

## **PART I: The Road to the Legislature: The Young Democrats, the law and the influence of Harry Pregerson and Burt Margolin.**

**Dan Morain:** On behalf of Open California, I'm Dan Morain here to conduct an oral history interview with former Assemblyman and Superior Court Judge Terry Friedman, focused on his legislation, Assembly Bill 13 of 1993-94, which bans smoking in workplaces. This oral history interview is another in a series funded by the California State Library. Assemblyman-Judge Friedman, thank you so much for taking the time.

**Terry Friedman:** Great to see you.

**DM:** I wanted to begin by asking how you got into this business, how you got into politics.

**TF:** I suppose it started with my upbringing. My family, though not involved in politics, was very interested in public affairs, news events, and so I followed it closely and found myself growing up attracted to politics. The election of John Kennedy to be president was an awakening for me. I was a little kid, but still it was exciting. And I, in college, got involved with the California Young Democrats, and through that connection, made friends with a number of people that found their way into office, like Henry Waxman and Howard Berman, and then a very close peer friend, Burt Margolin.

**TF:** And that really whetted my appetite for politics. I worked in Washington one summer, and for a congressman and then in a number of campaigns. And I went to law school thinking, well, I might want to find my way into politics, but I also was interested in pursuing public interest kinds of work in that realm. And started working in legal services in Los Angeles. And that involved me more with local politics. So that kind of positioned me so that when there was an opening in the area where I lived for the state Assembly, I took a shot at it.

**DM:** And so which congressman did you work for?

**TF:** I worked for Allard Lowenstein.

**DM:** And tell me about Congressman Lowenstein.

**TF:** Well, Allard served one term in Congress. His main accomplishments, I think, were before and after his one term. He was really the architect of the Dump Johnson movement in 1968. And he, after being turned down by a number of leaders, including Bobby Kennedy, convinced Eugene McCarthy to challenge LBJ. And Allard had been an activist in civil rights. He would lead a lot of college students down to the south during the civil rights movement. He was involved in fighting apartheid. He was an inspirational figure. So I got to be an intern for him.

**DM:** And what year was this?

**TF:** 1970. He had been elected in 1968 and he was defeated in 1970. I worked in that campaign. I took off about six weeks from my quarter at UCLA to work in his campaign that fall. I thought

my mother was going to strangle me, but I was able to get there, and met a number of people who became lifelong friends in that experience. So it was in my blood, I think.

**DM:** And what did your parents do? You grew up in Los Angeles.

**TF:** I did. I did. Both school teachers. My mother only before I was born, my father was a high school math teacher.

**DM:** Public schools?

**TF:** Public schools, yeah.

**DM:** Which school?

**TF:** He taught first at Downtown Poly in Los Angeles, and then at Eagle Rock.

**DM:** And Eagle Rock is where you went.

**TF:** That's right.

**DM:** I see. Okay.

**TF:** We lived in the neighborhood. It was an interesting experience to have a father who was a teacher, but fortunately he was a beloved teacher.

**DM:** I see. I see. Okay. That meant you couldn't act up too much in high school.

**TF:** That's right, especially when I was in his class. [Laughter]

**DM:** Okay.

**TF:** I couldn't complain to my parents about the teacher. [Chuckle]

**DM:** Well, you could have.

**TF:** Well, it wouldn't have gotten me anywhere. [Laughter]

**DM:** It wouldn't have gotten you very far, okay. So you went to UC Berkeley Law?

**TF:** Yes.

**DM:** And then came back down to Los Angeles afterward?

**TF:** That's right.

**DM:** And you were at Bet Tzedek Legal Services, right?

**TF:** Right, right. I started at the Western Center on Law and Poverty for a couple of years, and then I had an opportunity to become the first paid executive director of the then-fledgling legal services program in the Beverly Fairfax area, Bet Tzedek Legal Services, and worked there for seven or eight years. And it was probably the greatest work experience of my life. And it was such a meaningful...

**DM:** What kinds of cases did Bet Tzedek handle?

**TF:** We did a lot of landlord-tenant work. Tenant defense because of a wave of evictions that occurred at the time that I was there. We did a lot of government benefits work, and the case that I'm most proud of working on in my life arose then, which was representing a Holocaust survivor who had been denied SSI benefits on the ground that the German reparations payments that she received put her over the income threshold for her to be eligible to continue receiving the SSI. And we lost at the administrative level, at the administrative appeal level, at the magistrate federal district court level, at the district judge level and in the Ninth Circuit. But we kept pushing and sought a rehearing before a full panel of the Ninth Circuit, an en banc panel. And one of my life heroes, Judge Harry Pregerson, who was on the Ninth Circuit, made it his mission to convince his colleagues to rehear the case, and then to reverse the decision of the initial panel. And he was so persuasive that even the judge who wrote the opinion denying our case at the Ninth Circuit, reversed herself, and voted to reverse that ruling that she had written.

**DM:** And who was that judge?

**TF:** That was Dorothy Nelson.

**DM:** Dorothy Nelson. So she was... Wasn't she a Democratic appointee?

**TF:** She was, she was.

**DM:** Interesting.

**TF:** And I think the view was, the government's view, was that income is income, but we were able to show that there were exceptions that had been made for a lot of tribal payments, and some others. And certainly the compelling story of our client made the difference. And as a result, there were other survivors receiving German reparations nationally that became eligible for SSI as a result. And then there's been lots of legislation and building upon that case ever since.

**DM:** And who is your client? What was her name?

**TF:** Felicia Grunfeder.

**DM:** Grunfeder. So it'd be Grunfeder v. ...

**TF:** Heckler.

**DM:** Heckler. Okay. And do you remember who wrote the opinion? The en banc opinion?

**TF:** I believe it was Harry Pregerson.

**DM:** I see. Okay. Marine veteran of World War II.

**TF:** Right. A great man.

**DM:** Yeah. So you're in the Assembly. You won an Assembly seat in which year?

**TF:** 1986.

**DM:** '86. And what were you interested in? Why did you want to be in the Assembly?

**TF:** I wanted to play a role in framing and enacting the public policy of the state. I didn't have a particular issue that this is the reason I'm running for. I was interested in a lot of things, whether it was environmental protection, expanding healthcare, protecting workers, advancing civil rights. I mean, those were all things that I cared a lot about. Despite all the work that I had done in the political arena and friends that I had in office, I have to say I was probably pretty naive when I started that I didn't really know how the place worked and how to find your spot in the place.

**DM:** Fortunately, because of my friendship with Burt Margolin, I had somebody who I could trust implicitly to guide me, and be a mentor of sorts. A relationship that I don't think very many legislators have, and there's a lot of friendships that legislators have, but I think ours was a little bit stronger in the sense that we had such trust in one another, because we had forged the friendship in a number of campaigns and our time together at UCLA.

**DM:** So Assemblyman Margolin, I believe, was elected in 1982.

**TF:** That's right.

**DM:** And he represented the Fairfax District Hollywood area.

**TF:** Correct. Adjoining district.

**DM:** Yeah.

**TF:** So my district was just to the west of his district.

**DM:** Yeah. To the west, okay. So you're there in '86. There's a big challenge going on to Willie Brown's speakership when you arrive.

**TF:** That's right.

**DM:** Right. And which side of that fence were you on?

**TF:** Well, I was never an insider ally of Willie's, but I certainly supported him in trying to hold the Democratic caucus together. And I viewed the five rebels, the Gang of Five, to be somewhat treasonous. They seemed to align more with Republicans on many issues, and they were willing to bring down the Democratic majority that we depended upon to pass solid Democratic measures. And so that was not a hard call. And it actually allowed for new members like me to move up a little bit faster. I think I was able to get on the Ways and Means Committee fairly early, and a chairmanship of a subcommittee on health issues fairly early as a result of the shuffling that resulted when the five made clear their challenge to the speakership. So that was certainly helpful to my own career.

**DM:** So the Gang of Five were five Assembly Democrats who had gotten sideways with Speaker Willie Brown, and aligned with Republicans to try to unseat him. And it ultimately failed. And some of those members, Democratic members, went on to become very good friends with Willie. Some left, Gary Condit was one, ran for Congress. At any rate, you at some point become chair of the Labor Committee in...

**TF:** That was in 1990. But there was actually an event that may portend what we're going to...

**DM:** Right.

**TF:** This delved into regarding smoking. At the end of my first session in the Assembly, so this would've been 1988, the infamous Napkin Deal occurred whereby the Speaker and Bill Lockyer.

**DM:** Then Senate Judiciary Committee chair.

**TF:** Correct. In an effort to hold off some anti-trial lawyer initiatives and trial lawyers, being close allies of the Democrats and me, negotiated a deal with a lot of corporate interests and the trial lawyers to keep all of those measures, whether it was the anti-trial lawyers or the pro-trial lawyer measures, off the ballot. (It was) called the Napkin Deal because they wrote it out on a napkin at Frank Fat's one night near the end of session. And one of the points of that deal was to immunize purveyors of cigarettes from liability for secondhand smoke.

**DM:** Of course, it didn't mention, well, maybe it did mention tobacco products, but it was obscure. The law was obscure.

**TF:** Well, everything about that was obscure.

**DM:** Was obscure.

**TF:** And especially the way it came up literally in the last week of session. There was a perfunctory Judiciary Committee hearing held. I was on the Assembly Judiciary Committee, where we simply sat there for some period of time, and some witnesses were paraded through, but I don't think we even had the bill in its final form in front of us to look at and to ask questions about. And then a vote was held to pass it out of the committee straight to the Assembly floor

without any review.

**DM:** And this was... This immunized consumer products that were inherently dangerous and it mentioned butter, sugar, and castor oil.

**TF:** You have a great memory. That's right.

**DM:** Well, I wrote about it, but...

**TF:** So probably what I knew about it came from what I read that you wrote.

**DM:** After the point...

**TF:** Okay.

**DM:** After the fact. So, did you vote for the Napkin Deal?

**TF:** No, I did not vote for the Napkin Deal. I voted against it and I think there were maybe seven or eight of us that did. I tried to speak against it. This was the last night of the session. Willie did not recognize me or, I think, any of the people who he expected to be rising to speak against it.

**DM:** Mm-hmm.

**TF:** And it was just rammed through, I think it was the most outrageous occurrence that I observed and was aware of in my eight years in the Legislature.

**DM:** Well, and of course you were there then when the "Shrimpgate" bill came up, which was the FBI sting bill. So it was more outrageous than that, perhaps?

**TF:** Well. [Laughter] I didn't know at the time.

**DM:** Okay.

**TF:** I voted against that because I voted against special interest bills. Because they all smelled.

**DM:** Yeah.

**TF:** Whether of shrimp or something else.

**DM:** Shrimp or tobacco smoke.

**TF:** Right. But no, because of the breadth of that legislation and the impact that it had, and the way it was designed to try to fool and trick and bypass, all semblance of due process in the Legislature that made it so outrageous.

**DM:** Yeah. Well, the California Medical Association was part of that deal, because it assured

that the medical malpractice bill capping malpractice damages would not be on the ballot. Right? That was one of the reasons I believe the California Medical Association was the signatory to the Napkin Deal.

**TF:** All the players that got something.

**DM:** Right.

**TF:** It's the consumers and the people who got nothing.

**DM:** Yes. Okay. All right. Well, so anyway, that ultimately got repealed in 1998 or something like that.

**TF:** Yeah.

**DM:** But it was law for some years.

**TF:** And Byron Sher wasn't, I think Byron Sher led the effort to repeal that.

**DM:** Yes.

**TF:** One of... And he was one of the no votes on the Napkin Deal.

**DM:** So, anyway, so how did you get to the Labor Committee? How'd you get to chair Labor?