Robert Hertzberg
Part I: Early Battles, Dymally and the Problem Solver

Interview conducted by Dan Morain, February 6, 2024, in Sacramento

Dan Morain: On behalf of Open California, I'm Dan Morain, here to conduct another in our series of oral history interviews. Today, we're joined by former Assembly speaker and Senator Robert M. Hertzberg, otherwise known as Bob. This and other interviews are done courtesy of a grant from the California State Library.

Robert Hertzberg: Beautiful.

DM: So, one of your former staffers, Maggie Linden, said, the thing about Hertzberg is he solves problems that Californians didn't know they had.

RH: Greatest compliment you can get, it's the greatest compliment you can get because you may...

DM: So give me three or four examples of problems I as a Californian, we as Californians, didn't know we had that you endeavored to fix?

RH: Well, let me think. Well, in Los Angeles, for example, we import water from Northern California, we stick a straw in Northern California and we stick a straw on the Colorado River. And so what I've been working at, it doesn't really affect you today, but to do recycled water to Orange County, for example, 130,000 acre-feet, which is a huge amount of water. LA just by orders of magnitude, it's 550,000 acre-feet to capture water. It's something that people can turn their faucet on today and get water, but if we don't fix this problem, we put 3 million gallons of water a day to the ocean after we clean it up.

RH: But it's one of those things that's critical to life, either you can live with a little bit of food, but you can't live without water -- critical, critical, critical, critical for the environment. Going forward in the future, people aren't thinking about those kinds of things that are important.

RH: Second, initiative reform. One of the great things that we have in California from the reform days of Hiram Johnson was the power of people to overpower their government if they don't like what's happening, and they've done it many times. Prop. 13 is an example, other things are examples. And there's this interesting tension. Well, on the one hand, folks really want that power. When you poll it and you talk to people, I don't want to give up that power. When they look at a ballot with 20 initiatives on it, "God damnit, what the hell? I hired you to solve problems. Why don't you fix it? It's complex and why don't you fix it?" And so I've worked for a couple of decades, I started with the Speakers Commission on Initiative Reform and

ultimately with the Think Long Committee to be able to take stuff off the ballot, so we took privacy off the ballot when it was screwed up, we took a lead paint off the ballot when they had $40 million in the bank, this last session ….

DM: When “they” being the…?

RH: The paint industry that was trying to overturn court cases. We took off... The plastics people had a $40 million thing on the ballot to put something on plastics recycling, and we were able to reach an agreement and take it off the ballot. 'Cause the challenge is that people don't know, once people get signatures, turned into the secretary, you can't pull it back, so we saw that on Prop. 187, where there were constitutional problems, but no one could pull it back, so we created this process, again, frustration by people, critically important, create a dialogue with the Legislature, allow to fix those types of things, people never think about it, but they're critically important.

DM: Well, when you say they, you mean the proponents of the initiative, the opponents of the initiative and...

RH: And the public.

DM: And presumably legislators who want to resolve it, so it's a negotiation, it's an agreement. You get a piece of legislation through that solves whatever problem is?

RH: Right. And then this is a way where the proponents couldn't take something off the ballot, they found that there were mistakes in it, constitutional mistakes, they couldn't take it. We had a situation in Arnold (Schwarzenegger)...

DM: Where...

RH: Schnitzel, we call him, where we were in a situation where there was something on the ballot and we created an alternative, but we couldn't take it off the ballot. So we put something on, I think it was Prop. 1A and said, "Vote for this one, don't vote for that one," well, it passed and the other one didn't, but it sends all the kinds, like, who are you people in government and can't you get your act together? Really stupid stuff.

RH: So again, there are things that don't make the front page. And I remember when Maggie Magdalena [Linden] said that to me, "Hertzberg, you're the only guy, politician I know who solves problems people don't know they have." And that's exactly, I remember when I was on the Board of Pharmacy, Willie Brown in '84 appointed me.

DM: Wait, the Board of Pharmacy?

RH: Yeah, going back.

DM: You were on the Board of Pharmacy?

RH: I was, as a public member.

DM: To do what?

RH: A public member. Well, under Jerry Brown, he created a law that allowed of the 10 members on these boards to make two of them public members when he was governor, first time, so Willie appointed me. And I'll never forget, there was some issue that I wanted to fix. And people said, "No one's going to pay attention, nobody died yet." Like, are you freaking crazy? The whole purpose is to stop, to fix stuff. In business you get ahead of the game till your company doesn't blow up. In government, you gotta wait till the planes run into the building, you gotta wait until something bad happens to get attention. I think exactly opposite, I see it, it's like on the tax structure, it's been 10 years more than that, working on tax reform, why? We have how many billions of dollars right now in a deficit? 'Cause we have this horribly stupid, volatile system, but no one wants to work on it because there isn't something that incentivizes you. So that is exactly what informs my thinking and that, ultimately be honest with you, thank you Maggie, that informs a lot of my thinking about why I even ran for government in the first place.

DM: Well, okay. We're going to get into your history and why you got into politics and all that stuff. But since you brought up the tax bill, when you first got up here as a state senator, you and I had coffee or lunch or whatever it was, and you said, ‘Morain, I'm going to do this tax bill, we're going to reform the tax system, overhaul the tax system because it's volatile.’ Well, here we are, you're no longer in the Senate. And that hasn't come to pass, so have you given up on that yet?

RH: No, no, it took 40 times for the Civil Rights Act to pass. It's hard, get a life. The question is, does the solution work? First of all, I started that in 2010 on the Think Long committee with Nicolas Berggruen and George Shultz and Condoleezza Rice and Willie Brown and a whole... Gray Davis. And we came up with a plan, planted holes in it, it wasn't perfect. One of the reasons I chose to come back to government in 2014 was to work on these things because I wanted to be in the room where it happened. It was so difficult to work indirectly, I'd worked with Arnold on the Rainy Day Fund again to deal with a band-aid for volatility, I'd worked on a number of things like that. Again, none of which is on the front page of the paper or the...

DM: Well, we don't have front pages anymore, you know that.

RH: Well, I like the electronic version except I don't get a lot of clicks, so to speak. And so, but I wanted to kind of get into the room where it happened to work on it, and it was full of holes, and it took me 300 meetings around the state. $2 million of hiring Tim Gage and Jim DeBoo and

a whole bunch of people to try to think it through and make it work, but you're right, a governor just mentioned it in his press conference just the other day, talking about this. Governor Newsom. But it takes a long time, and it takes some time to figure it out, to think it through and get the right time in history to make stuff happen.

DM: So it's not the right time, in other words?

RH: No, no. Well, it is starting to be now, people are focused on it because of where we are with the volatility, it's gotten their attention when you had $90 billion surplus, nobody thinks about that.

DM: Okay. Alright. Well, so, let's roll it back. You graduated from Beverly Hills High School?

RH: No.

DM: No?

RH: No. Palm Springs High School.

DM: Palm Springs High School, I thought you had Beverly Hills roots.

RH: I did.

DM: You did? Okay. And so you go from Palm Springs, Beverly Hills, whatever, into politics, and you work for... Tell me who your first job in politics was for?

RH: My very, very first job was in Palm Springs, trying to pass a bond issue for a youth center, knocking door-to-door for Prop. 9 I think it was, and we got it passed.

DM: This was a local bond measure.

RH: Local bond issue for a youth center for kids. But my dad was a constitutional lawyer, did crazy stuff, came out here in the '40s after graduating Harvard Law School, couldn't get a job 'cause they didn't hire Jews in law firms in those days, there was only one Jewish law firm and...

DM: What was the Jewish law firm?

RH: Was it was Loeb & Loeb, I think, or Irell and Manella. I think it was Loeb & Loeb. And so, they wouldn't hire him and came out with Gene Wyman from Wyman Bautzer, and a whole bunch of people came out after the war. And five boys in my family, all of us were born in Los Angeles. My parents are from Wisconsin, Racine and Milwaukee. But he was a very creative guy, business guy, but also a lawyer, always a small firm. Always challenging windmills. He was the Don Quixote in this business. So women couldn't be bartenders in 1954 because you

couldn't let them in bars. He worked on that. Indian gaming. Native Americans couldn't have gaming. And he took that case to the Supreme Court. I actually am on the brief.

DM: Was that the Cabazon case?

RH: No, that was the Barona case. Barona was before Cabazon in San Diego. And he represented Salt River Pima [Salt River Pima-Maricopa Indian Community]… He was a guy who [represented] Chinese people [who] couldn't practice acupuncture. They were being put in jail. He took on these great challenges. And get to think outside the box as a traditional kind of a lawyer. And of all my brothers, I'm the only one of the five of us that's a lawyer. Worked with him for some time. And he was friends with Dymally, Mervyn Dymally, who was then a state senator, through a guy who was a private investigator, who was a friend who actually owned a newspaper up in Palo Alto, Palo Alto Times, I think it was.

RH: And so I got to know Dymally a little bit. And I wanted to organize students for him. So I was organizing college campuses. And I ultimately became his driver when George Skelton in 1974 was going to come with us. He just left the UPI, coming to the [Los Angeles] Times. And the Dymally campaign said, we need someone to drive because Skelton, the LA Times is coming, we got to do this. So I did the driving in the primary and the general and went through all 58 counties with him. And that's where I started. And then from there, I worked in South LA.

DM: Well, so Dymally was African-American. There weren't a lot of statewide African-American people elected anywhere in the country. But California was one, obviously. Wilson Riles was another but...

RH: Wilson Riles, the only other one.

DM: So what drew you to Dymally?

RH: Happenstance.

DM: Happenstance.

RH: I mean, really, the actual thing, here's what happened. I went with my grandma, Beverly Hilton Hotel. There was a dinner in October of 1973 with Hubert Humphrey. And Hubert Humphrey gave this incredible Hubert Humphrey speech on the stage. And I'm sitting way in the back corner with my grandma. It was just me and my grandma. I want to work with those guys. It was Humphrey at the Dymally thing. He was there endorsing Dymally, because Dymally had supported him for president. And he was there. And I'm like, the next day I went in and signed up to do student organizing for Dymally.

DM: Student from where? Where were you going to school?

RH: Well, I was at Redlands, University of Redlands at the time. And then I took off and traveled around with him. It was great. I learned so much. I mean, I kept my mouth shut and listened.

DM: What did you learn from Dymally?

RH: Well, interesting about Dymally, one thing I learned in politics, you know, when you're a kid, 18 years old, I think at the time, most people treat you like shit. You're some kid. They don't pay attention to him. You're not important. People are, there's professional butt kissers in politics. And I never forgot one of those people. But Dymally was an interesting guy. If you were sick, he took care of you. He learned a lot. Everybody in his staff went to school. His receptionist went to school. He got a PhD when he was in Congress. He believed in education. He was an interesting guy. And I wasn't smart enough at the time or knowledgeable enough to understand politics that much. He was a Democrat. He was interesting to me. And I was just a sponge. I was listening and learning. And I was there doing all the fights with Willie Brown and [Assemblyman] Leon Ralph and Bill Greene and Julian Dixon and all this stuff. I was the kid in the room in the corner who got to watch all that stuff. It was fabulous.

RH: So you're doing a statewide campaign, traveling all over the state. I made $400 a month. And it's fascinating. And then I kind of became the part of the Dymally team and helped out. I helped Bill Greene. Dymally was from the 29th Senatorial District in South LA. Bill Greene, who was an Assemblyman, succeeded him. Then after Bill Greene, it was Tracy Hughes. I helped her in her campaign. I helped Julian Dixon in his congressional race. All these races in South LA. And then Dymally appointed me to chairman of the California Advisory Commission on Youth. Peeps from all over the state. And I was the chairman. I was like, oh my God, this is a big deal. And then I met a guy named Victor Griego, one of my besties. And he worked for (Richard) Alatorre. And he got me involved in East LA. And what I liked about working in East L.A. and what I liked outside the politics and everything, you knock door-to-door. When you're in the West Side, it's all about fundraising at the Beverly Hills Hotel. On the East Side, you go knocking doors, you talk to people. It was a whole different personal experience in politics. Cool.

DM: So, at this time in LA, Henry Waxman is a power. Howard Berman's a power.

RH: That's right.

DM: And now I know that Berman and Waxman had alliances all over the city.

RH: They did.

DM: All over the state, all over the country, but really all over the city. So yeah, you weren't particularly associated with Waxman and Berman, were you?

RH: No. Not at all.

DM: And so, why? Why is that?

RH: 'Cause I wasn't working their side of town. I mean, Terry Friedman, brilliant guy, Burt Margolin and all these guys, I knew them all, but I wasn't part of their club. I was working in the Black community, I was working in the Latino community, Xavier Becerra, Mike Hernandez, Gloria Molina, Lee Baca, go down the list, Martha [Escutia], [Martin] Gallegos, all these folks. This is when I got here 'cause I knew so many people 'cause I'd worked on so many of their campaigns. A lot of them as chairman of their campaigns, or vice chair, or co-chair, whatever.

RH: Xavier Becerra, all these guys. He worked for Art [Torres], I worked in all those races. So I'm the guy who introduced Xavier to Henry and Howard, because they didn't know him. And here's this guy who was coming into Congress to replace [Edward R.] Roybal. And so I was this bridge. I became the chairman of the Urban Affairs Committee at the American Jewish Committee, where I was doing bridge building between the Jewish community, 'cause I wasn't involved. I wasn't like a Xavier [Becerra] or [Zev] Yaroslavsky or Howard [Berman]. I was never part of that team.

RH: When I ran for mayor of Los Angeles, they didn't endorse me. They went against me, they went for Antonio, and I endorsed Howard against Brad Sherman, 'cause I thought he was a great legislator. But he'd never... I was never part of the team. I loved these guys, they're smart, but I never played that side. I was always at the side of town.

DM: Well, we'll come back to this, but tell me where you went to law school.

RH: Hastings, which is now the University of California, San Francisco.

DM: Right, yeah.

RH: 'Cause of George Moscone.

DM: And so what possessed you to go to Hastings?

RH: To go to Hastings. Well, I was going to be a lawyer. I wanted to be a Lawyer, and my dad wouldn't pay for school. He had money, but he wasn't, and it was 500 bucks a semester. And I was going to go to Berkeley, but I thought it was too lefty.

DM: So, you went to Hastings. Why did you go to Hastings?

RH: Well, I went there because it was cost. It was the University of California. It was 500 bucks a semester. I could afford to go there. And George Moscone, who I'd met through the Dymally operation, offered me a gig. I don't think I ever worked for him or something like that.

DM: So you worked with Moscone?

RH: I knew him, and I did some stuff with him. I can't remember everything I've done so many years, but I never actually was on the payroll. But it was Moscone that motivated me to do San Francisco, and I wanted to learn more about the state. So, I went there. It was cheap. It was the University of California. It's that simple.

DM: I see. Okay. So, when you were elected to the Assembly, you were most associated, I think, with Gloria Molina. You were viewed that way, at least. Is my perception correct that she was your godmother?

RH: Not really. I mean, she was much later in the game. She didn't run. I mean, I helped her in her election against [Richard] Polanco in '82, and then I helped her in her City Council race in '85 or '86, I can't remember. But no, I mean, because she was more public and more known, I think so. But I was very close to Roybal. I was very close to Esteban Torres, Congressman Torres. I was close, you know, and his folks. I was close to Mike Hernandez, who ran for City Council. And we ran against Polanco and lost by 300 votes in '85, '86. But I had been involved in East Side politics forever. Richard Alatorre was very close with us, close with Art Torres, very much so. Richard Alatorre is the one who got Willie to appoint me in '84 to the board of pharmacy. So, I'd been on their committees, been involved, gone to Stephen's Steakhouse a lot of times, and spent a lot of time with him.

DM: Okay. All right. Well, so...

RH: And so, Gloria came later. But she was more famous. So, I think that's true. And I was her lawyer for many years. And I did a lot of stuff for her. And I represented her husband. And my brother worked for her for 20-some years, both in the city and the county. My younger brother.

DM: Yes, I remember, I remember him. So long…So, tell me about your law practice. What did you do?

RH: Well, everything. Everything. As a general, I started out practicing law. My dad was the kind of guy that says, there's only two kinds of lawyers. You're either going to be a trial lawyer or a scrivener. I don't know what a scrivener was, but it sounded kind of sniveling. And so, I'll be a trial lawyer, trying cases. And so, I worked at a big law firm. Not a big Law firm, a hundred-some lawyers. And then I went to...

DM: Which firm?

RH: It was called Fulop Rolston Burns and McKittrick. And then I went over with my dad when he got cancer in his firm. And he always had like five or six or seven lawyers, not a lot of people. I'm working around the clock trying cases. Go on a court, running around like crazy. We had

showers and a sauna bath in the office and I'd sleep there. Sometimes I'd sleep there for a week and not leave the office on cases. We'd work so hard. And I'm like, this is really stupid. Because somebody comes in and they got a problem. And what I found out was you fix their problem, you win your case. The next day they say, well, I should have won anyway 'cause I was right. And then they go out and do the same damn thing all over again. So I started moving away from litigation, which was a very important foundation to understand what the rules were, more to a transactional Law and what I called, oh, God, what do we call it? Not maintenance Law, but it's a, oh, that'll come to me in a minute.

RH: But the idea of trying to advise them, like when I remember doing a hotel deal and I said, I'll only do this deal is after it's over, instead of the six boxes of stuff, the paperwork, I will go through it and I'll get a management manual 'cause what happens is when somebody has a problem, they go out and get big fancy lawyers and the lawyers go through all these documents and find all the things you didn't do. And they find you breached all these things. So I created this whole kind of approach to the law where I try to be more holistic in solving problems. It informs how I think, it informs how I think when I was in public service. And so I kind of moved away from being litigator to transactions and stuff in real estate.

RH: I wrote a book in 1983 for the University of California called California Lis Pendens Practice, which is the thing that you record against a property to encumber the property, the right title interest to the property. And I wrote a whole... I went around, there was nothing in on it. So I wrote that. It's like when I was in college, I couldn't find a good English book. I put together a book called The Common Sense to Approach Good English.

RH: I'm kind of a guy, it's the same thing I did with the secession movement in LA. I rewrote the entire Knox-Cortese, now Knox-Cortese-Hertzberg Act. Took four years. I kind of get into something and I try to think it through holistically. So my approach to the Law was, I did some immigration stuff. I did... I don't call it criminal. I call it representing the wrongly accused because all my clients were wrongly accused. I did everything. I learned so much and it was great. My dad took anything that walked in the door that the people had money in their pocket. Those were the days.

DM: So I remember you had some sort of falling out with your dad, but obviously it got worked out. What was that about? Can you talk about that?

RH: Yeah, of course. Of course. You know, when things get in the press, they get weirded out. But my dad...

DM: That's true.

RH: Yeah, they always do, those freaking reporters. In any event, what happened was we hired this woman actually from Hastings who I ultimately married. Who's now a judge, by the way. And she married the nanny, so that didn't last. But in any event, we wanted to leave, and he was pissed. He was a tough guy, he was old school, he didn't want to leave. So when I left, my dad was the greatest lawyer in the world. But he was a guy, when you walked into his office, there were papers piled everywhere. When the accountant comes in on taxes, Saul Donner would say to him, Henry, how much do you have on this? You go like this, 16,542 cents, write that down. He was audited for 35 years.

RH: He was just the worst business guy in the world when it came to that 'cause he didn't pay attention to it. He loved the law, argued a case in the Supreme Court, but he just didn't like the bullshit. So when I left, he had a bunch of debts. He had payroll tax, he had this, he didn't pay that, he paid this thing or whatever. And so people came after me because they thought I was still a partner. I filed the dissolution document.

RH: I said, go look at the dissolution, they didn't believe me. So when I got married in 1986, I took a trip around the world, 24 countries. And it was great. All the way around the world, all the way around the planet. And I was... I think I was in Australia at the time. And a young lawyer of mine, friend of mine, who was kind of overseeing some of my stuff, they set a small firm, and with Karen. Karen was a lawyer, who was married, too. And somebody seized my bank account because they thought it went to my dad. And I'm meticulous. I'm on top of stuff. I'm organized. I know what to do. I'm ahead of the game all the time. We're completely different in that regard. God damn it! File a lawsuit to tell the creditors that we're not together. Well, the asshole filed a lawsuit that asked for punitive damages. I didn't read it. I didn't verify it. I was in freaking Australia.

DM: Oh, your lawyer filed a [suit] seeking...

RH: Because all I was trying to do was to send a message to the creditor that this is not my debt.

DM: I see.

RH: Right. And they wouldn't believe me. And this was over a year after I left the firm. And Karen was part of the firm until he left. And that's what happened. And he filed this thing, and it blew up into something that people could make hay out of it. But that was the purpose of it.

DM: What's Karen's Last name?

RH: Moskowitz. Judge Moskowitz. Judge Karen Moskowitz. Gavin (Gov. Gavin Newsom) appointed her.

DM: I see. Okay. So along the way, you met one of your predecessors, Speaker Jesse Unruh.

RH: I did.

DM: Tell us about that relationship. What kind of a guy? Jesse Unruh was legendary in California and Sacramento for his big appetites. Tell me about him.

RH: Complex guy. Complex guy, brilliant, absolutely brilliant. He had a sense of people, this is a guy who grew up in Kansas and Arkansas, wherever it was or whatever...

DM: Texas.

RH: Texas, with the dirt floors and all that type of stuff. And he never forgot the little guy. Never forget I was at a screening with him that he invited me to about the river, something about poor people. And I looked over at the guy and he was crying like, this is fucking Jess Unruh, man. And he was crying like a baby, 'cause it related to this stuff. But he took me under his wing, man. He brought me in, he trained me. He goes, "And you see that guy over there? I'm not going to tell you the name. Watch out for that guy. This guy will do this. And this guy will do that." He was unbelievable.

RH: He had this sense of training the next generation, which I got from Dymally and from him, that's why I had 800 interns in my office. I really believed in that process. Not just to say, get me a cup of coffee, but to give him opportunities, engage him, learn. I can't tell you how cool that is. And I was inspired by those guys. But he was, he was unbelievably brilliant. What he did in the treasurer's office was completely transformed into a complete powerhouse. He understood power. He had this whole army of people around him that were legislators. [Assemblyman] Mike Roos was one of the guys, and [Congressman] Jimmy Costa and all these guys. And I was, I'm a kid, okay? I didn't know crap, but I got to listen. And I remembered.

DM: So give me a rough timeframe.

RH: From 19... He died in August of 1987. Okay. And I met him in '74 when he ran for treasurer. So that was the frame, '70... But I didn't really know him that well.... I did a dissertation on water at University of Redlands. And he liked it. He read it and he liked it, and he cared about it and put me on a commission that I was on for seven years and helped, gave me a lot of business in the bond world, and taught me a lot about the bond world, I learned a tremendous amount unbelievably valuable to government, to understand how financing works. And so, but I met him in '84. I probably started working with him. He appointed me probably in... I mean, '74. '74. He probably appointed me in sometime in the early '80s to the commission. And he died in August of '87. My dad died in January '87.

DM: And, so the bond work that he taught you, and the bond work you did on behalf of the state of California, must have helped you. If we fast forward a little bit, when the energy crisis hit, you're [Assembly] speaker. You're, you know, I don't want to jump around too much. I want to talk about your time as speaker, obviously, but also your first couple years in the Legislature. Nonetheless, California had a huge debt related to energy. And the way it was solved was through bonds and you had to have been involved in all that.