interim study. The Republican caucus had several suggestions as to how to get more money into the system without necessarily increasing the tax on all the employees. It's a rather technical field, and I can't remember all the details about it, but that took up a lot of the time in that last year. And, subsequently, in 1966 we had the interim committee meetings. In fact, we went back to New York and studied their system.

de GRAAF: Were you on that interim committee?

THELIN: Yes, and ultimately that study resulted in some legislation. Unfortunately, I wasn't there to participate in that, and I don't remember the details of it. The chairman of that interim committee was Assemblyman [George N.] Zenovich, who became a state senator and later a justice of the appellate court. Let's see, what else did we talk about in 1966?

University of California, Berkeley, Demonstrations

de GRAAF: By this time, of course, there was the Vietnam War and growing protest. Also, at Berkeley you had your campus protests. Do you recall that either of these became matters of concern for the assembly?

THELIN: They were matters of a lot of concern. I remember carrying a bill myself that passed, under which some of the rioters were prosecuted. I think that was a bill making it a misdemeanor to refuse to leave a public building during the time that it is regularly closed to the public. As a result of that, about 600 of the Berkeley demonstrators fell under that law which I had carried. We had things like that and, all at once, the laws about unlawfully assembling became quite important. Later on as a judge, I saw the effect of that. There was a great deal of concern about what was going on on the college campuses, but I think that reached a peak after I left the legislature.

de GRAAF: Was that particularly a partisan issue, or was there concern on both sides pretty much over the Berkeley demonstrations?

THELIN: I think it was a concern of both sides, although I would say in the Republican party there was more of a concern to try to control this by stern measures and discipline and so forth. Among the Democrats, I think there was embarrassment more than anything else because they didn't want to sponsor so-called strong law and order measures. But in fact,

there's not much you can do about the situations that were causing this on the college campuses by legislation. Part of it was the racial problems: somewhat the same sort of thing that caused the Watts riot was causing the demonstrations on campus, if you recall, with the demands for black studies and a feeling that the minority students weren't being recognized and given enough opportunity.

de GRAAF: I think these came toward the end of the sixties. I think the earliest Berkeley demonstrations were mostly against certain university regulations, the prohibition against passing out or selling political literature on campus, for instance. And the feeling that underneath was a restlessness the students had against the bureaucracy of the university itself.

THELIN: Well, that's something that's sort of hard to crystallize. I think you're right, there was this feeling that there was not enough humanity there, I guess, that they were being sort of administratively overregulated. But the problem is, you look at a university like the University of California at Berkeley, certainly a liberal faculty to go along with a liberal student body, and somebody like Clark Kerr was in every sense of the word a progressive, forward-looking educator. Yet, he gets a pie thrown in his face. You wonder what they were trying to prove, what they were trying to demonstrate. It was very hard to understand. I think all of

this was sort of an embarrassment to the Democratic party because it really didn't know what to do about it. It wasn't in a position to say to the college chancellor and the presidents, "Get stricter and crack down on these kids." It just wouldn't have fit in with their party image. So I think it was a difficult issue for them, much like the Watts riots. What to do about them? What could you do except perhaps suggest special education courses or massive infusion of state money to create jobs or job corps to do something about young people who have nothing to do after they get out of high school? But they didn't want to suggest anything as dramatic as that, so on these issues, although they're attention grabbing, you might say, and something people talk and wonder about, when you look at concrete suggestions to take care of the problem, they're just not there many times.

de GRAAF: How about the Vietnam War? By the time you were leaving the legislature, had that become a matter of discussion on the floor of the assembly, or of actual resolutions?

THELIN: I don't remember that as being much of an issue, except that something happened, and I can't remember all the details. At that time, I don't know the exact year, Willie [L.] Brown, [Jr.] had just come into the assembly then. And Phil Burton's brother.

de GRAAF: John Burton?

THELIN: John Burton. They did something, introduced a resolution, or

perhaps it wasn't a resolution. Maybe they just issued a public statement, but they did something expressing sympathy for the Viet Cong. This, of course, was before we were involved to the extent we later became involved, with troops and all on a large scale. Anyway, whether it was a resolution or some public statement they issued jointly--some of these young Democratic assemblymen who had just got there--it just caused a tremendous row. Hugh Burns, who was the president pro tem of the senate, part of the senate establishment, was very upset about it and wanted to pass a resolution of censure and this, that, and the other. Nothing came of it, but it was kind of a sensational way for Willie Brown to start his legislative career. [Laughter] That's about the only ramification I can think of that seemed to have a direct contact on the legislature. Of course, there was a lot of discussion about this Vietnam issue at the time. It definitely was an issue that was going to cause trouble in the future.

XII. CALIFORNIA ELECTION (1966)

Election Districts and Republican Primary

de GRAAF: Let's go on then to the 1966 election. You say that that year you decided to run for the state senate?

THELIN: Yes.

de GRAAF: Had a seat become vacant? Oh, no, it was a newly apportioned seat, right?

THELIN: A new district had been created, the first time we had all those nice senatorial districts here in Los Angeles County. So some of we assemblymen now had an opportunity that we didn't have before. They created a very nice district, from my standpoint. It was a very solidly Republican district. It brought in the Antelope Valley, which, although I believe it had a [high] Democratic registration, was rather conservatively inclined, and connected that with Glendale, where my home was and, I think, went out to San Marino and parts of Pasadena. It was a silk stocking type district, you might say, so it was really ideal for me. So I ran.

de GRAAF: Before the primary, had you been encouraged to run or given any particular party blessing for the seat?

THELIN: No, the party stayed out of that sort of thing. Of course, I was the only incumbent assemblyman in the district running. I think [Newton R.] Newt Russell was also in the district and Bud Collier and perhaps Frank Lanterman. But none of them had any interest in running for the state senate, at that time at least, so there wasn't any particular party blessing. No, nothing like that. There wasn't any effort to have fact-finding committees. By that time, I guess, that idea had sort of fallen out of favor.

John Harmer and Fair Housing Issue

de GRAAF: Your opposition was John Harmer. Was there any other primary opposition, or was it strictly a race between you two?

- THELIN: No, there were others. Gee, I can't remember the names of the other two men now, but there were a couple of others. There were at least two others, so there were four of us at least in the field, maybe five.
- de GRAAF: Now what do you recall were the main issues in this primary campaign?
- THELIN: The issues were created by my opponent, basically. He ran against me and my record in the assembly, and he created the issues, really. The Rumford Act was the biggest issue. I think the biggest factor in my losing the nomination was my vote for concurrence in the senate amendments to the Rumford Act. People in my district were really stirred up about it.
- de GRAAF: Did you feel he misrepresented your overall views on that?
- THELIN: Yes, I did. But I can't dispute the fact that I did vote for concurrence in the senate amendments. There was a big discussion because I would have to explain all this and why I did it. Then there was the question, is a vote for concurrence in amendments a vote on the bill when you say he voted for the bill? People on both sides argued about this. Many people didn't understand the issue at all. But, in any event, I was blamed for the Rumford Act, and it was very costly to me.
- de GRAAF: Were there other substantive issues between you and Mr. Harmer?
- THELIN: Not many. I think you'd describe us both at the time as very

conservative people, and we really didn't have any issues to discuss. What he would do is take up things like the Rumford Act and hit that hard. Then he accused me of misusing state money, not spending money that had been given me for office furniture and the fact that I didn't have a phone listed for a legislative office. As I explained to you already, I used my law office as my legislative office, and I didn't charge the state, didn't use any state money. I had statements by the chief administrative officer [Phillip H. Schott] of the assembly to support me about that, but Harmer thought it was enough to make the accusation. Then, because I had the information and he didn't, he took the position that he did not have to prove his baseless accusations. I considered it blatant mudslinging. I don't think that really had much effect on the voting, but it was embarrassing to me and I certainly resented it strongly. Maybe it did lose me some votes, you never know. He also tried to make an issue of the fact I had voted for a resolution commending Martin Luther King, Jr., on his birthday. He made a big fuss about that. Those were the kind of issues that he played up.

de GRAAF: Now Harmer went on for awhile to be quite a figure in Republican politics. He ran for attorney general, for lieutenant governor. What had been his background prior to 1966?

THELIN: Well, he had been an organizer for the National Association

of Manufacturers, NAM, and also field organizer for the Americans for Constitutional Action. I think he was raised in Utah and was a very active member of the Mormon church, which helped to make him very strong in Glendale, because many people there are Mormons. This was a great aid to him because most of the people in Glendale that belonged to the Mormon church that were active in the city were really fine people. They register and they vote and, you know, they're good citizens. And they carry weight. It gave him a built-in precinct organization because they enthusiastically backed him and they walked the precincts. These were many times clean-cut, young looking people going door to door for Harmer; that made a good impression in an area like Glendale. He had an effective precinct organization, and I couldn't field anything like that. He was a lawyer, but he'd just passed the bar. Although he liked to hold himself out as a profound scholar of the law, he really didn't have much background in that respect. He was just a brand-new lawyer, but tremendously active politically and an excellent speaker, a good-looking young man, tall, and wore his clothes well, and a very effective organizer. He organized a strong campaign. I thought he spent tremendous amounts of money, because he had three or four mailings. I couldn't match anything like that, plus the fact that I was frequently out of the district. We had special sessions, and I had to go up

THELIN: to Sacramento. Looking back at it now, I can see that I was too conscientious. I should have stayed in the district and campaigned. But the way I looked at it, it was my duty to go there, and I did. He was a young man, had been, I think, in Washington and worked in these various capacities for various organizations, and then decided to come to California and run for public office.

Analysis of Defeat

de GRAAF: So that's the way your legislative career came to an end.

THELIN: Yes, a rather unpleasant ending, I must say.

de GRAAF: Did you go on to play any role in the November 1966 election?

THELIN: No, I stayed out of campaigning that year. In the latter part, before the election in the fall, however, I shocked the world by endorsing Governor Brown. That, of course, caused all kinds of excitement. So if you say that's participating in the campaign, I guess you'd have to say I did. But that's all I did, really.

de GRAAF: Well, that's an interesting one. Why did you, as a longtime Republican legislator, endorse Brown?

THELIN: Well, that's the \$64 question. By this time I was quite resentful of what had happened to me in the sense that I knew money had poured into the district from outside, and I knew the John Birch Societies had all opposed me. Assemblyman [George W.] Milias, who was up north around the Santa Clara area--he was onetime state chairman of the Republican party

as well, now deceased--he told me one time, "Howard, you know, money went from my district down there to be used against you." So I began to feel that I was sort of the victim of a conspiracy, that I had been marked for elimination, in order that John Harmer could be given a post.

de GRAAF: Did you ever surmise or find out who in the Republican hierarchy had so marked you?

THELIN: Well, the only thing I could do was to analyze his financial statements and the people that contributed to his campaign. And one thing that I didn't like is, when I looked at it, I saw the names of some contributors to Ronald Reagan's campaign and many ultra right-wing individuals. Now, I'm not saying they gave large amounts, because the financial statement shows contributions in small amounts. He reported that he spent some \$30,000 after I had filed my report saying I had spent some \$30,000. I thought he had spent much, much more money than I had, because he had many mailings. Here I was an officeholder, and I could only afford one mailing.

de GRAAF: But this was before the Fair Political Practices Committee, so there was nobody to check up on the validity of these?

THELIN: No. You had to make reports on what you spent, but it looked like he just wanted to put down the same amount I put down. But in any event, I did see these names, and by October or whenever it was, I began feeling more and more that I had been the victim of a conspiracy. That's maybe too strong a

word. Nevertheless, I began to fear for the Republican party. I began to feel that ominous, dangerous forces had sort of taken over, and I felt somebody had to ring a bell, sound a warning. So I did. And I hope whatever resentments I had about my personal fate didn't have anything substantial to do with it, but I certainly can't deny that I felt some resentment. It was really an earthshaking event, locally.

de GRAAF: Yes, I can imagine. Did you have any other Republicans join you in that endorsement or tell you they sympathized with you?

THELIN: No, it was completely an individual thing. No officeholder called me up and said they sympathized with me because, after all, if you're a Republican officeholder, anybody doing something like that would really be ending their political career as a Republican.

de GRAAF: And you were aware you were doing that?

THELIN: Yes, I guess I was. I felt very strongly though that the Republican party was in a very, very dangerous position. I feared that Ronald Reagan would be much more ideological than he actually was as governor of California. Fortunately, he wasn't as extreme as I thought he would be.

de GRAAF: Any other thoughts on your legislative career before we turn briefly to your judicial career?

THELIN: No, I guess we've covered it all pretty well.

de GRAAF: One parting question: Have you played any role in elections since 1966?

THELIN: No, I haven't. If I did, it would be a violation of judicial ethics.

de GRAAF: True, yes.

THELIN: You know, I've been a judge all this time, so I've been out of partisan politics.

XIII. JUDICIAL CAREER

Nomination for Municipal Court Judge

de GRAAF: That leads to my first question on your judicial career. You were appointed to the municipal court bench by Governor Brown?

THELIN: Yes, that's right.

de GRAAF: When was this?

THELIN: Let's see, it was about close to Christmas in 1966. It must have been about December 21, or something like that.

de GRAAF: Were you surprised by that appointment?

THELIN: I'd gotten a call from him. He told me he was going to appoint me. I was hoping to get an appointment to the superior court, so I was kind of disappointed. But I didn't really expect him to be doing me a great number of favors. After all, I bitterly opposed him during my legislative career. But practically every Democratic legislator wrote the governor a letter on my behalf, which was a tribute, I think. I wasn't sure, really, that I wanted to be a judge. I was considering a lot of different alternatives. It didn't come as a surprise though, because I know all these letters were being written on my behalf. I personally never asked

Governor Brown, either orally or in writing, to appoint me to the bench, interestingly enough. It was all done by other people who, after my defeat, started trying to work on him. This was before I endorsed him, too. There are many, many members of the Democratic party in the legislature who were very kind about that.

de GRAAF: Was this unusual, or did legislators, once they got to know each other, tend to make efforts on behalf of each other in the event of defeat?

THELIN: I think by this time it was a little unusual. In the earlier years I don't think it would have been too unusual, because the legislators were nonpartisan. During the Brown years, I think partisanship was revived and became stronger. By that time, I think it was a little unusual.

de GRAAF: Do you have any idea why so many Democratic legislators wrote on your behalf?

THELIN: Well, I had a good relationship with them. Many of them were personal friends. Phil Burton was always a personal friend of mine, and he was generally regarded as an extremely liberal Democratic legislator. We both had some strong feelings about different political issues and positions, but we were good friends.

[End Tape 6, Side A]

[Begin Tape 6, Side B]

de GRAAF: You were saying that you feel that this support was based on a friendship that went beyond politics.

THELIN: Yes, it had nothing to do with politics. I had good relationships with many other leading Democrats. On nonpartisan issues, I think, I was a very effective legislator, as far as having influence with them. I think they thought highly of me, as witnessed by their recommendations to the governor. They felt I'd been treated badly with losing the state senate seat.

de GRAAF: At this time, were municipal court appointments largely done on a partisan basis, or on more of a pure merit basis?

THELIN: Well, really, there's no distinction between municipal court appointments and superior court appointments. All governors are influenced by political factors, and I think most of Governor Brown's appointees were certainly Democratic. But he also always appointed some Republicans. All governors, really, have appointed some members of the opposing party.

de GRAAF: Did you find any other pattern to his appointees? Did they tend to be from any region or ethnic group, or have any particular judicial philosophy?

THELIN: Well, I'm sure that Pat Brown didn't want to appoint anybody to the bench that would be a rock head, reactionary type. He certainly wouldn't want to appoint anybody to the bench who he thought was a racist, for example, or anybody like that.

de GRAAF: But did he try at all, as his son subsequently would, to put women and minorities in judicial positions?

THELIN: Not to the extent that [Edmund G.] Jerry Brown, [Jr.] did. He certainly did appoint some blacks and some Asians to the bench, and I think consciously and deliberately tried to do that, but not to the extent that Jerry did.

de GRAAF: I know he had strong feelings on the death penalty. Were you ever aware that he particularly let that flavor his judicial appointments?

THELIN: I don't think he did. In other words, I never heard from anyone that he called them up and asked them how they felt about the death penalty or anything like that.

de GRAAF: He didn't do that in your case?

THELIN: Oh, no. In fact, he didn't ask me anything about what I would do or how I felt about anything. He just called me up and said he was going to appoint me. He had told me before then at a social gathering that he could not appoint me to the superior court, or at least he thought it was going to be difficult. And you have to remember that at that time the governor was in the last stages of his term as governor, and he had lost the election. So the last thirty days before he lost his appointing power, you can bet he was getting plenty of communications from those who felt they had a claim on his generosity, for one reason or another. I suspect that all the political I.O.U.'s were being turned in, so he was

indicating to me that he just didn't have a spot for me on the superior court.

Recollections of Municipal Court Experiences

de GRAAF: You are now at the end of 1966. How long did you serve on the municipal court?

THELIN: Until, I believe it was, February in 1976.

de GRAAF: Not quite ten years. Was it all here in Los Angeles?

THELIN: Yes, I was on the Los Angeles Municipal Court.

de GRAAF: How many times did you have to run for reelection?

THELIN: Let's see. I think I had to run at least once.

de GRAAF: Did you have any significant opposition either time?

THELIN: Oh, no. My name didn't even go on the ballot; nobody filed against me. You know, we have that law here, if no one files against you, you're deemed elected unanimously.

de GRAAF: This may be asking you to do quite a bit of quick imagination, but we obviously can't cover all the different types of cases that came up. I would be interested if there are any types of cases or specific cases that came up while you were a municipal court judge that you think might be of statewide historical interest to talk about. I know municipal courts have their limitations as to what they can cover, both in the amount of civil cases. It's only misdemeanors, is that it?

THELIN: Well, in criminal law, they handle misdemeanors and then the preliminary examinations for felonies, which is, of course,

not a trial. It's a hearing to decide whether or not the defendant should be bound over. I have difficulty in putting names on cases. I had some interesting cases. I had one involving the so-called riots on campus; I can't remember the name of the case now. There had been the riot back in Chicago. I think they're making a motion picture out of that now, The Chicago Eight or something like that. Well, there was a sympathy demonstration out at the UCLA campus, and it involved a whole bunch of the young people, might have been ten or twelve of them. I had to try them for unlawful assembly on the UCLA campus. That was an interesting experience because there were so many of them and they were so informally dressed. At that time, we weren't quite used to all this long hair and blue jeans. At that time, 1967 or 1968, whenever it was, it was still a little unusual. The interesting thing to me was it took a long time because there were a lot of them, and in each case you had to have testimony by the officers as to the individual arrest, and the officer would have to identify the young person. It was a long, complex, drawn-out trial. Most of them were convicted, and then I had to get the probation reports. The interesting thing to me was, many of them were outstanding students. They weren't people with a criminal background at all.

de GRAAF: Yes.

THELIN: In some instances, they came from very fine homes, you might say conservative type homes and religious backgrounds. It was very interesting. But, best of all, I got a letter from one young man afterwards. I think it was a graduate student in philosophy, and it was to the effect: "Dear Judge Thelin: I just wanted to let you know that although I was convicted, I thought I had a very fair trial and it made me feel better about the whole system." That gave me a good feeling, because I felt that I conducted the trial correctly.
[Interruption]

de GRAAF: We can go on now. Well, that's one interesting case. At the level of municipal courts, does a judge very often get a chance to get into some of the more headline grabbing judicial issues, obviously not death penalty, but the extent to which law shall be tough or permissive, or socially conscious?

THELIN: Oh, yes. I think that happens. Take something like drunk driving, for example, which is such a hot issue right now. Those cases basically are municipal court cases. We had developments in the drunk driving law when I was on the court. The big issue was whether or not the capsules have to be kept in which they take the breathalyzer tests and things like that. All of these unlawful assembly cases, the riotings on campus, had to be tried in municipal court, not the superior court. They were all misdemeanors, and that was

headlines. Many of the cases stemming from the Watts riot had to be arraigned and tried in a municipal court, mass trials. So you do get the headline grabbing attention sometimes in the municipal court.

Judicial Reunification

de GRAAF: One other issue that began to come up shortly after you went on the bench was that of judicial reunification, the idea that municipal and superior courts should be merged into one. While you were on the municipal court, were you ever involved with or particularly had strong feelings on that effort?

THELIN: Well, of course, when I was on the municipal court, I thought it sounded like a pretty good idea. After you get on the superior court, it doesn't sound so good anymore. There was a lot of agitation for this so-called consolidation of the two courts. When I was on the municipal court, I served on a committee that dealt with that.

de GRAAF: Oh, you did?

THELIN: Yes. I considered the issues and it was a strong movement for awhile. I believe the Judicial Council had a study made, and the recommendation was, in effect, for a unified court, but with two tiers. The municipal court judges still would be different, and, I think, paid less. I'm not sure about pay, if they squared that off. But, anyway, nothing came of it, because basically there's a feeling that no matter what

you do there's going to be two kinds of courts, and that you can't have one court handling this vast panoply of problems. If you did, the important cases would get submerged by some that are of less importance in terms of the monies involved or the crimes involved, et cetera. Lately, I think, the agitation has died down quite a bit. I favored court unification, because I feel that there is some repetition and duplication that could be eliminated if you had one big system. Now we have two separate entities operating and I don't think that's the most efficient way to go. But I think if you had a unified court, you still would have to have different echelons within it. Probably, you should also have promotion from within the system. There probably should be, in my opinion, a requirement that a superior court judge first serve as a municipal court judge and work his way up in the system. I think justice would be better served, and we'd have a better morale and everything else. I don't think you can have just one kind of judge to handle all of these kinds of cases that we have to deal with. One system would probably be more efficient. Some people take the opposite direction. They have a feeling that you can get too large an organization, that it's best to have the two different systems operating.

de GRAAF: Carrying on this idea of judicial unification to your superior court days, the last significant move in this

direction is Proposition 10, I think it was, in 1982. That, I understand, was strongly opposed by the superior court judges of Los Angeles. Would you recall being part of that opposition?

THELIN: In 1982? Boy, I can't even remember that. Proposition 10? What was that going to do?

de GRAAF: It didn't make any big splash, but it carried out what the Judicial Council had proposed almost ten years earlier in a modified form. It would have set up. . . . I think they called it actually the same thing the council before had, "county courts."

THELIN: Oh, yes.

de GRAAF: It was dealt a resounding defeat, but one of the loudest voices apparently against it was the superior court judges of Los Angeles. So I wondered if you recall being a part of that.

THELIN: I'm sure we would have been opposed to it, but I can't even remember very much about it at the time. I certainly was not active in any of the court activities concerning that proposition. I've forgotten all about it. But I'm sure we opposed it.

Superior Court and Judicial Appointments

de GRAAF: Quickly on to your superior court [experience]. You were appointed in 1976. That would have been by Governor Jerry Brown.

THELIN: Yes, to the superior court.

de GRAAF: Was there any particular reason you recall that you got this appointment? Had you requested it?

THELIN: Yes, I worked hard to get it. I got everybody I knew that I thought would have any influence on the governor, and I had a great variety of people writing to him suggesting that I be appointed. I think it was an impressive group of people. Of course, the governor was not your usual kind of governor, and his considerations were not the ones that governors in the past had used. I got appointed quite early, but I was not one of his first five or six appointments. I think in a more ordinary kind of administration--that's probably not the right term to use--but, say, if he had been a more ordinary kind of governor, I think I probably would have been appointed earlier because I had such good credentials.

de GRAAF: Now, you say, "good credentials." Is there a rating system on judges or any sort of a list that governors receive: here are the judges or attorneys that. . . . In effect, is there anything comparable to the Commission on Judicial Selection when it comes to superior or municipal court appointments?

THELIN: Now there's a law that any governor who appoints a judge has to submit the name to the state bar commission on judicial appointments. The state bar then rates the judge highly qualified, qualified, or not qualified. Those, I think are the three, or very well qualified, qualified, not qualified,

and notifies the governor. The governor does not have to follow that recommendation. The feeling among judges generally, or people who want to be judges, is, if the state bar commission rates you not qualified, the governor is not likely to appoint you because he could be criticized for that. If you're qualified or highly qualified, you've got a chance. But that law is of rather recent vintage. I don't know if the new law was in effect in 1976 or not. I don't think it was. Although it wasn't mandatory, the governors, I think, starting with Pat Brown, maybe Earl Warren, always used to submit their names to the state bar on a voluntary basis and ask for a recommendation. Certainly Pat Brown did, and all the governors after him. I'm not sure if Earl Warren did at his time, or Governor Knight. Anyway, the process went on voluntarily before it was mandatory. So you do have to go through that process. Now the governor would not submit one's name to that commission until he had made his own investigation. That's from no official list, but from suggestions undoubtedly that are made to him by advisers and other people. Anybody who feels inclined can write the governor and tell him they want somebody appointed a judge. The candidates themselves nowadays have to fill out an application form, strangely enough, as though they were applying for a clerk's job or something. The office no longer seeks the man. This is an official application form

THELIN: which I think was developed during Governor Reagan's administration. A form like that was used by Jerry Brown, and I think Governor [George] Deukmejian has such a form. I know I didn't fill out any application for Pat Brown; nobody asked me to.

de GRAAF: But you did for your superior court position?

THELIN: Oh, yes. Yes, you had to write and ask for that form to be sent to you, before you got anyplace.

Direct Calendaring and Discovery Law

de GRAAF: Are there any significant cases or types of cases that you can recall in your eleven years as a superior court judge?

THELIN: There've been a lot of exciting cases over the years, but you do them one after the other and you forget all about them. So I can't remember any particular one that stands out by name. You just get an impression of cases as you go along.

de GRAAF: Have you noticed a significant change in work load during your career as a judge?

THELIN: Since I've been on the Los Angeles Municipal Court and on the Los Angeles Superior Court I'd say I've been busy all the time. We've had a big case load all the time. What I have noticed is that the cases, as far as the superior court is concerned are getting more complex and they involve more parties. Issues are more involved. It takes longer to try cases than it used to because of the complexity of the issues that we now face. Discovery proceedings, which we don't

handle in the trial department, but we have our law and motion courts do. And next year with direct calendaring in twenty-four of our courts--and I'm going to be in that project--we'll be handling law and motion matters and discovery. But discovery now is such an involved thing.

de GRAAF: Now what exactly is discovery?

THELIN: Well, that's the pretrial effort to find out about the case. You send interrogatories to the opposing side asking various questions which must be answered by the other side. You take his deposition. You go have him answer questions before a reporter under oath, and those are all taken down. His own attorney can question him, too, at the time, if he wishes. In fact, the discovery laws were passed while I was in the legislature. That has created problems within problems, because now you have long lists of questions that are submitted from one side to the other, and there's objections to these questions. Then they have to come to court and the judge has to decide whether or not these questions should be answered, or if they're irrelevant or if they're too onerous or burdensome.

de GRAAF: Is this an ironical development, with discovery originally passed to try to speed up the judicial process?

THELIN: Oh, definitely. You see, what happens is that the lawyers develop forms. And even though the forms may not have too much specific application to the case, nevertheless, they

send the forms. So you get forms sent out that really don't make that much sense. In an effort to speed things up you pass legislation meaning to be progressive and modern, and it gets abused. More questions are asked now than should be, and some are meaningless. The discovery act was just recently amended to try to do something about that, I believe, to cut down on the number of questions. So it's still in the process of development.

de GRAAF: What is this direct calendar experiment that you've alluded to?

THELIN: That's a system that's used in the federal courts here. In fact, it's used in some of our branch courts. That's where a case is assigned to a judge's department, and he handles it from the very beginning, right through the trial until it's over. That's direct calendaring, and we do it in our criminal courts here in downtown Los Angeles. But in our civil courts, for many years we have been using the master calendar, which means all the cases are handled by specialized courts before they go to trial. That is, law and motion matters and preliminary matters are handled by our law and motion courts who develop expertise in that, and writs are handled by our writs and receivers. They don't come to the trial departments until they are ready for trial. Then they go to our Department 1, which is a master calendar court. There they are assigned out to the trial departments

that may be open at that time. The idea of that is it's thought to be the most efficient use of your trial courts, because if anybody's open they're immediately sent a case, whereas, if it's direct calendaring, one judge may be very busy or maybe he's not as efficient. He doesn't get through, while the other judge may finish his calendar up and have nothing to do while he's waiting there. The idea of a master calendar is you make the best use of your facilities because you can send the cases to where they can be tried. You don't have anybody waiting. In other words, if you have a master calendar court, you're part of the system. With direct calendaring, you sort of run your own little kingdom and don't necessarily worry about the whole system.

de GRAAF: Yet the gist of this new reform is that they are going to move away from master calendaring to direct calendaring.

THELIN: Yes. It's an experiment, you know. A definite decision hasn't been made yet, but there are some who feel that direct calendaring is more effective because the individual judge feels more responsibility to hurry up and get his work done. He's under more pressure, whereas under the master calendar system he doesn't feel the pressure of all those cases that are held there in Department 1. Which is the best, I don't think the definitive word has ever been enunciated. There are adherents of both systems.

de GRAAF: Is this a change going on only here in L.A. or is this going on statewide?

THELIN: It's statewide in certain courts, I think nine, I believe, of our superior courts up and down the state. Of course, here in Los Angeles County we have our very unique problems which they don't even conceive of in some of the northern counties because of the volume of our work. They [smaller areas] are, of course, used to direct calendaring because they have one court, and the judge there does everything.

de GRAAF: Yes.

THELIN: That's the way we would be under direct calendaring.

Criminal Law Developments

de GRAAF: Any other important developments you can think of in your years as a superior court judge?

THELIN: Well, there's been tremendous development in the field of criminal law. This morning I was trying to jot down some of them that have been such hot issues. It's just unbelievable the changes that have taken place, particularly with the rights of the defendant and implementation of constitutional principles that have been enunciated, like the Miranda case where now the police have to give somebody who's arrested or becomes the focus of investigation his Miranda rights before they can question him. If they don't do that, then a confession or an admission that was elicited is excluded. That came into being and flowered after I was appointed to the municipal court. It was a new thing, and we had to adjust to that and held seminars and so forth so that we

would be able to handle that. Now it's become quite common, and I think police officers are used to it, too. They "Mirandize" somebody before they ask questions. That's become very common. The comics on TV talk about Miranda rights. We had the Tahl case in our state supreme court,¹ and all at once, if somebody says, "I want to plead guilty," you can't let them plead guilty anymore. You first have to tell them all their constitutional rights. They have a right to be tried by jury, right to be represented by counsel, you have the right to testify on your own behalf, if you wish to do so, but you can't be compelled to do so. Prior to Tahl, this was unheard of. It's developed during my time on the bench and its purpose is to make sure that nobody pleads guilty unless they know they are pleading guilty and acknowledge it in open court. Of course, what happens is, you develop a rote. I don't know that people listen to you; if they decide they want to plead guilty, they're thinking about other things. You have to get them to say yes to each of these questions, or your conviction will not be a good one. It will be set aside.

de GRAAF: Is that a national or a state precedent?

THELIN: That was state. Of course, it's probably developed in other states, as well, but the Tahl case was a California development. We had this whole business of Penal Code 148,

1. In Re Tahl, 1 Cal 3d 122 (1969).

which was passed to prevent people from interfering with officers who were making a legitimate arrest. This grew out of the riots and unlawful assembly, because a policeman would go to arrest a person and somebody would interfere with the arrest. That created a new category of problems, because it had to be an officer in the lawful discharge of his duty. So we had to make a preliminary finding whether or not the officer was in a lawful discharge of his duty. Was this a lawful arrest? Did he have reasonable grounds for making his arrest? That's a legal question which a judge has to decide. So we had a whole bunch of cases on lawful arrest and what are the considerations. It's been an exciting, exciting period of time. In civil law there have been a lot of developments, too: punitive damages, the bad faith cases, the idea that you have an implied covenant in every contract of fair dealing and good faith. This led to a lot of actions against insurance companies and the allegations made that they haven't acted in good faith with their insureds. Another was the development of the comparative negligence system, instead of contributory negligence, following the law set forth by the supreme court in the Li case.¹ This was very interesting to me because when I was in the legislature, we always had proposals to install comparative negligence as

1. Li v. Yellow Cab 13 Cal. 3d 804 (1975).

a law in our state. The legislature always rejected it. After I became a judge, the supreme court suddenly announced that this is the law. You talk about judicial legislation; that's probably a dramatic illustration of how the supreme court does legislate.

de GRAAF: Was this the U.S. or the state supreme court?

THELIN: Our state supreme court.

de GRAAF: Comparative negligence. In other words, balancing two different parties in their. . . .

THELIN: Well, under contributory negligence, for example, if the plaintiff in a negligence case has been at all negligent, just a little bit, he loses the case. No matter if he was terribly or just a little bit negligent and the defendant that he's suing was terribly negligent, the plaintiff would still lose under the old contributory negligence law. That's been a law of California for many, many years. So no matter how badly you're hurt, if you're just a little negligent and the jury can find that or did find that, you were out. Well, comparative negligence requires the jury or the judge, if the judge is trying the case, to decide how much each side was negligent, for example, 60-40, and then the award for damages is based on that percentage. I hope I've state that clearly enough. That was a revolutionary change in our negligence law. Many people who before would never receive any compensation for damages now do receive compensation. As you

might imagine it was opposed by insurance companies in the legislature every time it came up.

de GRAAF: When was the Li case handed down?

THELIN: Let's see. I was still in the municipal court, so sometime between 1966 and 1976. It seems to me that it must have been around 1974, something like that. [The case was decided in 1975.] Then in civil law we had the dramatic development of product liability laws, which are in contrast to negligence. If you've got product liability, whether you're negligent or not, you're liable. That has developed into a whole field of law. Well, I guess I'm going to have to stop.

de GRAAF: Well, I think this will mark the end of our interview, so thank you very much.