

ORAL HISTORY
CRUZ REYNOSO

ASSOCIATE JUSTICE
OF THE CALIFORNIA SUPREME COURT
(1982-87)

Oral History of
JUSTICE CRUZ REYNOSO

EDITOR'S NOTE

The oral history of former Associate Justice Cruz Reynoso was conducted from 2002 to 2004 by Germaine LaBerge of the Oral History Center of the Bancroft Library, University of California, Berkeley, in partnership with and under the auspices of the California State Archives, State Government Oral History Program.

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It is presented here in condensed form, intended to focus on matters directly related to Justice Reynoso's life and judicial career. It has received minor copyediting for publication.



CRUZ REYNOSO

— SELMA MOIDEL SMITH

LABERGE: I am sitting in King Hall at UC Davis with Justice Cruz Reynoso. I know, just from reading a couple of things, that you were born 1931, May 2. Why don't you tell me the circumstances that you know of. Where? What number you are in the family.

REYNOSO: I was born on that date, in the outskirts of a then little town by the name of Brea in Orange County. I was the third child born to my parents. The two older were boys also. Then, after that, there were several other children, so I ended up with five brothers and five sisters. I was born at home. Most of my mom's children, that I can remember, were born at home. And my father, at that time, was — and continued to be for many years — a farm worker. He and my mother had come from Mexico, from the state of Jalisco. They came to this country in the late 1920s. I was born in '31.

LABERGE: What were your parents' names?

REYNOSO: My dad's name is Juan, and my mother's Francisca. I never met my grandparents. Apparently they died when I was still pretty young, in grammar school.

LABERGE: What was your first language?

REYNOSO: Spanish. Yes, we spoke only Spanish at home. When my parents came, I am not quite sure how they made their way to the U.S., but they were obviously getting here through the shortest possible way, because they crossed the border in Arizona. My dad started working for the Union Pacific, I believe, Railroad. He and my mother, made their way to California with his working on the railroad. He worked as a laborer, laying down the ties — railroad ties — that needed to be corrected. In those days, the workers lived in boxcars, literally. So, he and my mother lived in a boxcar. When they got to California, then he quit the railroad, and started working in the orange groves of Orange County.

LABERGE: And your mother. Did your mother also work in the orange groves, or was she at home with the kids?

REYNOSO: No, she was always at home. Well, I say always, except during the Second World War we traveled to the Central Valley to pick fruit, and at that time, she would work with us picking fruit. When I was growing up, she was always at home.

My first recollection is of living in a house in the outskirts of Brea. We lived there for several years. My father appeared to have been — I know he was

— a very hard worker, and a very dependable worker. He became what is referred to in Spanish as “trabajador de planta,” which means “a steady worker.” It meant, that even though I was born in 1931, just as the Depression was getting into its worst years, my father always worked. He was never unemployed.

Brea had very few — in fact, I remember only one other Mexican family. They lived near where we did. So we grew up, we children grew up speaking only Spanish at home, but everything that we did outside the house was in English. We played with our neighbors in English, and we thought in English, and we talked in English. I remember that some of our neighbors would give us the Sunday comics, which we were able to read. Of course, we didn’t have, in those days, any bilingual education so the concept of immersion that some people are very much in favor of, it appears to me probably does work under the right circumstances. The right circumstance was that everybody around us, except the other family and we, spoke English. So, we grew up speaking English as well as Spanish.

When we went to school, I don’t remember having any problems with the teachers. Even in kindergarten, I don’t remember their ever having to repeat things, or feeling that we didn’t — or a sense that we didn’t understand what the teacher was saying. We just simply learned it as youngsters, so by the time that we went to school, apparently we knew it perfectly well.

LABERGE: And at home, did your parents know any English when they came to the United States?

REYNOSO: No. They knew no English, and my dad only learned what he needed to know, particularly for work purposes. Later on in his life, when he tried to learn some English in a more formal way, he would say in Spanish, “El español me olvidé. El inglés nunca aprendí. Quede mudo,” he would say. “I have forgotten my Spanish, I never learned English, I am now speechless.” [laughter] But no, neither of my parents ever learned English sufficiently well to be comfortable with it. My mom learned even less.

In growing up, my parents continued with what they knew of their religion, in terms of being very religious. My mom seemed to have some doubts about religion, at least the way it was practiced in Catholicism. My dad never did. We routinely went to Mass every Sunday. We would go to two churches. Mostly, my recollection is we would go to a barrio in La Habra. The barrio was populated completely by Spanish-speaking persons — immigrants and Chicanos.

Everything there was done in Spanish and Latin. We would go sometimes to Fullerton, where everything was in English, but mostly, I believe, we went to La Habra. There were two or three barrios in — outside the city limits of La Habra, literally on the other side of the tracks. And there was a church there.

I do recall that during the Depression, there were a lot of hobos, nowadays called homeless people. Many of them would come to our house. I remember reading an article which said that the hobos in those days had signs and insignias and messages they would leave for one another, indicating which houses would be responsive to them. If that's true, we must have been on that list, because an awful lot of hobos would come to our house. I remember, because my mother would always put out a great feast for them. Carnes, meats, and tortillas, frijoles, beans, and everything. We would complain to our mother that she fed the hobos better than she fed us, and she would deny it. She would say that we were lucky to have a father who was working during the Depression so that we had a roof over our heads, clothing on our shoulders, and food on the table. We had a duty to share with others. I still remember our protest and her response.

LABERGE: But, also, that that was inculcated in you at an early age.

REYNOSO: Oh, very much so. From Dad, you know, I remember the import that he placed on working hard and being honest with the people you work for, but expecting also to be paid an honest day's wage for an honest day's work. That was very much a part of the culture that my parents came from.

LABERGE: Were you ever in charge of the younger children?

REYNOSO: Not in terms of giving them instruction, and so on. If the parents would leave, they would expect that whoever was older would be sure to take care of the younger children. But I don't think that our family was as hierarchical as some other families were. We had neighbors where the younger children were simply expected to obey whatever the older child did. I don't think our family was ever quite that strict. But whenever the parents left, or something of that sort, whoever was the oldest child was expected to be in charge.

There's an element of sadness in that regard that perhaps we will go more into detail later. But a time came when things went very awry with the family. My parents separated, and neither was at home. At that time, I was in college and my oldest brother was married, my immediate older brother was in the military, and my parents had left, leaving the children, then, by themselves.

I had a younger brother, a couple years younger than I, who was then the oldest child living at home because I had left home. I went through a lot of struggles in terms of deciding whether or not I should go back to the house to become head of the household. For a variety of reasons, I was persuaded that it was better for me to continue with my schooling, but I have always had a sense of guilt about that because my younger brother really became the head of the household, and I should have. I think I did the right thing, even now, but you never know. One of my younger brothers eventually ended up on narcotics and in prison. Maybe if I had gone back, I might have been able to prevent that. I mean, you never know.

LABERGE: Up to that time you had never felt any discrimination, as a little kid?

REYNOSO: I really didn't. Personally, I don't know that I have for most of my life. From time to time, things have come up that seem to be discriminatory in statements, sometimes not necessarily directed at me, but directed at those like me. Well, for example, when I was maybe age thirteen, my family and I were picking grapes in the Central Valley and I asked the field foreman how long the grape picking season would last. He asked me why I was asking, why I was interested. I told him that we always got back to school late and had to work doubly hard to catch up. He said, "Why, you're the first Mexican kid I have talked to that was interested in education." It made me so mad that I told myself that someday I'd go look him up, and I'd have my college degree in my left hand, and I'd hook him in the nose with my right hand. Of course, I never went back, but those clearly were discriminatory remarks. But I don't know if they were necessarily directed at me. Another time, in high school, I remember a boy called me a "dirty Mexican," and I just felt sorry for him that he was so ignorant. More often, I saw a discrimination against others who were Mexican or Mexican American. Some very direct. I was the leader of a Junior Y group of Mexican American boys.

I had been asked to be the leader of this small group of boys, and we would meet, I forget whether it was once a week or once a month, and, on one occasion, the boys were — I drove by downtown La Habra. There was a school dance going on at a hall, and two of the little boys who were in my group were standing in front, and I turned around and stopped, and asked them why there weren't going to the dance. It was a school dance.

LABERGE: Were you planning to go?

REYNOSO: No, no. This is a dance for junior high children. I was in high school at that time. They said that they were not allowed to go in because they were Mexican. I said, "You've got to be wrong. This is a school dance." I went in and talked to the gentleman in charge, whom I knew because he had been my scoutmaster. He says, "Yeah, we're not letting them in because they are Mexican and we are afraid there will be trouble if we let them in." So I found out who was sponsoring this service club, and found out who the officers were, and I went to see the officers.

LABERGE: Were the officers students, or were they adults?

REYNOSO: Oh, no, no. Those who were sponsoring it was a local service club like the Kiwanis. They were all business people. I went to look them up, one by one, to tell them about what had happened, and that I didn't think that was a good way to run a school dance. I was, of course, a high school kid, and they weren't very appreciative of my bringing that to their attention. It was the first experience, I think, I ever had of being invited to leave somebody's office. But, I must say, neither did I hear that there were such dances that didn't allow Mexican kids after that. So maybe it did some good.

LABERGE: Obviously you had an understanding and a sensitivity that it was hurting other people and that you were going to do something about it.

REYNOSO: Of course, and it may be hurting me also, but not directly. Even yesterday's morning paper reported the election returns. It may be coincidental, but there were three Supreme Court justices on the ballot and the one that got the fewest number of votes was the person with a Spanish surname, Carlos Moreno. It may be accidental, but I saw that when I was on the ballot, and we see that now. The percentages are smaller, just two or three or four percent. I don't read into that great prejudice, but you do see those differences that you are reminded that you are part of a group that sometimes is disadvantaged in society.

At age seven, we moved from Brea to rural La Habra, let's put it that way, to a little barrio called Alta Vista about a mile or mile and a half from downtown La Habra. My father had bought a small house in the barrio. I was chatting with a gentleman who knew the history of the barrio. He said the barrio was actually established, like, ten years before we moved there, and the houses had been taken from sort of a labor camp and moved to that area, which was owned by a gentleman. By the time we moved there, it was an established barrio. About fifty homes in a rural area, and my dad had bought a

house and then expanded it because, even now, it's a tiny house. We moved during the summer. We had never been before in a barrio. It was all Mexican and Mexican American, except for, at that time, one black couple that lived in the barrio. Then, later, another black family moved in that had two little boys. So we were in a quite different environment.

When it was time to look for a school, my two older brothers and I, who were the ones who were old enough to go to school, looked for a school in La Habra, and we found a place that looked like the school we were used to in Brea. It was two stories, and had a playground — brick, if I remember correctly. So, we went to sign up for school, and they told us, “No, you can't. You are not supposed to go to this school. You are supposed to go to another school.” That was Lincoln School; we were supposed to go to Wilson School. We said, “Okay.” So we went to Wilson School, half a mile away and they said, “Yeah, this is the school you are supposed to go to.” We noticed that all the youngsters there looked Mexican or Mexican American. We asked, “Well, why are we being sent to this school?” We were told that we were being sent to that school to learn English. Since my brothers and I already knew English perfectly well, we were moderately suspicious that maybe there was another reason. Then we noticed that there were houses that abutted upon the fence of the school, where Anglo-American families lived. They were being sent to more distant schools. As you might guess, we shortly figured out that we were going to a segregated school. In those days, there were indeed many segregated schools in California where there were concentrations of Mexican immigrants and Mexican Americans. Brea did not have a sufficient number of Mexican and Mexican-American families, so we did not have segregated schools in Brea. It was a very geographic, idiosyncratic decision-making on the part of the local governing boards. The segregated school we would not have recognized as a school because it was a series of small wooden structures. It didn't look familiar to us as a school. As it turned out, I rather liked the wooden structures because each class met by itself, and you couldn't hear the kids in the other structures, but it obviously was not as nice, physically, as the other school.

LABERGE: What did you think about the education, reflecting back?

REYNOSO: Reflecting back, I think we got a perfectly fine education, actually. My greatest interest when I was in grammar school, was not to do poorly and not to do well. Because those who did poorly got harassed, and got called

some not very kind things, and those who did very well got harassed. So I tried very hard not to do too well, and not to do too poorly. I succeeded until the fifth grade. I don't know why, but my suspicion is that it has to do with my being interested in reading. I ran into a series of books on dinosaurs, and then ran into a series of books on merchant marines — a merchant marine who traveled all over the world and had all kinds of adventures, and so on — and I started reading and reading. I think that may have caused me to suddenly do very well in school.

LABERGE: Without knowing you were.

REYNOSO: That's right. So, sure enough, the kids started harassing me. The greatest insult was to call a person a *profe*, short for professor, so they called me "profe." I had I don't know how many fights protecting my honor [laughs] after I started doing well. I remember a great fondness, actually, for the teachers. I thought they tried hard to teach us.

LABERGE: And the teachers, were they Anglo?

REYNOSO: All the teachers were Anglo except, near the end of my stay there, we got our first Mexican-American teacher. The one and only. In fact, as I look back, he was the only Mexican-American teacher I ever had from K through law school. We were all very excited about his coming. I think that inspired me to think about going to college, and maybe being a teacher, which I thought of as a grammar school youngster. Even though I was not in his class, he played basketball with us. I remember he volunteered a lot of his time. I've met him several times since that time.

I should just jump forward fifty years. When I was appointed to the [California] Supreme Court, I got a letter, and this letter said, "When I was a teacher at Wilson School, fifty years ago, I had a student by the name of Cruz Reynoso. Would you be he, by chance?" I wrote back and said I was. His first name was Candelario; they called him "Candy." I think Mendoza, but I'll look it up. A wonderful person, still alive. Now on a school board in Southern California and runs a newspaper. Later became, I believe, a school administrator, after teaching for many years. He remembers, very fondly, that school because it was his first teaching job. He was there just a year or two and then he went into the military during the Second World War. But I remember him very fondly, and being inspired to finally see — I had never seen — a Chicano as a professional. And to see that somebody could be a

teacher, and he tells how he was received with such great enthusiasm by the parents of the children. How the children were all admonished to obey him, and do what he said. So, he remembers those days very fondly.

However, I thought that the atmosphere that was created by segregation was a socially unhelpful atmosphere, let's put it that way. There were some conflicts. For example, in that school, and apparently other schools, they had showers for the children. I guess they felt or they knew that some of us didn't have — we had running water, but we didn't have an inside bathroom in the barrio when we first moved there. So, I guess they had that as a facility for the children. But mainly, I saw that, through segregation, the stereotypes that folk have of one another continued. There was a family in the barrio where we lived, who succeeded, during the Second World War, in buying a house in La Habra, which is mostly Anglo. I remember we kids talked about it and we were convinced that they would be attacked physically, and maybe killed. That's the sort of divisiveness that segregation, I think, brought about. I also saw that the communities, the barrios, were not well served. We did not have sewers, and we did not have inside plumbing for a while — later we put that in. We didn't have sidewalks; we didn't have curbs. Generally, folk who were not in the in, politically, didn't get well served by the community.

Most importantly, I was interested in the psychology of it. We sort of understood, generally, that it was our role in society to be the workers and not to be the professionals, not to be the folk who ran things. It seemed to me that many of us sort of accepted that. So that most of the boys that I grew up with simply assumed that they would quit school at age sixteen and start working in the orange groves of Orange County. Now, I never accepted that, though there was even some domestic pressure to do that.

LABERGE: You mean for you, from your family?

REYNOSO: Sure. My mother had always had a dream, she would tell us, that when her boys got older — because in our family there were a group of boys, then a group of girls, then it got mixed up — it was her dream that the boys would grow up and start working so we would have more income in the family. She'd say, "Look how lazy my boys turned out to be. Instead of working, they're out there reading books." [laughter] Well, you have to be pretty determined or convinced that that was not what you wanted to do. My dad, on the other hand, would say, "You know, I really don't care what you do when you

grow up, so long as what you do is honorable.” He would have been happy if we had been honorable farm workers or honorable lawyers.

LABERGE: Did either of your parents live to see you on the Supreme Court?

REYNOSO: Yes, oh yes.

LABERGE: How wonderful.

REYNOSO: Indeed, I was told — Dad didn’t tell me this, actually; someone else told me that — Dad belonged to a group called a mutualista, a group mostly of immigrants that are formed for mutual support. He belonged to such a group in Los Angeles, and on one occasion, I am told, he was presented with a plaque or something for being the father of the first Chicano Supreme Court justice, and I’m told that tears welled in his eyes.

One of the motivations for my being a lawyer was the reality that I saw that there weren’t lawyers around to serve people like my parents. I could see that other kids were — it seemed to me — twice as smart as I was, but they fell by the wayside as soon as they got to be age sixteen. Few of them spoke about going on to college and all that. So, no, I saw that very quickly. I saw that very often we accepted the role that society had given us, and I didn’t think that was right. I saw very few Latinos in positions of authority; this teacher was the one exception. None of the businesses were owned by Latinos, none of the elected officials were, and so on. I didn’t think it was accidental. So, I early concluded that segregation was not a good way to run a society or a school.

If something didn’t seem just to me, it really hurt inside, and I felt sort of compelled to try to do something about it. As with my youngsters in the Junior Y incident. The people in the barrio would complain that they didn’t receive rural delivery service of the mail, and I just accepted that as part of the scheme of things. But then, an Anglo family, son of a well-known rancher at that time, built a house in an orange grove no more than a few city blocks from where our barrio was. We were now a mile, mile and a half from town. The rural delivery route man would go all the way out to his house, deliver the mail, go all the way back and wouldn’t travel another couple of blocks to deliver mail to our barrio.

LABERGE: So, where would you go get the mail, to the post office?

REYNOSO: Yes, we would go to the post office. I just didn’t think that was fair. And the people always complained about it, so I figured, well, we should do

something about it. I went to see the postmaster and I asked her why we didn't receive rural delivery when this family was receiving rural delivery. She said well that wasn't her decision or her business; if I was concerned about that, I should write to the postmaster in Washington, D.C. So I said, "Well, all right, I will write to the postmaster." So I went around and put together a petition.

LABERGE: How old were you?

REYNOSO: Thirteen maybe. I got all the adults in the barrio to sign the petition asking for rural delivery. They all just smiled at me, you know. They said, "Oh, this upstart kid." They knew nothing would happen. My dad used to refer to me in the Spanish term of "metiche." Metiche is a person who is always putting his nose in other people's business. He considered this government business. Nonetheless, he signed the petition, and I sent it off to the postmaster.

LABERGE: This took quite a bit of research to get the address, the name, all of that.

REYNOSO: Yes, I don't know where I got the name, but obviously I had it. I sent off the letter with the petition. Then I get a typewritten response, addressed to Mr. Cruz Reynoso. That's the first time anybody ever had to refer to me as "Mr." And a typewritten letter! It said, "Dear Mr. Reynoso, we have received your letter, and we will look into it." Nonetheless, two or three months later we get notices in our boxes to prepare our homes for rural delivery. I think all the adults were shocked. But to me, it was sort of a confirmation of what I was reading in our textbooks, that we are a democracy, that government responds to requests, to petitions, and people have a right to petition their government, and all that. So to me, it was sort of an early confirmation that, if you act on your beliefs, not always but sometimes good things will happen. To me that was an inspiring experience.

Many years later, and this sounds even a little bit silly to me, but I had been in favor of civil rights and against discrimination all of my life. During the McCarthy era, that wasn't always an easy thing to argue for because so often you would be called a "Communist" or a "fellow traveler" if you believed in civil rights. I was in the military when *Brown v. Board of Education* came down in 1954, and I remember thinking to myself that the Supreme Court was practically speaking to me directly saying, "Cruz, you've been right all these years to have believed that segregation was not the right thing for this country, et cetera."

LABERGE: Now, what about the Catholic Church and its role in your life?

REYNOSO: When we grew up we were always quite loyal in attending Mass every Sunday. We went to special training for the first Communion and confirmation, and that sort of thing. I accepted all of the moral teachings of the Catholic Church and Christianity. I think that it had a very strong influence in my own notions of right and wrong and the responsibility that a person has in society. On the other hand, during my teenage years, I had qualms about some of the teachings, some of the detail of the teachings — the power of the pope, and some other teachings. I particularly didn't like some of the priests who spoke against Protestants and Jews, and so on. So I started falling away from the Catholic Church, I think, in my teenage years. By the time I got to college, I don't think I was attending Mass, and then I married a woman who is a Protestant, and I have been attending her church, which is actually a conservative Baptist Church, since that time. But I have never joined, because I think that, while I accept the precepts in terms of how we are supposed to live our lives, some of the details of, I suppose, practically any religion, are hard for me to accept. One time, an old German priest took me aside because he had heard that I was the head of that Junior Y group, and he forewarned me about the YMCA, how it was simply a big web that was meant to bring us poor little Catholics into the web, and make Protestants out of us. He was so intolerant that I think it was one of the many things that started turning me against some of the Church structure, let me put it that way.¹

LABERGE: Well, tell me more, if you can, about the Y and how you got involved in that. Was this in downtown? Was it a segregated group?

REYNOSO: Let's see. Maybe I should bring you up to date on that. The segregated school went only to the sixth grade. Then we went to an integrated school for the seventh and eighth grade in another part of La Habra. There again, I felt the disservice to the Latino community, because we were forewarned not to speak Spanish. We were told that it was our duty to tell on somebody else who spoke Spanish. I didn't agree with that. I am sure that they did it well-intentioned, but I viewed it as sort of an attack on our culture, our language, our families. Nonetheless, I graduated from the eighth grade, and went to high school. High school we attended in Fullerton, which was a distance away.

Meanwhile, as I indicated, I started working on odd jobs — working, I remember, helping clean the backyard of a lady for the weeds, just hoeing.

Then helping some people do some gardening and all that, before starting to work more formally picking oranges. We started picking oranges — again, when I look at my grandchildren I can hardly believe it, but I think we were seven or eight or nine when we started, maybe ten. We would work in the orange groves, and they would refer to us little boys as “ratas” or rats because we were too small to carry the ladders. We would have sacks, and we would pick the oranges and put them in the sack, and then put them in boxes. We were so small that all we did was pick the bottom of trees. I think that is why we were called rats. We were nibbling at the bottom of the trees. Then, when we got to about age fourteen, we would be like adults. We would start carrying the ladders, and then my younger brother came and worked as my rat.

Then, during the summers, we went to work up north. There I saw a lot of the injustices that farm workers had, including sometimes concerns as to whether or not they’d get paid at the end of the picking season. The housing arrangements were terrible. For several summers we lived in tents. The tents, in turn, were put in an area that was dry, but as people stepped on it, it was moist underneath. So, we had summer colds. Another time, we lived for a portion of the summer in a barn. We cleaned out a part of the barn and lived in a barn.

LABERGE: This was in the Central Valley?

REYNOSO: In the Central Valley, around Fresno and Sanger. So I saw much of what I considered injustices. Then, went to high school. We used to catch a bus, like at seven in the morning, to go to high school. In high school I joined the Y. And apparently, it must have been a very active Y, because they had a professional who worked with the Y and asked me whether I was willing to take over this group. I agreed to do so. And by that time, I must have been at least sixteen, because I had my own car.

LABERGE: The leader must have recognized something in you to ask you to be the leader of this group.

REYNOSO: Well, among other things, I was the only Latino active in the group. This was a Latino group, so I assume that was one of the attractions, but yes, he must have had some confidence in me.

I am trying to put together an autobiography. I had a summer student do some research, and did find something that I do not recall. He found a story, dated around 1948, when I would have been a senior, saying that I and some other people were organizing a group in La Habra of Mexican Americans to

worry about voter registration and voter education and so on, and I don't remember that. I was always very interested in that. I had thought, quite mistakenly, that as soon as eighteen-year-olds got a chance to vote, they would be anxious to vote, but history hasn't shown that to be true. But I know I was very anxious to be able to vote, and all that. To me it was a big deal. In terms of work — we didn't start going up north until I must have been about eleven.

LABERGE: And the whole family would go?

REYNOSO: The whole family would go. Before that, the work that I had done was those odd jobs that I mentioned to you, and then working picking citrus — mostly oranges, because lemons were picked by older boys and older men. Lemons were picked in such a way that you gauged them, and you picked only the ones that were a certain size. So it is a little bit more complicated than picking oranges. I just picked oranges, and then we started working, started going up north probably when I was age ten or eleven. The big jobs we had was picking grapes and picking plums. On one occasion, we did come as far north as Tracy, and we worked in thinning tomato fields. That is, with hoes we would cut the weeds. Then, on another occasion, we did topping of onions, near Stockton. It's the only time that I got sick while working. The onion fields have no shade to them, as you know, and you top onions by picking them up and cutting the tops off, and putting them in sacks. It must have been a very hot day, because I started feeling sick and my dad asked me to quit and go sit in the shade by a truck, and I did. I remember, when I got home that night, I had lines of salt going down my face. I think, as I stopped quickly, the sweat just cooled off and I had these lines of salt. My dad, I think, decided that was not the type of work that we wanted to do, and we went back in the Sanger area.

The whole family would come up. In picking prunes or plums, everybody worked. At that time, there was a baby in the family, and the baby would be taken out to the orchards and one of the little children would stay with the baby, and my mother and all of my brothers and sisters and I would pick plums.

I should tell you, though, that there were some incidents up there that I think influenced me. We were all picking plums and there was sort of a murmur going around the workers. I didn't quite know what was going on, but I knew something was happening. Then, all of the sudden, everybody stopped working. I think what happened was that they had learned that other ranchers were paying half a penny, I think, or a penny more per box than we were

getting. They thought that was unfair, and there was a sit-down strike. The grower then had no choice, even though he was very mad, wondered who he could fire, but couldn't find anybody to fire so he actually negotiated with the men and agreed to pay another half cent or another cent a box, and everybody went back to work. I was just so impressed that here we were farm workers, seemingly with no power, but then by working together you did have power. I am sure that it influenced me in terms of my current thinking that my faith really still lies with citizens and residents getting together and figuring out what's best for them.

LABERGE: Isn't that amazing.

REYNOSO: Then, at about age fourteen, my next job was to work as a pinsetter in a bowling alley. In those days they had boys and men setting the pins; they weren't done automatically. I got a job in Whittier, which was a little ways from where we lived. Then I started working at a bowling alley in Fullerton, in high school. While I was there then, I think I was a sophomore, my high school teacher was married to an artist. She was my high school art teacher, and he was looking for an assistant and she recommended me, and I was hired to be his assistant. So, I started working Saturdays for him. I would work Saturdays for him and then Friday nights and Sundays I would work at the bowling alley.

LABERGE: What did you do for the art teacher's husband?

REYNOSO: He had experimented with different ways of making a living. By the time I met him, he was designing wallpapers. This was after the Second World War with a big boom in construction going on. He was a full-time designer of wallpapers, dealt with people back in New York mostly. He was sufficiently successful that he needed some help at that point. My job was to be a renderer. That is, I did not design the wallpapers but once they were designed, several parts of it had to be painted in different colors for different color combinations. So he would do the design, and then I would do the painting of the — either the edges of the design, or he would do little samplers with different colors and I would do those. By that time, I had left home and I was living with a friend in Fullerton, where the high school was. Then, I think at the end of that school year, I went to live with the Randalls, my teacher and her husband. I quit the bowling alley, then I worked weekends, Saturdays and Sundays, as an assistant to Mr. Randall. I really became like part of the family. In fact, I've always considered them like my second parents. That helped me

a great deal too, incidentally, because I had always been in a Mexican household, and here they were Anglos. In fact, Mrs. Randall's ancestors went back to the *Mayflower*. So I learned very much about the Anglo world. I think that helped in my life's experiences after that. They did not have children.

LABERGE: So, they probably really adopted you.

REYNOSO: Yes, yes. They were a wonderful couple. As I say, I was like their adoptive child. They often said that I was the first of a series because, after that, they didn't live with them, but they always had young people working for them. I worked with Mr. Randall then on and off through junior college and even college, not law school. I lived with them the first year of law school, after I got out of the Army, but I didn't help him with his artwork.

I remember the Second World War very well. One of the lasting impressions I actually have is airplanes. Hearing airplanes roaring above us. When they would come by in formation, there would be dozens, maybe sometimes hundreds, and you could hear the roar from miles away, and they would fly over. I was always interested in art. I was going to be an artist at one time. I liked cartooning, and I remember all the cartoons. I could even draw them for you now. Of how Tojo was — very simple cartoons. Tojo was, I believe, the prime minister or premier of Japan, and he was the one that was characterized as the enemy person. He was the person we were supposed to hate. On the German side, there was Hitler, who was then president and dictator of Germany, and we were supposed to hate him. They all had different characteristics. Tojo wore glasses, so he had big glasses in his cartoon and big teeth, and Hitler had hair growing over one of his eyes and a big square mustache, and that characterized him. Then, Mussolini, who had a big chin, and he was the premier of Italy. I would draw them with great gusto at that time.

And then, too, during the war my dad quit working as a farm worker for a little and worked in the shipyards in Wilmington, near Long Beach, building warships. What impressed me at that time is that I asked him what type of work he did, and he brought home some samples of what he did, which was very complicated electrical work they would put on grids. What impressed me was that he hardly spoke any English, he didn't read any English, and yet, with proper instructions — he was always a hard worker — with proper instructions and with color-coded wires, he was able to do very complicated work. I have always been impressed by what employers and companies and

industry can do if they really want to put people to work, and the excuses they use very often when they don't want to put people to work.

LABERGE: Any other impressions from the war?

REYNOSO: I very much remember the message from Franklin Roosevelt of why we were fighting the war. He had four freedoms, and I remember that very clearly. I remember that one of the four freedoms was "freedom from want." I guess that struck me because we were poor, and we had just got through the Depression and that meant something. Of course, I remember all the posters, all the soldiers. I didn't know too much about what was going on between the *pachucos* and the Navy boys in Los Angeles. Terrible fights between Mexican-American youths and sailors in Los Angeles. We would just hear rumors about it. Then, the calendars. Mexican-American families so often have calendars they pick up in stores. I remember calendars of FDR with President Manuel Avila Camacho of Mexico, an American and Mexican flag. So far as I knew, all of my parents and the community and all that were very supportive of the Second World War, and we were all very patriotic.

There is one other thing and that is that the Bracero Program got started with great numbers during that time. A large bracero program was set up near the Imperial Highway, which was just a physical block or two away from our little barrio. I used to go and spend hours with the men there, talking about the progress of the war. Apparently, I kept up with the battles, and so on, because we had long discussions. They would ask me about what was happening in the Pacific front, and in the European front, and all that. We would talk about the progress of the war, and all that. I remember those discussions very fondly.

LABERGE: Why would they ask you? Because you had read the newspapers?

REYNOSO: I guess so. I guess so, because they felt that I was keeping up more with what was going on. I was always interested in public events. Apparently, I was very interested in the war and kept up with what was happening. I had decided I was going to be an artist, but I may have been thinking about the possibility of being a lawyer, because I took Latin the first two years of high school, and I seem to remember thinking that I took Latin in case I decided to be a lawyer because I understood that you needed more Latin to be a lawyer. Actually, it is not true, but that's what I had heard. So I took Latin the first two years of high school, and then Spanish the second two years.

LABERGE: Spanish Literature?

REYNOSO: No, just plain Spanish. I was already with the Randalls and I had borrowed, I remember, their new Packard, which I thought was the most beautiful car in the world. I think I was going on a date and I put on the radio, and the annual state of the nation address by the president of Mexico came on. I listened to it, and I couldn't understand half of it. He was talking about political and economic situations, and using words that I didn't understand. I thought to myself, if I am going to say that I know Spanish, I better be able to understand the president of Mexico. So I took plain Spanish.

I did well in high school — but I had to work hard at my Spanish to do well. But I had also taken — no, maybe it was in college that I took a semester of French. I guess it was in college. At any rate, I talked to the teacher about that, and the discussion went like this. I said, “Teacher, in courses where students study a language other than English, they are normally given some credit for proper pronunciation, but I notice that in this class we don't get any credit for proper pronunciation.” And the teacher said, “Oh, no. I think it would be unfair to give you credit for that because you already know it.” I thought, well that sounds fair in a way, but it is interesting how the rules always seem to be such that you don't get credit for what you know, but you get a lack of credit for what you don't know. It was just an interesting byplay, because I have always felt that whoever is in charge makes the rules to favor themselves. Here was just one other rule that seems fair at one level, but unfair at another, in terms of how you grade.

Living with the Randalls obviously expanded my wings in terms of the many interests they had in the arts and literature.

LABERGE: Were you like a family? Did you have dinners together?

REYNOSO: Oh yes, we always ate together. That is where we got into all kinds of discussions on history and art. We would have books spread out all over this table, and so on, and argue about those things and discuss them. That was a great learning experience for me. I think I belonged to the Latin club for the first couple of years, and did the Spanish club later. I played a little bit of basketball, and I went out for track for a little while. In my senior year, I think, I was elected vice president of the class.

LABERGE: This school, Fullerton High School, was not segregated?

REYNOSO: No. No, it was not segregated. Then, later I went to Fullerton Community College.

LABERGE: Where did that impetus — when did you know that you were going to be going to college, that that was what you wanted to do?

REYNOSO: I don't know, but I think I had decided very early that the only way to get ahead was to go to college, because I remember simply assuming that I would be going to college. This is even before going to the Randalls. At that time, we had a pretty good public education system going through college, so I had assumed that I could go to a public college, and just work the way I had when I was in high school.

Then my experience at Fullerton was quite different than in high school. Mostly by accident, actually. There was a practice then of asking the speech teacher to have one of their students be in charge of the first class of the freshmen at the junior college. I had delivered a couple of talks already, I remember one of the talks was on cartooning. I guess the teacher was impressed with my speech-making because he appointed — nominated me to be in charge of that meeting. Students came from all high schools around Fullerton. They didn't know one another. About the only person they knew was the person standing on the stage, so I opened the nominations for president, and somebody said, "Well, we'll nominate you." [laughter] So, before I knew it, I was nominated and elected freshman president. That got me very involved in student government, and it was really quite an expanding experience actually. Then, since I was freshman class president, I ran for student body president the next year, and I was elected, so I was student body president. I was very active in student government, which meant that we traveled a lot to Sacramento and other places for meetings. Of course, I represented the students before the administration. A gentleman by the name of Dr. Robert Swenson was the men's dean, and just a wonderful person — and I guess our advisor at the student council.

One day, in my second year as president of my junior college, as a student, a gentleman showed up, and he was the dean of men of Pomona College. We sat and talked for two or three hours, just about everything. At the end of that time — I never knew why he came, my suspicion has always been that Dr. Swenson invited him to come over to meet me, maybe meet some other people, I don't know. All I know is that I met with him for a long time, and at the end

of that discussion he says, “Well Cruz, if you apply to Pomona College and you get admitted, we will give you a full scholarship.” I figured, well I’ve got nothing to lose. I hadn’t paid attention to private colleges. So, maybe he, maybe Dr. Swenson told me about it being a small liberal arts college that had a very good reputation, and so on. So, anyway, I got admitted and I got a scholarship.

LABERGE: You continued to live with the Randalls all during junior college?

REYNOSO: Yes, yes. That was really my home until I got married. By the time I got to junior college, either as a senior in high school or very early on, I had decided that I was going to go to law school, rather than be an artist. I enjoyed art a lot, but I felt that I needed a profession where I would be more active. The Randalls were disappointed with that, but somewhere along the line I decided to go to law school. I remember they were saying, “Well, if you are going to go to law school, you at least need to meet a lawyer.” They took me to meet their lawyer, and I chatted with him for half an hour or so. I’m sure that’s why I took speech and debate and all that, because those are things that I conceived of as being important in law school.

Pomona was a very different experience than Fullerton. At Pomona, I concentrated far more on my studies. The last semester I think I got all A’s but one. Summers I worked with the Randalls. The Randalls were the only people to come to my graduation. I think my family didn’t have much of a sense of what it meant.

I hope to be going in May to the fiftieth anniversary of graduating from Pomona. But I would say that those were the two main differences that I saw. I ran into quite a few — not that many, but several — foreign students, and invariably they all came from the upper classes. They were quite different than my folks, who had come to this country — and their relatives and friends who had come to this country — simply to eke out a living, and then became part of this country. So it was a different experience growing up or being at Pomona College in terms of my classmates as compared to the public schools I had attended.

LABERGE: I bet when you go back for your anniversary, you’re probably the most famous in your class.

REYNOSO: That’s probably true. [laughter] Pomona gave me an honorary degree, and probably doesn’t give too many honorary degrees to their graduates. So, if we make it, it will be nice to go back.

LABERGE: How do we get from Pomona to the Army, and how did you make that decision?

REYNOSO: It is not difficult, actually, because I had a student deferment. So when I graduated, I called the draft board and I said, “I graduated,” and they said, “Come on down.” [laughs] I think the term that was used at that time was a “volunteer draftee.” So I was drafted into the Army, sent to, at that time, Fort Ord, in Monterey, which is where the training ground was for the western region, then went through basic training there. Then, near the end of the basic training cycle — which lasted eight weeks, if I remember correctly — I was asked whether or not I’d be willing to go into the Counterintelligence Corps. Apparently, they make that decision based on test scores. I thought it sounded interesting so I told them yes, and then they said, “Well, if you are willing to do that, then you have to stay in basic training for another cycle because it takes time to do your background check, your security check.” I agreed to do that, so we went through an advanced basic training of another eight weeks, if I remember correctly. Then, apparently, I was cleared, and I was sent to Fort Holabird, in Baltimore, to be trained to be a Counterintelligence Corps agent. They had us fill out forms asking where we wanted to go after we graduated, and I was pretty adventuresome so I put down that I wanted to go overseas, anywhere, even if it meant going to Korea. I also mentioned that my preference overseas was South America because I spoke Spanish and all that, and much to my surprise one of the officers came to me and apologized that they weren’t sending me to Latin America. I forget exactly what he said, but he indicated that he thought that I would have been the perfect person to be sent to Latin America, but I was being sent to Washington, D.C. What we did there, and it does fit within counterintelligence, is that one of our major jobs — of which I spent most of my time actually — was doing background investigation of civilian employees of the Army. I did have at least one really interesting assignment, again working with another officer. I say “another officer” — actually, I never became an officer. Though people didn’t know it, and they treated me like an officer because I was in civilian clothing. I was actually a “specialist second class,” which is something akin to a corporal, which is only above a private first class, which is only above a person that has no standing at all in the military. [laughter] But this fellow and I had to do a security check of the White House. That was fascinating.

LABERGE: That must have been interesting for you just to be in Washington, to be someplace else other than California, in a whole new environment.

REYNOSO: Washington was still a segregated city at that time. This was '54 now. I remember this fellow and I were working in the White House, or in what's now called the White House Annex next to the White House. It was lunchtime, so I saw a little restaurant across the street and I said, "Why don't we go over there?" And this fellow, who had African-American friends, said, "Well, I don't think you want to go there," because he knew my own feelings. I said, "How come?" and he said, "It is a segregated restaurant, Blacks aren't allowed," so we skipped that.

By that time, I knew enough about the Army to know that they could do it if they wanted to, because I had seen occasions where there had been fights or some other problems in establishments near the fort — nightclubs, and so on — and it would be declared off-limits. And in an area that has a lot of soldiers that was terrible for the business. If they had declared the movie houses off-limits to soldiers, I'll bet you that they would have integrated in a few minutes because they needed that economic support. So, I felt very badly that the military was, from my point of view, unwilling to protect our civil rights, and yet there was no question that we were soldiers, we were in uniform. The most important thing that happened back East was that I met my wife in Washington, D.C.

LABERGE: Tell me that story and the George Washington [University]. How you met your wife.

REYNOSO: What happened, in terms of George Washington, was that after I had been in Washington for a little while and saw the pattern of my life. I saw that I had evenings free, which was not something very usual for students who have to be studying all the time and so on. Then I was a little bit afraid that I would lose my student skills by being out-of-pocket for a couple of years and then going back to law school. I decided to take a couple of courses, at night, at GW. So that's what I did. I took a history course and an economics course.

LABERGE: Had you already applied to law school?

REYNOSO: No, but I had planned to go to law school. Meanwhile, after I had been in several apartments, two of us decided to go into a boarding-house on Sixteenth Street, a few blocks north of the White House, and I met my wife there. She was an employee, a clerk, with the FBI. Interestingly, she

had been recruited by the FBI. I have never heard of anybody else being recruited the way she was. I am sure it must have been a program at that time, because Hoover always had an affinity for Southern folk, and my wife was raised in east Tennessee. She had graduated from high school, had done very well, but she came from a very poor family. It is interesting that, even though there were no racial or other differences where she grew up, there clearly must have been some economic differences, because she was never encouraged by any teacher to go on to college or to think about college. She thought she might like to go, nonetheless, but she had to work to save some money. So she started working, first for an uncle in a restaurant, and then worked in a store in Oak Ridge, Tennessee, in a five-and-ten, as a clerk. While she was at that store, a well-dressed gentleman approached her and said, “Would you like to go work for the FBI in Washington, D.C.?” It became clear to her that she had already been checked out. They had checked with her school and other people, who had apparently highly recommended her, and so, even though she had never applied or anything, they recruited her. She thought about it, and she said, “You know, that might be an interesting thing to do.” So she accepted and went to Washington. At that time, the FBI was a very paternalistic organization, literally. Which had good and bad qualities to it, of course, but for my wife they turned out to be good qualities because they gave them a list of places where they could go to live that had been approved — apartments and boardinghouses and all that. They really were very concerned that the young people they apparently recruited or worked for them, were well protected and all that. So, she to this day, has very warm feelings towards the FBI.

LABERGE: What is her name?

REYNOSO: Jeannene, and she is sensitive about the spelling of her name because there are a hundred different ways of spelling Jeannene.

LABERGE: There are. What was her maiden name?

REYNOSO: Harness.

LABERGE: You met then, but were you married before you then went to law school?

REYNOSO: No. Well, you know, we came from very different backgrounds, and we weren't engaged, weren't planning to marry. Then I came to law school, and she came out to visit on one occasion. I was still living with the Randalls

in those days. Then, during the summer — I really had forgotten this, but on one occasion, Mr. Randall said something like, “Isn’t it cheaper to just marry the girl than spend all that time on the phone?” [laughter] So, I thought, “You know, that makes sense.” I think that I proposed on the phone and she accepted.

LABERGE: How do we get from there to law school? What did you have to do?

REYNOSO: You know, it’s funny, but I only knew of three law schools in California. That shows you how little I knew. I knew of Berkeley, UCLA, and Stanford. I applied to all of them, and I was admitted to all of them, and that’s before the LSAT [Law School Admission Test]. But Stanford was too expensive and UCLA was in Southern California, and I wanted a change of atmosphere, so I went to Berkeley. Many young people, including my own children, are very impatient to grow up and all that. Somehow, for some reason, I didn’t seem to have that. That is, I knew that I went to law school because there were a lot of people that needed help that I could give, and I knew that those needs would still be there when I graduated. So, I was looking forward to becoming a lawyer, and I went to law school to become a lawyer. I didn’t have the foggiest notion about teaching law or clerking or doing anything else, other than being sort of a traditional lawyer, and my hope was to go to a small town. In fact, that’s what I ended up doing. I thought that, in fact, Boalt Hall gave me a good education, and I did learn those things. Boalt, at that time, had a moot court exercise for first year students, and we did very well in that, and got first prize and honorable mention or something like that.

LABERGE: Any of the professors, particularly, who influenced you or do you have any memories of wonderful lectures or — ?

REYNOSO: Actually, I enjoyed [William] Prosser. He was always a funny guy.

LABERGE: He taught Torts?

REYNOSO: He was the tort guy, yes. We used his casebook. Torts to me was interesting because it was the law, but you could always see the public policy behind the law, and you could see that the law, in a way, uses terminology that sounds very scientific, but in fact is not. There are policy reasons behind those rules, but once the rules are made, the law often pretends that it is beyond public policy. It is sort of like a God-given rule, you know. I think that I was able to see much of how the law functions in torts. Then we had a gentleman whose name was something like Llewellyn, I forget.

LABERGE: [David W.] Louisell?

REYNOSO: Louisell had come from Minnesota. He was, I think, the most warmhearted person, professor, that I had in terms of his sensibilities. But the professor that I really liked most was Frank Newman. When I was there he taught Equity. That was the only goal, he had practically forgotten that. And I was fascinated by Equity because that dealt with right and wrong, and it called on judges to exercise their notions of right and wrong. Not only did the subject matter fascinate me, but Frank Newman was the only professor that invited all the students to his house, and I still remember that very favorably. So, I really liked Professor Newman.

LABERGE: Were you on the Court at the same time with him?

REYNOSO: I was. Yes, yes. But I don't know how much any of the professors sort of influenced me. I don't think my basic notion of right and wrong and those sort of things really changed.

LABERGE: What about other minority students in your class? Were you the only Latino? Were there any women? Were there any African Americans?

REYNOSO: In my class, when we started there was an African American who dropped out. I heard that he went back to school later on. So, for most of the time that I was there, there were no African Americans in my class. There was one Asian American, and yours truly as a Latino. There was a grand total of two minorities in the class. I had always remembered three women in our class, but I was recently reviewing or looking again at our graduation picture and there appear to be four women. So, that was the diversity that appeared in our class.

We didn't have minority organizations. We didn't have political organizations. The whole thrust, practically, of the sixties in organizing those types of organizations really did not exist when I was in law school. And, I must say that, as I indicated earlier, I knew there were all these issues around, but I knew that there would be time to face them. The only extracurricular activity that I remember, that had a social base to it, was in politics. Governor [Edmund G. "Pat"] Brown was then running for his first term as governor. That was the year that the Democrats took over the state. It had been a Republican state most of the century. So, it must have been in '56, yes, that Pat Brown and all the other Democrats were elected. There was a Latino running on

the statewide ticket. He was running for secretary of state, and I had met a lawyer in San Francisco who was running his northern campaign, and so he got me involved a little bit. I had a big poster in my carrel, and I would get a lot of kidding about it. He was the only Democrat to lose that year. I felt that things were not quite right, politically, when every other Democrat got swept into office, and [not] the only Chicano candidate for secretary of state.

LABERGE: What was his name?

REYNOSO: His name was Henry Lopez. I knew him very well, then and for a long time afterwards, actually. Brilliant guy who had graduated from Harvard. Grew up in Denver, and was very active politically for a while after that, including the Kennedy campaign.

LABERGE: You've done a lot of teaching. Tell me some about the approach you take with your students.

REYNOSO: Well, it is certainly more informal and more conversational than the classes that I had, and I am sure that's based on my own notions of what I liked and didn't like about teaching in law school. I should tell you that I first started teaching on a part-time basis. When I was the director of California Rural Legal Assistance [CRLA], I got a call from the law school at Berkeley, Boalt Hall, asking if I would teach a seminar on — I forget what it was called; whether it was Poverty Law, or Latinos in the Law, or something of that sort — but I had agreed to do it, based on the cases that we were then handling in CRLA. So, I taught a seminar and I enjoyed it. Then I got a call from UCLA, and they asked me to teach a seminar, which I did. Very much the same sort of seminar, and I enjoyed that. Then I think I was asked to teach a seminar in Chicano Studies at Berkeley, and that was a little bit interesting because, at that time, they had a student committee that met with professors who were going to teach, and they wanted to be sure, I think, that the professors were well qualified in Latino and Chicano culture, I guess. And clearly the young people there didn't know who I was or my background. So when we started talking, and they found out what I was doing and so on, why, then I passed! [laughter]

At that time, too, maybe the last year or two that I was the director of CRLA, I started getting phone calls from not only Berkeley and UCLA, but from other law schools asking whether I was interested in teaching. And I confess that I had never dreamed of being a law teacher when I went to law school, because I had gone to law school to become a lawyer. But I kept

getting these phone calls. One time a professor from New Mexico came and visited with me in San Francisco and we must have spent an hour or so talking. Shortly thereafter, I got a letter from the dean in New Mexico, "We had a report from this professor, he was very impressed with you, and we would like you to come to visit the law school in New Mexico." They said, "It is not a recruiting trip, because we don't have any openings now, but we would just like to get to know you and get to have you know us." And so I did go out for two or three days, I forget.

LABERGE: This is in Albuquerque?

REYNOSO: This is the University of New Mexico in Albuquerque. I visited with them and with the law school, and I must say that I was really taken, both by the people that I met and by the law school itself. They were doing many things that I thought were the right things to do, including the fact that they had a very active clinical program. The students not only learned in the classroom, but then learned by doing, if you will. I was pretty impressed by them. Then, when I got back to California, either several weeks or several months later, I got a letter from the dean. And it is the type of letter of which, the type of which I have never received before or after. It was really a warm letter where he said, "Well, we unexpectedly had an opening, and the folk here really liked you, and we would like to offer you a job as a law professor." And then it went on to detail. "We would hope that you could come next fall." I think they even told me how much I would be earning and how much I would be teaching. It was just warm and yet specific at the same time. That was a new experience for me, because I had had the experience of people calling and sort of asking whether I would be interested in that or something else, but never quite that specific.

I was impressed by that letter, and I discussed it with my family and with the board — because by that time at CRLA we had gotten through big battles with Governor Reagan and things were going smoothly. I had been with CRLA for about four years, and I had never conceived of myself as staying as a poverty lawyer for the rest of my professional life. I discussed it with our board chair, and we agreed that if I were to leave, that was probably a good time to leave because things were going smoothly and so on. Eventually I accepted the position in New Mexico. I must say that my wife was not particularly excited about going to New Mexico, but we did go.

LABERGE: What did you teach?

REYNOSO: In New Mexico, I actually taught courses different than what I am teaching now. My basic courses were Constitutional Law and Labor Law. And then I taught a series of seminars and other courses on Consumer Law and Poverty Law and on Real Estate Law in New Mexico. In fact, it turned out that that seminar that we had on Real Estate Law had to do with the old system of land ownership in New Mexico. And all of the students who signed up were Spanish speaking. They all had an interest in that. So, we decided to conduct the class in Spanish. I knew something about it but I had to educate myself. Actually, I had read quite a bit about it because that was the basis for much of the political turmoil at that time. There was a fellow by the name of [Reise] Lopez Tijerina, and there had been actually some violence in New Mexico over the ownership of land, particularly of communal land. But then, when I was there, I not only taught seminars. One summer I was asked to teach one of the courses — and I was a classroom teacher; I wasn't a clinician — but I was asked to teach a clinical program course. Since that time, New Mexico has been particularly good on allowing professors who are classroom professors to teach clinical programs and visa versa, which I think is a good way of doing it. Incidentally, the letter said they would make a tenure decision on me in two years. Basically, they would be making it on things that I had done before I got there, I suppose. But, anyway, they did make the decision, and I was tenured in two years. In the UC system it takes a little bit longer.

The summer program that I taught was actually a misdemeanor clinical program, where the students handled cases of folks accused of criminal misdemeanors. And it was really exciting to see the students do the preparation they did, and it was just misdemeanors, so the judges very often didn't get a really well-crafted written motion and all that. I used to tell them that we wanted them to learn how to do it right. Then, if they wanted to take shorthand shortcuts, as do many private attorneys, they could do that later. But we wanted them to do it completely. So they would often file pre-trial motions and all that, which I am sure the judges in that court weren't very used to. I remember one time when I was with one of the students, and she said "May it please the court, I have a pre-trial motion to make," and the judge leaned over, put his glasses down, and said, "Oh, I'm sure you do, counsel." [laughter]

I had been a practicing lawyer at that time for some years. So I thought that was a very important part, and I have found that to be true even now.

When I was a judge, I would have externs and very often they would comment to me how valuable it was in their learning to finally put all those theories to work in those cases as the issues came up of: What evidence is admissible; what isn't? What standard of care do the judges use? Were the instructions given by the trial court judge proper or improper? And all of that. Their experience with me was a practical experience. And that helped them also get back into the classroom and find out how important — what their learning in fact is. Whereas, when you don't have that experience, it is just harder to put it all together.

I came back to become a judge, and then, when I left the judiciary, I started practicing law again. And practiced for two or three years, and then I got a call from UCLA, asking if I would be willing to teach there. So I started teaching at UCLA, and I was there ten-and-a-half years before coming to Davis, two, two-and-a-half years ago. I came here for two reasons. One, because they offered me a very nice academic chair for the Study and Teaching of Freedom and Equality [Boochever Chair]. I figured that no lawyer could say no to that. And then secondly, my family home is still in Sacramento County. So it made a lot of sense for me to accept this position, and I have been very pleased here.

LABERGE: Next, I have down that you were — well, two things. That you practiced law, and that you were a legislative assistant to State Senator [William] Beard.

REYNOSO: Yes, yes. I called the law school. It will give you a sense of how things have changed — the associate dean was also the placement officer at that time. So, I talked to the associate dean, and he says, “Well, I've got this list of people who are interested in hiring.” The first place we went to was El Centro. They had an opening for a lawyer and for an assistant. The Legislature had just approved, for the first time, a regional assistant, a representative, for the state senators. And that was to be a half-time job. I went down and I met one of the partners. There was just two partners, the senator and another partner. We liked the area. We were on our way to Santa Cruz to interview with a lawyer when we decided that the job in El Centro looked pretty good. So we called the lawyer in Santa Cruz, maybe one other place, and cancelled the appointment, called the lawyer in Bakersfield and told him that we had accepted another job, and started practicing law in El Centro.

LABERGE: And what were you going to be doing?

REYNOSO: The job was to be a half-time job as the assistant to the senator, and a half-time job working at his law firm. With respect to the senator, it was my job to meet constituents, to go out to meetings, and all that sort of thing. It was a perfect job for me, because I was new in town and that gave me an entrée to meet all of his friends and all that. Very quickly, I seemed to know practically everybody in Imperial Valley. I practiced law at this firm, and I did all kinds of things. I sometimes mention to my students that there is a whole field of law that I had never heard about when I went to law school called “workers’ compensation,” and because I was the only native-speaking, Spanish-speaking lawyer in town, many of the farm workers who got injured on the job started to come see me. Then it turned out that many lawyers didn’t like accepting workers’ comp cases, so they started referring workers’ comp cases to me, and before I knew it — by the time I ended my practice in El Centro, probably a quarter of my work was workers’ comp work, an area that I didn’t even know existed. So I always forewarn my students that they still have a lot to learn once they start practicing law. But I did all kinds of work. I still remember my first trial.

LABERGE: What was it?

REYNOSO: An old cowboy had had a shed built by a contractor, and he felt that the contractor had done a terrible job, so he didn’t pay him, and I think the bill was a thousand dollars. It was a case that the law firm already had, but it was a small case, so I was asked to defend the case. No jury. So, we went before a judge, but it was my first case so I was determined to do it right. I went out to look at the shed myself, and I looked at it and ran my own judgment, then I hired an expert witness to testify. So we went into court, and with all the preparation I had done, it was hardly a contest. We won hands down. [laughter] The lawyer on the other side was very angry, and I think that he felt that it was unfair of me to hire an expert and do all that work on a lousy little case of a thousand dollars where he thought it was going to be a “he says, I say” sort of case, you know. But it didn’t turn out that way. That lawyer later became a judge, and I always thought that he was not quite friendly. I think he always remembered what probably was a humiliating defeat for him. Here comes this young kid, and the case turned out to be an easy case for us to win because if you have an expert, they’ve got to have an expert on the other side to counter your expert. Well, those were the days before you had as much pre-trial discovery as you do now. So, we didn’t tell

him who our witnesses were. He didn't know that we were going to come in with an expert.

LABERGE: You were telling me, the law school at Berkeley called you —

REYNOSO: Yes, the *Law Review* called to see if there was a book that I remembered reading that influenced my life. And I told them, "Sure, I remember one very clearly." It's a book that I read when I was a teenager, by Carey McWilliams, called *North from Mexico*. It was the first time that I had read a book like that, or even an article, recognizing who we were as Mexican Americans, so it made a great impact on me. He asked if I would review the book. I must have mentioned to you, that, as a youngster, one of the things that was disturbing was that we felt isolated because nobody that I knew that was Mexican American had an official position. The storeowners weren't Mexican Americans, the post office, the postmaster — postmistress, actually — was not Mexican American. I just didn't see that representation in the community as a whole, and I think there is an impulse among folk to be recognized.

In part of the book, Carey McWilliams mentions that there is a lot of evolving to be done in the Mexican-American community. For example, he says he wasn't able to find biographies and autobiographies of Mexican Americans. He thought that that would be a phase of evolution, of maturing of the Mexican-American community. So I asked my research assistant if he could find books that I will put in a footnote on biographies and autobiographies, and sure enough he found, what, eight or nine. And then, at that time, there were very few — no books on Latinos and Mexican Americans, and I asked him to just find several books on Mexican Americans — I know there are a lot around — and he found maybe a dozen. So, I will just put in some footnotes. I think Carey McWilliams would be pleased to see that evolution. I am not sure that I learned that much from the book, but it sort of fortified the things I was learning, sort of fortified the notions that I was developing about where I fit in society being both Mexican American and American. And he even has a discussion there of the 1930s, when so many Mexicans were deported to Mexico, and the experience of folk getting to Mexico and recognizing that, even though here they are referred to as Mexicans, when they got to Mexico they were as much Americans as Mexicans. And the Mexicans made fun of them because they either didn't speak Spanish very well or their customs were different, and so on. I'm often reminded of that when I remember,

when I went to Mexico — and I may have mentioned this to you — after college, many of the young students that I met around the university were very derisive of Mexican Americans. And they would tell me that I was one of the few Mexican Americans that they had met that knew about world history and about Mexican history and about literature and all that. Because they would say, “We’ve got cousins up there, and they are all so ignorant.” They were very derisive. You sort of have to figure out where you fit in society, and I am sure that I was going through that process. I had evolved quite a bit by that time. I was living with the Randalls, so I knew a lot about, on an intimate basis, Anglo-American life, so I think I had sort of figured most of those things out by that time. But to have it black and white, and to have him confirm, not only what you knew about the unfairness of society, but also the hopes that he had for Mexican Americans. It was really to me greatly uplifting.

One of the more memorable experiences that I had was when I was there only about six months maybe, and there was a strike by farm workers. That’s before Cesar Chavez started organizing. This was the AFL-CIO Agricultural Workers Organizing Committee as they called it, AWOC. They were trying to organize farm workers. They never succeeded, but they were trying. And they called a strike. We had this wonderful judge, I really liked him, but he obviously hadn’t kept up with the constitutional law for a while because he ordered all of the picketers to stop picketing. Well, you can’t do that — there is something called the First Amendment. He didn’t say, “Don’t be involved in violence.” He didn’t even say, “One picket every ten feet,” or whatever. He said “NO picketing.” Well, as you might guess, they continued picketing, and he ordered them all arrested. And they all ended up in the tank. At that time, the rules permitted the jailers and lawyers to go into the tank. So the lawyers representing the workers called me because they were all Spanish-speaking, many of them monolingual Spanish-speaking, called me to see if I would go see them on their personal needs. I wasn’t representing them. So I agreed to do that. I viewed it as a mission of mercy. I went down and interviewed them, and got names of spouses they should contact and medical needs and that sort of thing, then I reported to the lawyers and went back to my office. My office was no more than about a block away from the jail. Nonetheless, when I got there, my two partners were there. They were very concerned that many of our clients who were growers were getting angry, and we were taking sides in an economic battle, and all that. And I remember thinking to

myself, “You know, I became a lawyer to help people.” I didn’t charge them or anything; this was a mission of mercy. Fortunately, the rules permitted us lawyers to go in. Nobody else could go in. And I remember thinking to myself, “Well, if my colleagues become that unhappy with me, fortunately I have a little card that says ‘Attorney at Law’ and I’m independent and I can set up my own shop.” Well, it never got to that, but I remember having to think very quickly about what it means to be an independent professional. And, you know, I wasn’t going to give up on the things that I had become a lawyer to do. I still remember that very vividly.

LABERGE: How did that affect your then going to do other things besides practice law, like work at the EEOC or at the CRLA?

REYNOSO: Well, that has a lot to do with the political environment, and so on. And as always, it was shifting. While I was there, I was very active politically because I had been with a senator. He was, unfortunately, defeated. He was a Democrat. But, interestingly, he was defeated by another Democrat in the primary. He always blamed the fact that he had voted against the death penalty as being the reason for it. I don’t know whether that was true or not, but he was barely defeated, actually. In fact, there was a recount because it was so close, but he was defeated, so he left office. I stayed with the firm for another year, year and a half, and then opened my own office. We were very active politically during that time then. That was ’59, and in ’60, I guess, Kennedy was running for office. Another fellow and I were co-chairs of the Viva Kennedy club in Imperial County. And we succeeded in having, at that time, the biggest dinner rally that had ever taken place in Imperial County. So we were quite proud of ourselves. I still remember the one joke I have ever written and told, and you are about to hear my one joke. It was very well received. Kennedy was running against Nixon, and at that time, the highway patrol was beginning to ticket people who had stickers on their back window. That was very common in those days, but the highway patrol had decided that it impeded the view, so they started ticketing people. I told the crowd there that a highway patrolman had stopped this person with a Kennedy sticker and he was getting this ticket. And while he is being ticketed, a car passed by with a Nixon sticker, and he wasn’t being ticketed. And he said, “How come you are ticketing me, but you aren’t ticketing that fellow with the Nixon sticker?” And the

highway patrolman: “Well, anybody can see through Nixon.” [laughter] That was the joke.

Based on my political activity, I think, I was asked if I wanted to run for the Assembly, four years after that. So, I ran for the Assembly. I had helped many candidates run for local office and all that. And in politics, it is a matter of, you help somebody and hopefully they will help you later. But it was interesting that when I declared, after I had been asked to run, several people whom I had helped were reluctant to help me. They were in favor of helping another person running in the Democratic primary. It turned out that that person hadn’t registered when he had moved, and so he couldn’t run. Those same folk then did help me. Now, it may have been just their assessment that I couldn’t win. I had only been in the Valley five, six years, and no Latino had ever run for countywide office. That was before reapportionment. But then, we had another opponent in the primary. He was the mayor of Brawley, which was the second largest town. Everybody figured that the mayor would win the primary. And much to everybody’s surprise, we won by about 60 percent of the vote. Suddenly it became an exciting race. We were running against an incumbent and eventually lost, but it was an exciting race.

I had met a gentleman, and I had really liked him, and he apparently liked me, when the senator was still a senator. And this fellow was a special assistant to the governor. After the campaign, I was appointed to be the assistant executive officer of the Fair Employment Practices Commission by Governor [Edmund G.] Brown [Sr.]. I was told that by this fellow who was in the governor’s office, who then told me the following. He said, “Cruz, as different positions have come up in the governor’s office that I thought you would be good for, I have recommended you to the governor. But he has always had his appointments secretary then check you out. His appointments secretary was his sister. His sister had a way of checking people out where she checked with former police chiefs and FBI agents, and you always came back as a very suspicious guy. So, I was never able to get you appointed.” He said, “She retired.” Actually Art Alarcón — now a very conservative judge, very conservative person, but who obviously had a very different view of what you look at — was appointed appointments secretary. And when, apparently, the first opportunity came up, he recommended me for this position.

LABERGE: Who was your friend in the governor’s office? Because that must have helped too. The fact that you had a friend there?

REYNOSO: Yes, yes. Though I really didn't even know he was a friend. I mean, I had just met him. Bill Becker was his name. And I got to be very good friends with him later when I had more contact with him. So, that's how I ended up with the Fair Employment Practices Commission, and worked there for about a year and a half. And then I was asked to be a staff secretary for Governor Pat Brown in Sacramento, and I worked there for about three months. He was not successful in his reelection campaign against Ronald Reagan, so I returned to my law firm for about six months. And then I got a call from Washington D.C. from the new chair of the commission, the Equal Employment Opportunities Commission, who invited me to go back to be interviewed and meet him, and he offered me a job as associate general counsel [in 1967].

LABERGE: And who was the chair?

REYNOSO: Stephen N. Shulman was chair. [Sep. 14, 1966 – Aug. 3, 1967]

LABERGE: Before we go onto that, tell me what you did at the Fair Employment Practices Commission.

REYNOSO: The Fair Employment Practices Commission dealt only with employment. We handled complaints that came in pertaining to employment matters. We were involved in training state officials and others on equal employment laws. One of the big projects that I was involved in — and was placed in charge of it — was doing a study of testing for employment purposes, because that was one of the vehicles that had proved deleterious to the efforts to have equal employment. So we had a task force of very prominent people in the testing field from throughout the country. It was very interesting.

At first, all of the people we had appointed for the advisory committee were very professional and very correct in how we were handling our studies. But, as I got to know them better, they started relaxing a bit more, and near the end of many months of working and testing, this one gentleman — whose name I forget, but he was *the* most prominent person in the personnel testing area — said to me, “Well, Cruz,” he says, “If you really push me on whether or not our tests actually test what employees will be doing, I'd have to take the Fifth Amendment.” He says, “Our job really is not to test what people are going to be doing and whether they are the best people to have that job. Our job is really to come up with a test that appears to be fair, and thereby cutting down the number of folk that the employers need to interview or need to consider. For example,” he says, “at that time, clerk/typists was a very popular

employment, and clerk/typists, we all know that a clerk/typist spends very little time typing. They file, they meet, they greet whomever they are dealing with. They do all kinds of things. Nonetheless, our recommendation was that we give them a typing test, and whoever types the greatest number of words per minute with certain accuracy factors is the most qualified.” He says, “You and I know that doesn’t really test what they are doing, but that appears to be fair, and that way they can take the top three people, interview them, and make the decision. It saves the employer money.” So, I thought it was a — to me I have always remembered that because it was revealing in terms of what the real role of tests is. And very often, it has little, some, but little to do with actually testing what an employee is going to be doing.

The Fair Employment Practices Commission is a state commission, actually established by the state of California before the 1964 Civil Rights Act, which established the Equal Employment Opportunity Commission, and indeed, the federal commission was patterned after the California and New York experiences in setting up such commissions. So, it is very important in a historical context.

LABERGE: Who else served with you?

REYNOSO: The chair when I first joined was Ronald Dellums, the uncle, I believe of Congressman Dellums. He is the more prominent person that comes to mind.

LABERGE: For instance, just what that one person told you about having the test appear to be fair, how did you change it? If you did.

REYNOSO: What we eventually did, and actually I have some place that we actually published a report on testing that then was sent to all the employers, and so on, including cautionary provisos. My job was to a large extent administrative, to make sure that the cases were being processed. To be in touch with the office in San Francisco and the office in Los Angeles, and be sort of a troubleshooter and person who in some ways was the person who did most of — not all, but much of the public speaking and that sort of thing for the commission.

LABERGE: Okay. And then when you were briefly a staff secretary to the governor, tell me what you can about that. Any anecdotes, or what you did?

REYNOSO: Well, there were a lot of little things that I was asked to look at, but the major thing that I remember looking at was that, at that time, there was a rumor that the highway patrol in the state of California had some sort of a sweetheart deal with Ford Motor Company. They were buying cars from Ford Motor Company without following all of the proper state procedures. And that was during the time that the governor was running for reelection, so I don't know whether he was concerned that in fact there may be something wrong there and it would be used to attack him or whether he just heard these rumors and wanted them checked out. I was asked to investigate that. That was the single most interesting thing that I did, and what really impressed me was that, as a lawyer, you have to struggle to get information from parties. And it just amazed me how, when I would call people and I would say, "This is Cruz Reynoso, I am calling from the governor's office. The governor asked me to look into these matters." And all the files would open up for me. I would talk to people, I would read files and all that, and then I eventually gave the governor a report. I couldn't find any wrongdoing at all. But to me, it was just fascinating to see those doors open just because you were with the governor's office. I worked closely with, by that time, *the* staff secretary. I was *a* staff secretary working with Winslow Christian, who later was appointed to be a judge.

LABERGE: There is an oral history of him.

REYNOSO: Oh, good. I think probably it would be important to have as much oral history as possible around Governor Pat Brown, because I still consider him the last great governor that we have had in this state.

LABERGE: Yes, yes. There is a whole set called the Knight/Brown Era. And that's why Winslow Christian was interviewed. In the process, did you also get to know his son? I was wondering how that came about.

REYNOSO: You know, I met him only once, and he was then a very young person, and my recollection was that it was some informal gathering at the governor's mansion. Pat Brown was still in the old governor's mansion — which I loved; I really was unhappy when Reagan decided to leave it — and I think he was just sitting by the pool, and we said hello and that was it. I didn't really consider that I knew him.

LABERGE: But later on you got to know him?

REYNOSO: Well, strangely, when I was with California Rural Legal Assistance later, one of our staff attorneys had gone to work for him when he was secretary of state. And he said, “Cruz, you gotta meet the secretary of state, he is a very interesting guy.” So, he invited us to come to Sacramento, and we came — another fellow and I came up, and we must have spent two or three hours with Jerry Brown on that occasion. That’s the one and only time that I remember really sitting down and talking to him ever before I was appointed to the benchright. I think that my later appointment to the bench came not because I knew him, but because I knew other people around him.

LABERGE: Who suggested — ?

REYNOSO: Who no doubt suggested me for that position. And then I had met him. He obviously knew about me because he was an admirer of Legal Services [Corporation] and I was the director of Legal Services. He was an admirer of Cesar Chavez and I worked with Cesar Chavez for many years. I wasn’t around when he ran for governor; I was in New Mexico.

LABERGE: Tell me your impression of Pat Brown and why you think he was our last great governor?

REYNOSO: Pat Brown was interested in governance, to a large extent, which I don’t think any governor since that time has really had that interest: Looking at the whole state, seeing what needed to be done, taking the steps to do the things that needed to be done. We may or may not agree with the water policies and all that, but it was a studied approach to the needs of the state, and then an effort to implement them. To have a plan of where you want to be or where you think the state should be in five or ten or twenty years, and then working toward it. It seems to me that since that time, we have had every governor looking way ahead for say the next twenty-four hours maybe, maybe for the next election, but certainly not five or ten or twenty years. As a whole. Now, some may, in given issues.

That doesn’t mean that I agreed with Pat Brown on everything. I was active, as I indicated, in trying to help the farm workers, and we tried to pressure Pat Brown to meet with Cesar Chavez. Finally, he agreed to meet with Cesar Chavez, and we celebrated! Not that he had agreed to do anything; just that he had agreed to meet with him. So, you know, in politics and public life you don’t always get everything that you want, but he had that vision of California, and then tried very hard to implement it and to work with the

Legislature. He was a very gregarious person, remembered names and all that. The last time I saw him was at UCLA, where he had come to talk to students, and I ran into him at the faculty club. He was having lunch there with another professor. And he was just always a very friendly, very gregarious person, and at the same time a very serious person. So, I just think that he is the last governor that we had that really took seriously the notion of governance. And by contrast, look at our current governor [as of interview date, December, 22, 2003, Arnold Schwarzenegger].

LABERGE: Tell me about your involvement with Cesar Chavez, because this is the same period of time, and what you were doing in that area?

REYNOSO: Cesar Chavez was the staff director for a group that I joined when I started practicing law in 1959 in El Centro. A new chapter had just been formed, or was being formed, of a group called Community Service Organizations — CSO would be the initials. And at that time, Cesar was the staff director — in fact, the only, I think, full-time person. Dolores Huerta would also work for the CSO; I don't think she was full time.

I met him through the CSO at the various meetings that we attended quarterly, when he would come down to El Centro. We had various campaigns — for example, campaigns to register voters, campaigns to get out voters, campaigns to, at that time, get a statute passed that guaranteed a state pension for older people. These were all statewide campaigns where we tried to get hold of the legislators, and all that, and Cesar was very active at doing all of that. Then a time came, maybe a couple of years after I had met him, where he was in El Centro meeting with the chapter in one of those efforts, and he suggested that we go out and talk after the meeting, which we did. I remember we went to a Chinese restaurant in El Centro, and we talked until late that night, and he was telling me that he was thinking of leaving CSO because even though he loved CSO, CSO had chapters in cities as well as rural areas. His principal interest was in working rural areas and working with farm workers.

For example, he had been very involved in the Oxnard area in organizing local farm workers who would then show up en masse at the door of growers and say, "Here we are. We're ready to work." And they would do that because, at that time, the Bracero Program was in force. And braceros were supposed to be used only if there was not local help available. Well, clearly there was local help available. So it was one way of pressuring the government, the federal

government, to eventually do what it did, and that is to terminate the program because it was really an exploitive program when there were plenty of local workers who were willing to do it. Sometimes they would need to be paid a little bit more, but that's supposed to be the way the free enterprise system works. He was very interested in the plight of the farm worker and told me that he was thinking of leaving to organize farm workers. Not as a union, but like the CSO, as a self-help organization. The CSO would establish, when it could, credit unions. And all of the chapters had a mutual funeral aid society because the members were poor and so when somebody died, the poor people would pool their resources, and this was a way of pooling resources ahead of time to help with the burial of individuals. As I said, it was a self-help organization, and that's what he hoped to do with farm workers, and indeed that's what he did for several years as the farm workers movement got stronger.

I think I mentioned to you that I've read articles or biographies that say that he always wanted to be a labor leader. Well, if so, that's different than I remember it, because, from my many discussions with him, he was very suspicious of labor unions. He had very much in mind, for example, a labor union strike of farm workers that took place in Imperial County — as they did other places — organized, at that time, by what was called AWOC, the AFL-CIO Agriculture Workers Organizing Committee. And the strike failed. When it failed, of course, the organizers left the area but the farm workers were left, and they were blackballed, and so on. So he was very cautious of a traditional labor organization effort at organizing farm workers. Further, labor had tried on and off for years to organize farm workers and they had never succeeded. Because of the vagaries of the pool in California, the tradition had always been to have many more workers available than were required. That's the way we were set up politically and economically. So the growers could always draw from that pool, but that meant that off-times you had a 20, 30, 40 percent unemployment rate among farm workers because they needed a pool that would meet the highest demand of the growers. It put the farm workers in a very disadvantaged, disadvantageous position in terms of organizing.

There was quite a bit of soul searching, I have no doubt, when finally the farm workers, headed by Larry Itliong, called a strike and asked the farm workers headed by Cesar Chavez to join them. Finally, Cesar Chavez and the farm workers decided that, yes, they would turn the farm workers organization into a farm workers union. It was not a farm workers union until

that happened. And though I never had an in-depth discussion with Cesar about this, I am sure what happened was that, after several years of self-help, I think they recognized that self-help was not enough. That economic and political forces set against advancement by farm workers was just too great. They needed greater power, and that would come about perhaps through a union. But I think Cesar also recognized that the traditional approach of unions couldn't work, and so the genius really of what Cesar did, I think, was to combine the lessons learned from the civil rights movement with the labor movement. And that's what they did by calling on boycotts, by picketing, by propagandizing the plight of the farm workers. Really, there was a combination of Walter Reuther and Martin Luther King that I think really expressed the approach that the farm workers had.

LABERGE: And did you have any part of that in advising him or helping to organize or — ?

REYNOSO: No, not really. I would see him from time to time after he left the CSO, but I was never in the inner group of that organizing effort. Later, he and I both served on the first board of California Rural Legal Assistance, but even then it was not an intimate relationship. The last discussion I really had with him before he died was in 1986, I believe. We had a sit-down talk, and the main thing that I remember from that was — there were a couple of things. One, that they were increasing their more formal propaganda at that time. But the thing that I really remember is this: He mentioned that, that year or the previous year for the first time, they had gotten more monetary support from East L.A. than from West L.A. That was interesting because they always had a lot of support from white liberals and the Jewish community. Of course, the Latino community is poorer too, but that year he said they reached a new milestone where they got more economic support from East L.A. than from West L.A., which I think was interesting in terms of the evolution of the Latino community in California.

LABERGE: Let's go on then to the EEOC. When you got that call, how did you make the decision that you wanted to do that?

REYNOSO: I got the call — well, first of all, they agreed to pay my way and my family's to go to Washington to be interviewed. So, it was an easy call to go. Secondly, I should tell you that a dream that I had always had was to have my own law firm and to take time off from time to time for government

service. I think I read about lawyers taking time to serve in different capacities and that sounded to me pretty good. But I had also, I had spent some time in Washington in the Army, and I had also talked to long-time government employees who were very — who cautioned me that it was too easy to get a government job and then get so tied to it that you couldn't get away from it. I valued my independence, so I did not want to ever feel tied to a job where I could be intimidated, in terms of not saying or not doing what I thought was the right thing to do. I didn't want to work for the government permanently or professionally, but I wanted to be able to go in and serve in a certain capacity and then leave. I had met my wife in Washington D.C., and I would tell her from time to time that someday we would go back to Washington to spend a little bit of time working for the government. And she would always say, "Yes, yes." And seemed to be disbelieving. Suddenly here there was an opportunity. So we went back to Washington, and sure enough I met the new chair and he offered me a job. We couldn't leave right away because my wife at that time was pregnant, but he agreed to wait several months for us to report. And so I accepted. I was always interested in equal employment, obviously. This was a new statute, so it was exciting to be there at the ground floor.

LABERGE: And the new statute is the civil rights law.

REYNOSO: Yes, the 1964 Civil Rights Act. The commission didn't really get going until maybe late '65, and I was going there in '67. It had just been in operation for a couple of years and all the original commissioners were still there. It seemed to me like an exciting time to go back to Washington, so I accepted the position and went back there, again with the agreement that I would retain an interest in my law firm. But by that time it was easier because I had a partner who could continue doing all of the work and I didn't feel that I needed to be flying back every other week. I went back to Washington and I was there for about a year, and enjoyed the experience.

It was a quite different experience then than now. We had perhaps seven or eight lawyers in the whole agency. Now they probably have several thousand. At that time, the law did not permit us to file actions directly — we had to do it through the Justice Department — but we could file amicus briefs directly. And I was very impressed with the capacity of federal judges to change their minds and overrule themselves once they were educated as to what the law said. Because they would issue, very often, rulings that didn't comport to the new

law. Then we would file an amicus brief saying, “Hey Judge, this is what the law says,” and sure enough they would reverse themselves and follow the law.

Other things were interesting at the commission at that time. It had relatively few Latinos working for the commission, and I was the most senior of the Latinos in terms of not time but position, and so a delegation of them — two or three — came to see me on behalf of the seven or eight Latinos who were working there. They felt that they were not being treated fairly, so they asked me to talk to the chair. In my position, I served at the pleasure of the chair. So I told them, “Yes, I will check into it, but I needed to talk to all the employees and get the proper story as to what their concerns were and so on before talking to the chair.” Apparently, the rumor got back to the chair that this was happening. So, I got a call from his assistant saying “Mr. Reynoso, the chair would like to see you immediately.” And I said, “I am sorry, would you tell the chair that I am not yet ready to talk to him.” There was this silence on the other side. They couldn’t believe that an underling would say no. And then I finished talking to the people, and I called back and I said, “I am ready to talk.” But I still remember that silence and disbelief that somebody would say — would not jump up and say “Yes, sir!” But I remember being very happy that I had a law firm to go to. If they fired me, that was fine with me. When I met with the chair he was very gracious and listened to what I had to say and took some steps to correct the situation and so on.

Then, the other interesting thing — unrelated to the job, really — was that the Poor People’s campaign took place at that time. I was there, and some of us were on the committee to help them — Latino government workers mostly. But some were not government workers, just folk who practiced law, or were residents of D.C. As matters evolved, the job of our subcommittee was to help the people from New Mexico find places to stay, and so on — headed up at that time by Reise Lopez Tijerina. I don’t know if you remember a shoot-out that took place in Northern New Mexico, back in the early — mid-sixties over the issue of land grants. Well, land grants were given by Spain and Mexico to many families, and they were held in common. One of the techniques of the American occupation forces when they took over was to privatize as many of those land grants as possible because once they were privatized they could be taxed, and it was easier to change ownership, let’s put it that way. And in fact, there were efforts along those lines during the Mexican territorial time, even after New Mexico became a state, and many families feel that their

land was basically stolen from them. That has been — it continues to be — a strong political issue, particularly in northern New Mexico. It was particularly strong in those days, and formed part of the civil rights complaint that Latinos in northern New Mexico particularly had — not just in northern New Mexico, but principally headquartered in northern New Mexico — much like the failure of the federal government to provide four acres and a mule to former slaves. Things that were supposed to happen never happened. Or the many treaties that were broken with the Indians. And so they formed part of a group of Latinos who came to protest during the Poor People's campaign. Another group was the [Rodolfo] Corky Gonzales group out of Denver, and then a large group came from Texas, and then a smattering from the other states. But those were the three large groups.

Somehow our subcommittee, though we met with representatives of all of them, ended up helping the New Mexico group. We were able to find a private school, actually, that agreed to have them be able to stay there, to stay there at night, and we would try to provide money and food and that sort of thing. But the campaign — the Poor People's campaign itself — was interesting. You may remember they set up tons of tents in front of the Lincoln Memorial, and there were programs and all that to emphasize the issue of poverty. Somehow — I may have mentioned this last time, that Martin Luther King has become a little cuddly bear these days. Everybody loves him, but they forget that he was moving into foreign policy, into unionization. He died in Tennessee there with trash workers who were on strike. He was concerned about poverty as such, and folk now want to forget all about that and just remember that he wanted to look inside poor people's souls. The Poor People's campaign was a manifestation, obviously, by [Reverend Ralph] Abernathy and others to carry on with that emphasis on the lack of economic justice in the country. So, as I say, I and many others participated in that as sort of a local core, and it was very interesting.

LABERGE: Yes. Well then, how did you decide to leave the commission?

REYNOSO: I started getting phone calls from members of the board of CRLA asking if I would join CRLA as a staff person. I had never considered doing that. Then, the director — the founder and director — Jim Lorenz came and stayed overnight with us and visited and also urged me to join. The idea was that I would join as deputy director, and then when he resigned, then I would

become director. Eventually I decided to do that. And they too had agreed that I could continue with an interest in my office because I had worked all those years to build it up, but I thought it would be a little bit awkward to do. So when I decided to join them, my partner and I then terminated the partnership, and then I was free to devote my time to CRLA. Meanwhile, the headquarters of CRLA had moved from Los Angeles to San Francisco.

LABERGE: And it's a state agency, or is it private?

REYNOSO: Oh no, it's a private non-profit, funded at that time by the War on Poverty that Johnson had set up. Later, the Legal Services Corporation was established and now most legal services programs get at least some of their funding from the Legal Services Corporation, but at that time, it was simply part of the War on Poverty. As it turned out, just two or three months after I joined CRLA, Jim decided to give up the directorship, so I became director very quickly and continued in that capacity for about four years. That was really how it happened. I was just convinced by the phone calls and so on that maybe I could do some good as the director. I didn't know at that time that it would turn out to be quite as high a visibility job as it turned out to be, but —

LABERGE: Yes. Tell me about that, and tell me about your dealings with Ronald Reagan.

REYNOSO: Well, I hadn't been at the CRLA very long when it was clear that the governor was not happy with CRLA. At that time, the law permitted the governor to veto a program, a poverty program, including legal services. And then the president had the capacity legally to override the veto. Every year that I was the director, we would get expressions of concern from the governor that we were doing things that he didn't like. We were suing the government and he didn't like that. We were suing welfare departments and he didn't like that. And we would get threats that he would veto the program, but he never did for two or three years. Then, eventually, about the third year that I was with CRLA — so it must have been in about '67 maybe — he did veto the program, and it turned out to be a very dramatic fight with him. So, before Nixon was elected, Reagan had been making noises about maybe running against him. And Nixon was very anxious to have him not run. So it became a very interesting balancing act. Reagan was very good at using the press. He issued his announcement that we would be vetoed, I think, on a late Friday night. It is said that that's not a good time to issue a press release

because fewer papers will carry it, but it is good from the point of view that the opposition doesn't get a chance to respond to you. But fortunately we had friends in the press and they called and said they had this announcement. And we got on the phone and called all the major newspapers so they got our response in the same story, and then the battle was on.

I should tell you that we had heard rumors that the War on Poverty office in Reagan's administration, headed by Lew[is K.] Uhler was investigating CRLA. They were going around asking all kinds of questions. The chair of the board and I went to see Ed Meese, a classmate of mine, and said, "Ed, we hear that there are investigators out there, and if that's true and if you find anything wrong please let us know. We would be anxious to work with you to correct it." And Ed says, "Gee, I really don't know anything about that. You'll have to talk to Lew Uhler." So we went to see Lew, another classmate of mine. We said, "Lew, we hear these rumors, and if you find anything, let us know and we would be happy to work with you," and he assured us that he would, and so on. Of course they never did, and then the next thing we knew we were vetoed.

The veto contained a large report, 170 pages or something of that sort. We broke it down, and it included dozens of accusations against us: we were fomenting riots in prisons and fomenting murders, we were attacking welfare departments for no reason at all, we were bringing lawsuits that were not proper against government entities, we were unethical in various things that we had done. We were really being accused of being felons. If what was true in this report — if the reports had been true, we should all have been in prison. The problem that Reagan had was that we had been reviewed just a few months before. There was an annual review of legal services programs, and that review team sent out from Washington was headed by Tom Clark, retired justice of the U.S. Supreme Court. They in turn had written a long detailed report that extolled the virtues of all our offices and the work we were doing, and how ethical and how marvelous our lawyers were and how they were doing everything exactly as required by OEO at that time. It was quite a quandary for Nixon because of the report and because we had had a lot of support at that time from Republicans as well as Democrats — the Republican Party has changed a lot from that time. There are no longer the Senator [Jacob] Javits of the world in the Republican Party. We had a lot of support, including Republicans from California, and so the administration was in a quandary. Rumor had it that [John] Ehrlichman and others in the White House were supportive of us. I don't know

whether it was true or not, but it sort of demonstrates the conflict that was going on. They were very anxious to make Reagan look good, but at the same time they couldn't quite rule against us, so they were issuing all these press releases, thanking the governor for bringing these things to their attention and all that and, to not be overly unkind, they were all untrue. And this was the federal government issuing these reports. So, we blew up the messages they were sending out in big print and all that, and I called a press conference in Washington, and all of these people came because we had very good press relations and whenever we called a press conference it was a good story for them. So they were all there.

I get up, and here I have blow-ups of what they have said and here was Clark or an unimpeachable source had said. It was just clear that they were lying through their teeth. I hadn't been into the press conference more than ten minutes when a reporter raised his hand and says, "Reynoso, did you call this press conference to tell us that high public officials lie." I said, "Absolutely." They all walked out on me. I mean, this is way back in the seventies. Apparently even then high public officials lying through their teeth was so common that it wasn't even a news story. I felt like a country bumpkin. I thought it was news when they were lying through their teeth the way the current administration does, for example. They are so used to it, they're inured to it in Washington. That's why it doesn't make the press, and the people don't even know that the current administration, for example, is just lying through its teeth. It is so common that it doesn't get reported and the people don't know it. So, anyway, I really felt like a sort of ignorant country bumpkin from way out in California calling this press conference.

The president was in this quandary I mentioned to you. The solution was to appoint a committee, right? But the committee was of three distinguished judges, all conservative and all Republican from state supreme courts — the chief justice from Maine, a justice from Colorado, a justice from the state of Washington, I believe. He had to drop out, and another justice was appointed. Anyway, three distinguished judges. They came out to California, and I remember the very first — well, first of all, the governor announced that he was not going to cooperate with them because he thought they had been appointed to investigate, not to hold hearings. And the judges said, "We are judges, that's the way we do things. We hold hearings. We want you to present us the evidence." The governor said, "We won't participate." They said, "Okay, but we are going to hold hearings."

I remember the first hearing they held was in San Francisco. I testified, and Sargent Shriver, who had established this office, testified at great length about the great work we were doing, and all that. One of the principal contentions to show how bad we were was a lawsuit we had brought against the school board of Madera because they had started school late so the children could go out and work in the fields because the growers needed more pickers. And we brought a lawsuit because it happened to violate the law. They said, "This is a clear example of CRLA and their clients interfering with the economic welfare of a community and doing terrible things. And besides, they are wrong. They are just harassing local government." What was so dramatic was that, on the very first day of the hearing, the California Supreme Court came down with an opinion in favor of our clients. The timing was just perfect.

Then hearings were held up and down the state. I remember the hearing where a local lawyer, who was quite respected and so on, testified that we were unethical, and the reason for that was that there had been a farm workers' strike and the farmers, the growers, were providing housing as part of the compensation. When the strike took place, they said, "Okay, get out of our housing." The farm workers came to see us and we said, "Wait, that's housing. If they want to get rid of you they have got to give you notice and follow all of what the law requires." The lawyer felt it was highly unethical of us to so advise them because it was compensation, and why should the employer be providing compensation when they were on strike. We argued, "Look, the law's the law, and it says that if you are in a house, before you can get rid of them, you have got to serve them a thirty-day notice and so on." Well, that case went to the Cal Supreme Court and again they agreed with our clients.

Then he also attacked us because we were bringing lawsuits — actually, they were administrative appeals — from denial of welfare. And he particularly pointed to Marysville, in Yuba County. What had happened there was that we had indeed filed something like nineteen appeals, and they were mostly based on the fact that the local welfare director was not taking applications in writing. The rules required they be in writing — I guess so later they could check to see whether it was properly administered or not. The easiest way for them to save money — I am sure because she was under pressure from the Board of Supervisors to save money — was to simply not take it in writing; therefore the application never existed. And so several people came to see us and said, "We applied; we didn't get the assistance." "Well,

show us your paperwork.” “No paperwork.” “Did you sign anything?” “No we didn’t.” “Was a report taken?” “No it wasn’t.” So, then we would file an appeal. At the time that the government complained about us, we had won eighteen of nineteen cases, and I think we won the nineteenth later. Not that we were great lawyers — it was just that the violations were so clear! But he attacked us for attacking, he said, the whole welfare system in California. So, it was that sort of thing that was in his complaint.

Well, jumping back then to this commission of three judges. They held hearings throughout the state. By about the third hearing, they started doing something that is rather injudicious. They started issuing little press notices saying; “We find no basis for these complaints, A, B, C, D.” And then finally they filed a report to OEO. OEO then declined to show us a copy. So, we were negotiating then with OEO. One of the most dramatic things I remember is that [Director Frank] Carlucci said, “Look, you are the leading legal services program in the country. If we de-fund you, if we don’t fund you again, that’s going to be a terrible blow to legal services, so we’ve got to work things out.” And they were proposing all kinds of restrictions that we found unacceptable. And I remember that we said when we met, we said “Look, if we — the best known and most important legal services program in the country — accept all of your restrictions, the next thing will be of course to enforce it against all the other programs. That we can’t do. We would rather not be a legal services program than to have those restrictions.” And the reality is that we had alternate plans. We didn’t know whether we would get refunded or not, so we had plans to become a private legal service — a private law firm, to have the same regional offices. We knew that we wouldn’t be able to do as much free legal work, but if we had, say, three attorneys per office, probably one attorney would be able to devote his or her full time and the other two attorneys would do work for pay to keep the office going. We were prepared to do that. So, again, we had the independence that didn’t permit them to intimidate us. So we just said, “We just won’t do it.” I think that they were in a quandary in terms of what to do. Then they had this report that said, “These are great lawyers doing exactly . . .” And they knew they had it. Then, [laughs] we filed a lawsuit against them.

LABERGE: Against OEO?

REYNOSO: Against OEO. *CRLA v. OEO*. I remember reporting to the board saying, “Gee, it felt so good to have a case entitled *CRLA v. OEO*” because

they were giving such a hard time. Freedom of information to get the report. We lost at the trial court level. We thought we would lose because of the judge, so we had already prepared the papers to file an appeal. On the day — I guess the judge ruled late morning. We were prepared to file the appeal that afternoon. Meanwhile, we got a call from OEO, and they said “We understand that the *New York Times* has gotten a hold of the report and they are going to print it tomorrow morning. Therefore, you can come and take a look at it.” The Vietnam papers, what were they called?

LABERGE: The “Pentagon Papers.”

REYNOSO: The “Pentagon Papers” had just been published by the *New York Times* a little while before, so it seemed very believable. We went to read the report and it was practically embarrassing to read it. It starts out by saying what great lawyers we are, et cetera, et cetera. No wonder they didn’t want to make it public, because — I think they found one little technical thing that Reagan had put in his report to be correct. Everything else was untrue, so it was terribly embarrassing for the governor. Once they said that we could see it, I think they pretty well knew the jig was up. Shortly thereafter, they announced a compromise.

The compromise was a very clever one. One, they had funded us for a six-month period instead of a year while all this investigation and hearings were going on. Then, they decided to fund us for a year and a half, which was longer than usual, and happily took us beyond the election. Then they announced they were going to give the governor several hundreds of thousands of dollars, or maybe some millions of dollars, I forget now, to experiment with other ways of serving the poor because he was very much in favor of what was called “Judicare,” I believe it was called. You hire private attorneys to represent local poor people to do divorces and things, certainly not class actions, and then you pay them. And I guess he experimented with it. I don’t know. We never heard boo from the governor’s office after that. So, that was their compromise, and they issued press releases saying what a great governor he was and what a great service to the nation he had done by bringing this to their attention, et cetera, et cetera. That was the end of the battle.

I met with the editorial board of the *Sacramento Bee*, as I had done from time to time. I remember their saying, “Reynoso, this is the longest front page story we have ever carried,” because with presidential politics and all of

that, it had been in the front pages for about a year and a half. I always used to tell people that one gets known by one's enemies, and our enemy was a well-known guy nationally, called Ronald Reagan, and so I guess that's why we were in the newspaper so much. So that's the story.

LABERGE: Tell me about the other attorneys there.

REYNOSO: Well, we had a quite exceptional group of lawyers at that time. Bob Gnaizda, who now works with [The] Greenlining [Institute]. Several of these lawyers went on to form Public Counsel after that. And then Martin Glick, Marty Glick is a private attorney, who incidentally spends a lot of pro bono time now defending CRLA against the Legal Services Corporation. Many of those same issues. Can you believe it? A fellow by the name of Green, who is a private attorney in San Francisco now, and Jim Lorenz himself. That was the core of the folk that we worked as a team, but then Mickey Bennett, who was our administrator, not a lawyer, but was a very key person on this. He and I spent weeks and weeks in Washington later trying to establish — get the legislation to establish the Legal Services Corporation, which we hoped would protect legal services from politics, but it turns out that it couldn't do it.

LABERGE: Well, I found — I was looking for different things in our library with your name on it, and I found this report that you gave on the status of the elderly, the Mexican-American elderly.

REYNOSO: Yes, you know, I had been named — and I forgot about this for a while. I had been named by a Senate committee to be a member of an advisory group on the aging. I remember they sent me an ID card and all that — all of which I think I have lost — by that committee. And then they asked, I thought it was two of us —

LABERGE: Well, there is another name there. Let me see — I just looked at this morning so — Peter —

REYNOSO: Yes, Coppelman, Peter Coppelman. And I remember we gave this report. Also, you know, Mickey Bennett and I wrote an article on CRLA in the first *Chicano Law Review* out of UCLA, and that goes over a lot of the material of our battle with Ronald Reagan.

LABERGE: And in this, all the senators just give you high praise for this report, for what you found. Maybe you just want to say a couple of things about why or how the Mexican-American elder is in poorer shape than others.

REYNOSO: I don't know whether I have told you about this in terms of my early practice, but it sort of capsulizes, I think, the plight of so many Mexican-American elderly. This happens to be rural, but you will find the same thing in urban areas. I had a client, a couple that came to see me shortly after I started practicing law, I think the first year, maybe '59 or '60, and they were by that time retired farm workers, by which I meant that they were too old and physically unable to do farm work. They had no income. They came to see me to see whether I could help them in any way. They had heard that there might be some programs to help them. At that time, farm workers were not covered by Social Security. So I called the welfare department in El Centro, and the rules and regulations weren't very well kept in those days, and this lady — a very fine lady — and I spent hours going over the state programs that did exist. As I mentioned to you, CSO succeeded in getting a statute that had a very small pension for older people. So it turned out that they were entitled to that older pension, just a few dollars a month, but for them it meant a lot. It turned out, after he was examined physically, that he was legally blind — that is, less than 20/200 vision — so at that time, he was entitled to another small pension for the blind, a state of California pension. California has really been progressive in many of those areas when the federal government wasn't doing anything. And then she had a — when the lady came to see me she had physically open sores on her lower leg, and had a goiter condition including a large growth underneath her chin. She was able to be operated on and cured at the local county hospital, public hospital. So my wife and I would go visit them from time to time. They lived in a small house that had no floor — that is, it had dirt. No running water, they had to walk about one hundred yards to a faucet to get their running water, but at least after I had been able to help them, they had a few dollars a month coming in and they were able to make ends meet. Not easy, not easy. And I am sure I had that sort of thing in mind when Peter and I were doing these studies. And if you find folk like that in the city, which I am sure you do, their circumstances are probably even worse. What do you do when you get too old to work and you don't have Social Security, you don't have public assistance, and so on?

LABERGE: And how about the language barrier?

REYNOSO: Well, these folk spoke principally — I always spoke Spanish with them. I think they spoke only a few words in English, as did my own

parents, so they never would have been able to defend themselves or to apply or to go through regulations, and so on. They were just basically distrustful of government, if they were immigrants, based on their experiences in Mexico. And if they were not, based on language and other considerations, it was just very difficult, even though there were programs for them to take advantage of it. I think in that regard, actually society has gotten quite a bit better. Not better, incidentally, in terms of the life of farm workers. In my view, they may be even worse off now than they were when I was a kid, but for the elderly, things have gotten considerably better.

LABERGE: Back to CRLA. One — just a little capsule I found here. While you were there, you did something about banning pesticides, banning DDT. Do you remember anything about that?

REYNOSO: Yes. Well, there were a series of pieces of legislation that were meant to protect farm workers. We had like a two-year program of trying to enforce — we ran a survey and found that some huge percentage, like 97 percent of the growers were violating one or more of those laws. These were very simple laws; I am not yet to pesticides. These were very simple laws having to do with clean water and chemical toilets, and all that. So we ran this long campaign, which we knew we would have to do intensively, working principally with our community workers, which are like paralegals, filing complaints with the local health department, talking to local DA's. It was like pulling teeth. Elected officials are very responsive to those who have power and money, so it was very difficult to get health officials or DA's to bring charges against those who were violating the law. Nonetheless, we kept after them. Then we ran a survey. I guess we ran a couple of surveys. At any rate, the last survey we ran, I think it was something only in the thirties who were violating one or more of those basic laws. So, we felt good about that.

These little vignettes stick in your mind — there was a somewhat moderate assemblyman — I forget his name now — from the Central Valley, who would complain about us and write letters to us and to everybody in the world about how we were harassing his constituents. Then he left the Legislature and was doing some work, I think in Sacramento. At any rate, I ran into him and he came up to me and said, “You know, Cruz,” he says — because I had got to know him pretty well — “I just want to let you know that I have reflected a lot about those battles we had some years back, and you folks were absolutely

right. Thinking back now, I don't really quite understand how I could have complained or fought you on something as simple as having chemical toilets for farm workers. In light of, one, sanitation, and plain human decency." I heard the mayor of Fresno a year or two ago speak at a dinner. He's Anglo, and his parents apparently were farm workers, and he says he remembers the lack of chemical toilets and how particularly folk who were working in tomato fields, who didn't have a lot of trees and all that, sometimes word would go out that folk needed to go to the bathroom, say the womenfolk, and then all the menfolk would stand up and look the other way. Just not very nice, frankly, and he was recalling that. We were very involved with that.

Then, the reality was that chemicals were used — as they are now — a lot in the fields, including pesticides. One of our lawyers — a great lawyer, in fact — Ralph Abascal, was very involved. People didn't call it at that time "environmental law," but we were basically involved in what is now called environmental law. So, we started investigating and bringing charges against growers for using pesticides without proper instructions. I may have mentioned to you that I did a lot of workers' comp work when I was in private practice, and I remember how the workers then would get all this white powder — they didn't realize it was pesticides — with their bare hands, and spread it around and all that, and then they would get sick. I couldn't find any doctors who would confirm that they were sick from those pesticides. But Ralph, particularly, was our lead attorney in bringing actions challenging the use of pesticides — DDT, and all kinds of pesticides. So, we were really very much in the forefront in those battles. Again, to a great deal of political opposition, as you might guess: You are interfering with the economic basis of California!

But very often, as happens even nowadays, you have to fight environmental issues through other laws. There was a famous case where he was involved, where there was going to be a huge expansion of a plant in the Central Valley. The laws only required that those notices be published in the local newspaper — which, there, happened to be miles away from where the plant was and where Latinos lived — or on the property. The property was private property up in the hills, so the local community never found out about it. When they did find out about it, they went to protest to the Board of Supervisors, but the Board of Supervisors weren't that interested. Their votes weren't that important, and this plant, if it got expanded, would greatly increase the taxes that were going to be paid to the local county. They didn't get

anywhere with that, so finally Ralph filed a lawsuit on their behalf, and eventually they decided to abandon the plans. But the lawsuit was not filed based on the fact that it was going to be bad for the neighborhood. It was based on the fact that they hadn't given proper notice. It was the first case that a court decided that notice had to be bilingually if they knew that those who were going to be affected were bilingual. So, it was all these actions divorced from the environmental issue, but that's the way you had to do it in those days, and he was very successful at it. We were often charged with dreaming up these cases. The notion being that there really weren't any health problems, and so we were just dreaming them up. Of course, now it is recognized that in fact those problems are very real, but it wasn't true in the seventies when we were fighting these battles.

LABERGE: Today, is CRLA still funded by the federal government?

REYNOSO: CRLA is still funded by the federal government — in part. I attended one of the training sessions recently.

LABERGE: To give the historical overview, or — ?

REYNOSO: More of an inspirational-type talk. I mentioned to them the plans that we had to have an alternate law firm if we had been defunded. I mentioned to them that they were in a perfect situation now to keep CRLA going, but nonetheless training their lawyers so the lawyers could go out after they decided to go into private practice, and establishing law firms like the ones we had in mind in those days. That's one of two things that I mentioned to them. What's interesting is two things. One, many of the restrictions that we did not accept from OEO have now been imposed by Congress. Thus, for example, legal services programs can't file class action suits. I consider it completely unethical to tell a law firm that they can't file the best remedy for their client but that's the reality. So CRLA now has what they call CRLA Basic. And that's CRLA as funded by the federal government. I think that's only about half of CRLA now. Then they have a portion of CRLA that's strictly devoted to migratory farm workers. Then they have yet another portion, I believe, that is funded by the state and private funds and so on that doesn't have the restrictions that Congress has imposed. Just from hearing them report, they would get up and say, "I'm with CRLA Basic," I think is the way they would say it. And they would say, "I am with CRLA Farm Workers." So I think there are like three different units, and only about half of it I think now comes under the federal government.

The federal government hasn't improved funding for legal services in ages. It is estimated that there is one legal services lawyer for every 10,000 poor people. There is one lawyer for something like every 322 Americans. That just gives you a sense of how poorly represented the poor are, and yet you often hear it said that the rich have all the lawyers they need, the poor have all the lawyers they need, it's only the middle class that needs help. The middle class does need help, but the notion that poor people have all the lawyers they need is simply not true.

LABERGE: Any more anecdotes from that time that come to mind?

REYNOSO: Oh, heavens! There are many anecdotes. The very first case that I had, and I was reminded of this the other day too because I swore in a new lawyer who grew up in Livingston. The very first case I had when I was in CRLA, we got a phone call from some folk in Livingston, CA, and what was going on then — this must have been 1968 — was that there was a student strike. Mostly Chicano, but some black and Anglo students were also striking, complaining that their history books didn't really represent true history of who they were, and that they weren't being treated properly by the school officials, and so on. So they were on strike, and they were out there picketing, had signs and all that. We were called. We went down there and there was a community meeting, so we met with the community to hear their complaints and all that. Meanwhile, the county counsel or DA, I forget, was threatening to arrest them and their parents because they were truants and violating the law and they were criminals.

To me, it was a traumatic experience for me because, as a lawyer, I had always refused to talk to the press. I figured that cases should be decided in court. That's the first time that I started talking to the press because the enunciations by these officials were scaring the parents and making them appear to be criminals in the light of their fellow residents. So, I started speaking publicly about things like the First Amendment and the right to picket and so on. Then, the school board said that these children should go back to school, but as soon as they went back to school they were going to be suspended for being truants. After the students had picketed for a week or two, they had made their point and they were ready to go back to school, but they didn't go back to school with that threat. So we went to federal court, filed an action against the school board and got a TRO [temporary restraining

order]. Everybody was shocked that we were able to get a TRO. It was a very conservative judge and they said that he never gave out TROs. But he was convinced that the kids were entitled to go back to school and they couldn't be suspended without a hearing and so on. So he gave us our TRO. We were there when the kids walked back into the school with all their flags and their posters and so on, and they couldn't be suspended. It was my first experience with CRLA. It was such a great experience. And, you know, I can't say that I remember what happened with the children after that. I think they were never suspended. I think that the community really got behind them, and the board was forced to deal with the issues that were being raised. But there are many stories with CRLA. It really was an exhilarating experience.

LABERGE: And you contributed so much.

REYNOSO: Well, we felt we were doing some good. The interesting was that, you know, it used to be said that we won 97 percent of all our cases, but I would tell people, we are not one of those places with great lawyers. We think we are great lawyers, but we're not winning them because we're great lawyers. We are winning them because the violations of law — by government, particularly — are so obvious, and they are just used to having poor people not do anything and not know about doing anything, not being able to protect their rights. Now they have lawyers who are protecting their rights. Also true of large private organizations, like growers' associations and so on, and now they weren't able to run roughshod over these folk.

At the same time, I always understood that winning a case meant nothing. Winning a case to me was like having a statute passed. You can have a great statute passed, but if it doesn't get enforced then it doesn't mean anything. So, winning a class action didn't mean anything, except that it gave us the power to try to enforce it. For example, we had a case called the Diana case, and what had happened there was that a mother came to see our Salinas office because she had moved to California from Texas. Her little girl had been doing very well in school in Texas, but when she went to school here in California, she started doing very poorly. She used to get straight A's. She started getting B's, then C's, then D's, and had no interest in school. We checked into it, and found that she had been placed in an educationally mentally retarded class. Then, when we looked into it, we found that all children in the educationally mentally retarded class were Spanish speaking. Actually, like this young lady,

might have spoken English also, but they were all Latinos and Latinas. So, we went to the Salinas office, went to see the administration. And we said, "Look, we think there is something wrong here." The superintendent said, "Look, if you have these youngsters tested," because they claimed that all these youngsters had low IQs, therefore they should be in that class. They said, "If you have them tested by a California certified school psychologist bilingually, we will accept those reports." We had them tested.

This young lady who was doing so poorly had an IQ of 134, or maybe 154. Anyway, she was in the genius category. There was only one that potentially should have been in the EMR class. All the others should not have been. We presented that to the superintendent. He said that he would take care of it and they would all be removed. Months went by and nothing happened. In fact, I usually didn't get involved, and by that time I was the director. Time went by and it didn't happen. So we filed a lawsuit in federal court. Against him and against the state Department of Education, which was allowing these things to happen. Then as soon as we filed, we settled. We had a stipulated judgment that all the youngsters would be removed. They would be tested bilingually, and not only with that school district, but over the state of California. The same things were happening in Orange County, for example, and other places.

We inquired as to what had happened. He had promised us, and then nothing had happened. It turned out that his own psychiatrists would say, "Hey, it's impossible. We tested these kids, we know what we are doing." Internally, politically, he wasn't able to swing what he thought he was going to be able to swing, but once the lawsuit was filed and they knew they would lose, I guess, at that point he had enough political power to say, "Hey, boys and girls, we have got to do this." And so it was done, but it is just interesting to me that this little girl had had that type of experience. Doing so well, and then — we've heard this so often before..

Then other things happened that are not quite so nice. I was refusing, I think, to name a staff attorney as directing attorney of one office. And the community workers — we had advisory committees in each office, and they invited me to go up there to meet with them to talk about this issue. I was willing to meet with anybody so I went up there and we met in a park. And they all said what a terrible person I was. Didn't I know that this was the best person for the job, and all that sort of thing. And I listened to all of them, but I still didn't change my mind because I didn't think he was ready for that

job, and we had another attorney that we were going to transfer to that office who was more mature and ready to be the director of an office. And then they said, “Well, if you don’t name this director, we are going to show up at the board meeting and ask them to fire you.” I said, “Fine. You are free to do whatever you want.” I had those sort of things all the time. Running poverty law firms is not easy. [laughs]

So, I said, “Of course, come up and we will make room for you to express your ideas to the board.” So they came, but what really sank them is that — people have always kidded me because I am just not given to harsh language, particularly bad words. I just don’t use them; it’s just not part of my vocabulary. And telling the board what I had said, they used all kinds of expletives and so on, so the board knew right away that it wasn’t quite the representation, quite accurate in detail. So they didn’t get very far. And other times, folk would come up and say, “You’ve got to do this, or we are going to go to the board.” And I would say, “By all means,” and usually they wouldn’t. You can’t allow yourself to be intimidated. You have to listen and all that, but you still have to use your best judgment about what to do.

LABERGE: Professor Reynoso was just telling me about experts testifying in Florida, I assume during the Gore–Bush election.

REYNOSO: Yes, but this little conversation will show that I am a Neanderthal insofar as progress and technology. Because the testimony we had was that the most correct voting — in terms of making no errors — was the old fashioned way of having people have a ballot on a piece of paper and they are marking it with a pen or a pencil. Or, the very modern way with computers. That the worst possible way was the middle way that California and Florida and many others have been using with the hanging chads and all that. You made the most mistakes that way. The reasons, of course, why they went to machines was because of the newspaper demands that they know right away what the election results are, and all that sort of thing. You know, I still prefer the old-fashioned paper and pen way. One, because it is more accurate and, two, because it gives a person more of a sense of participation, it seems to me. And I know it would take a long time to get the reports in. It might even cost more money because you would have to count them by hand instead of by machine, but it just seems to me that it is far more communal to do it that way, and far more accurate. And I would rather go with accuracy than speed on something

as important as elections. So, I was just going to tell you about those pieces of expert testimony we had in Florida, all of which made sense to me.

LABERGE: I want to say for the tape that you are on the U.S. Commission on Civil Rights, and that you were — well, tell me what you did during the Gore–Bush election.

REYNOSO: First I should just tell you parenthetically that I have been on the commission now about eleven years. The commission has eight members, four of whom are appointed by Congress — two by the Senate and two by the House — and I was originally appointed by the Senate. The term is for six years. Then, I was reappointed by the president because there was an informal agreement that each party would name one person to the commission, but the president's people weren't sure that the then newly Republicanized Senate would abide by that agreement. Since they wanted the chair and me as vice chair to continue, the president reappointed us. So I am now a presidential appointee.

LABERGE: This is President Clinton reappointing you?

REYNOSO: Yes, this is President Clinton.

LABERGE: And the majority leader appointed you first? Is that right?

REYNOSO: Well, the Senate appoints, but actually, the real appointment was Senator Paul Simon, who was the head of a subcommittee — within Judiciary, I believe — that had oversight of the commission. And I think the Senate depended on him to make a recommendation to the Democratic leadership and they made the recommendation to the Senate and it would be approved automatically. So, I went back and met with Senator Simon. That in some ways relates actually to my judicial activities, which we will discuss in a few minutes, because I got a phone call from a former extern of mine. An extern is a law student who works with us, usually for a semester or summer. This young man was from Stanford and came and was an extern in my chambers in the Supreme Court for a semester and he at that time was working with Senator Simon. He called one day and said, "Justice Reynoso, we are looking for a member of the U.S. Commission on Civil Rights, would you have any interest?" I actually had many relations with the commission, having done some informal work with them and having been at one time a consultant for the commission. So I said, "Yes, I would be very interested." And he arranged to have me go back to Washington and meet with Senator

Simon. We had a long discussion. Apparently things went well from his point of view, and certainly from my point of view. I think he was a great senator. He recommended me and so after a while I was appointed.

LABERGE: Who was your extern?

REYNOSO: John Trasviña, who is now dean of USF Law School. It is interesting how one activity that one has had in one's lifetime then can come up at another time. And then, former externs and former clerks are now legislators and judges, and so on. So it can happen. And former clerks of course. That's the way I got on, but it was sort of interesting too that I didn't hear anything for weeks. So, I called them and said, "What's happening?" He says, "Oh no, you are going to be appointed." Then eventually I got a very badly Xeroxed copy of the *Congressional Record* where a Senator got up — not even Senator Simon — got up and said, "Mr. President," — you know, the Senate has a president also — "Mr. President, I move the appointment of Cruz Reynoso to the U.S. Commission on Civil Rights." The president says, "Without objection, so ordered." That was it. I got this Xeroxed copy without a cover letter or anything, and that came only after I had — on one occasion I was driving from Los Angeles to San Francisco, and I like to take back roads, so I was taking some back road through the hill country between Los Angeles and San Francisco, and I had the Fresno bilingual radio station on and the noon news came on and they said, "Today we have a press release that Justice Cruz Reynoso has been appointed to the U.S. Commission on Civil Rights." That's the first notice that I had. Then they had a five-minute news program and they took the whole five minutes to talk about me, who I was, what my background was. Then, sometime later, I get this Xerox. Now, when I was reappointed by the president, I got a big certificate of appointment signed by the president and all that — appropriate, I am sure, for framing.

LABERGE: Who was the chair when you were the vice chair?

REYNOSO: The chair and I were appointed by the president at the same time, so she has been — Mary Berry's her name — and she has been the chair all the time that I have been vice chair. However, when I was first appointed, Mary was not the chair and I was not the vice chair. Initially, I was simply a commissioner. Then, when the president got elected, he named Mary as the chair and me as vice chair. That was interesting also because we have a very convoluted statute.

What happened was that the commission was established in 1957. President Eisenhower and Attorney General Brownell recommended it because there were so many debates on civil rights. You know, the African Americans and many civil rights people would say, "All these schemes in the House are keeping Blacks from voting," and the Southern politicians and others would say, "Who, us? Why, it's not our fault that they don't have the money to pay poll tax. This is strictly neutral. We are very democratic. Blacks just don't like voting." So the president basically said, "Look, we have got to find out what the facts are, so let's have a commission with power to subpoena. Let's find out what the facts are and let the people of this country decide." It was named then, and was very effective. It had six members, all appointed by the president, confirmed by the Senate. Then a problem came up. We had a president, you may recall by the name of Ronald Reagan, once. And he kept appointing commissioners whom the Senate felt had no interest — and in fact were antagonistic to — civil rights, so they refused to confirm them. Then they had sort of a stalemate and a conflict because they didn't have enough commissioners to run the commission. So a political compromise was entered into whereby the president could now appoint four members without Senate confirmation, and at that point, Congress was to appoint four members. That was the compromise. I came in after that compromise. The further compromise was that the president could appoint the principal staff director of the commission and the chair and the vice chair, but they couldn't take office unless they were confirmed by a majority of the sitting commissioners. When we were named, there were not a majority of sitting commissioners appointed by Democrats. It was a four-four split. I was confirmed by my colleagues, but several of the Republican appointees didn't like Mary Berry, and so they refused to confirm her for, I don't know, two or three months. Eventually the chair, who was a Republican appointee but actually a civil rights person, then voted to confirm Mary. So then she took over as chair and I as vice chair, and we have been in that position now for many years.

LABERGE: Well, how often do you meet?

REYNOSO: We meet once a month, except one month during the summer. We meet quite often in Washington D.C., where our headquarters are, but we also have hearings and meetings throughout the country. Particularly the last few years, we have invigorated the notion of having meetings outside of

Washington D.C. Folk are invariably so pleased to see us, and to hear their issues heard, because very often folk involved in civil rights battles feel very frustrated because the local politicians and powers that be dismiss their complaints.

For example, we had hearings in South Dakota pertaining to the problems that Indians have in South Dakota, and the interest in our hearings was just tremendous. It focused on administration of justice, but we heard about health and many other issues. The governor was completely dismissive of our commission, saying, "What are these outsiders doing coming to have these hearings here?" And was quite antagonistic. Meanwhile, however, several of the DA's testified to some of the issues that came up, and for example found the simple issue that the Indians ended up in prison far more frequently compared to their population than the non-Indians. But, interestingly, after we had the hearings and after we issued the report, the state government then authorized a local researcher under contract to study these issues. Though he is hired by the state, he reported to us actually a few months ago, and his very detailed analysis — with greater insights as to how the government actually works, because he is under contract with the state government — has been actually able to confirm our initial findings. Then, it was a preliminary report. He still has to check out a little bit further, but it was interesting to us that even though the governor was so dismissive, the politics of it were such, obviously, that he felt compelled to then name a third party, who then basically has confirmed what the Indians and many others were saying in South Dakota. That, in turn, has an impact on the internal politics of the state and what the Legislature will do or not do in terms of making life a little bit more fair for the Indians in that state. It is just interesting how these things go. Next month, this month [December 2003], we are meeting in Seattle to talk about some of the civil rights issues, including contracting, government contracting, education and so on that they have in that area. We have had hearings in Detroit, pertaining to the issues of Arab Americans. They are very interesting because that's sort of a concentration of Arab Americans. And it was interesting how they indicated — the consensus was that they were initially very concerned about private actions against Arab Americans, physical attacks, verbal abuses and so on. But even by the time we had that hearing, their concern had shifted from concerns about individuals to concern about what the government was doing. They brought to our attention all the things that the government was doing that they felt

was very detrimental to the Arab-American community. For example, at that time, the FBI was interviewing thousands of Arab Americans, and it scared the community. You know, “Are we under attack? Are we accused of crimes?” Et cetera, et cetera. And then they had recommendations about how to approach those issues. Actually, very good recommendations. There are enough Arab Americans in that area that they got together with the U.S. Attorney and entered into an agreement where they said, “Look, folk don’t mind talking to the government, folk are happy to share any information, but before you go knocking on the door at midnight, why don’t you send them a letter — anybody you want to interview — and say, ‘Look, we would like to talk to you, this is what we are interested in. We will give you a call and set up an appointment.’” And he says that’s the way they did it in that area and they had none of the backlash from the Arab-American community there that you found throughout the rest of the country. So, it’s not that they were being non-cooperative; it’s just that the Arab-American community really felt that it was under attack. Unfortunately, many incidents since then have really reinforced that perception that nationally Arab Americans have. But we have had hearings in San Diego pertaining to the issues of undocumented coming across the border and the vigilantes in Arizona. We have had hearings in Albuquerque pertaining to health issues of Indians and how the government is doing in that regard. So, anyway, we have hearings both in Washington and outside of Washington — to answer your question.

LABERGE: Tell me a little bit about the *Bush v. Gore* hearings and your recommendations.

REYNOSO: Well, I want to emphasize first of all, that we started hearing complaints about the election and people not being able to vote before the end of the day, before we knew who would win and who would lose, before we knew that Florida would even be important. For example, if Gore had carried Tennessee, his own state, he would have won, so Florida wouldn’t have mattered. So I’m just emphasizing that this was a completely non-political decision on our part. Voted unanimously at that point. At that point, however, we only had, I think, six members of the commission. There were a couple of openings. Five of us were Democratic appointees at that point and one was a Republican appointee. Nonetheless, it was a unanimous vote based on the reports that — as soon as we heard that, we sent some lawyers, staff lawyers, to check things

out. They came back and reported, "Yes, it is our opinion there are real problems down there." So we voted to have these hearings.

The other observation that I wanted to share with you is that even though if there are problems pertaining to elections, generally the Justice Department is supposed to investigate that. The Justice Department never did. Secondly, the attorney general of Florida should investigate and he's a Democrat. He did not. Thirdly, the governor of Florida has express statutory authority to investigate any problems pertaining to elections and he did not. The only official body that ended up investigating the Florida election ended up being the U.S. Commission on Civil Rights and we have no enforcement power. So, that was just interesting how it broke down.

We voted to have the hearing, and the first hearings we had were in the capital, Tallahassee. We had two days of hearings and then later we had another hearing in Miami. I think the very first witness we had gives you sense of the types of problems folk were having. The very first hearing we had was a Protestant African-American minister who testified that he went to vote. He had been voting the same precinct for about twenty-five years. He went with his wife and two adult children. When he got there, the personnel there, who apparently knew him, said "Gee, Reverend so and so, we are so sorry, but you are not on our voting list. Your wife and children are, but you are not so you can't vote." He said, "Well, wait a minute, I have been voting here for twenty-five years, what can we do?" They said, "Well, let's call the central office." And fortunately they were able to get through on the phone. We had tons of testimony from officials who said that they kept calling all day long and either never could get to the central office. One testified that she got to the central office one time, and had to turn back 300 to 400 voters who had some problems and she couldn't get to the central office to see whether there was a mistake or not. At any rate, on this occasion, they did get through on the telephone. The minister gets on the phone and says — oh, he is given the phone and then the first question that the person on the other side asks him at the central office is, "Sir, have you been to a courtroom or a courthouse lately?" And the minister says, "Why yes I have." And the gentleman said, "Well, in what capacity?" He said, "Well, I was a federal grand juror." The gentleman on the other side says, "That's impossible. You are not on the voting list because we have you listed as an ex-felon." He said, "I am an ex-*what*?" he said. "You are an ex-felon." And then they talked about it for a while, and finally the minister says, "Look,

what do I need to do to vote? Do I need to hire an attorney?” And he says, “One moment, sir.” He went off for about two minutes and he said, “Give me the local officials. We will put you back on the voting rolls.”

What happened was that — it didn’t start in an evil way, and one could even say that it might be justified. I don’t want to be unfair with this, but what happened was that there had been an election in Miami where it was shown a few too many dead people voted. So the Legislature was concerned about that. Another body that can’t vote in Florida besides dead people are people who have been convicted of felonies. Anybody who has ever been convicted of a felony in Florida can’t vote in Florida. There are seven such states that have that type of law. I think it goes back to the time where they would come up with all kinds of techniques to prevent Blacks from voting, one of many techniques they used. In fact, that’s part of the problem in Florida. They still have sort of a system of statutes and procedures and practices in Florida that go back I think to the Jim Crow days. At any rate, the Legislature then passed a statute that told the secretary of state to enter into a contract with a private company. I think they even gave her the amount of money to do that contract with, to have that company put a list of ex-felons. That seems okay. The problem came up in this way. The company — and we had testimony from the high officials in the company — got together with the state and they said to the state, “Do you want us to have a list of people we *know* are ex-felons, or do you want us to have a list of people who *might* be ex-felons?” The state said, “We want the might-be list.” So they included in their list tons of people who were not. If you had a John Smith, they would include twenty John Smiths. Maybe only one was an ex-felon. That’s what happened to this gentleman. In fact, with this gentleman, if I remember the testimony correctly, his middle initial was actually different than the ex-felon, but I guess because the first name and last name were the same they said, “This might be an ex-felon.”

Then the secretary of state sent these lists to the local registrars. Now, I understand that the instruction did say, “You should check this out yourself,” but most of them didn’t have the resources and so on, so they simply took the list, and then as happened in this case, knocked off the name of this gentleman. We have testimony that that happened over and over again, probably several thousands of people. Now, in this case, they got through to the registrar, this gentleman was insistent, so he was apparently ready to go out and get a lawyer and maybe get a TRO [temporary restraining order] or something. So they gave in.

We had testimony from one local official who said that the only way to get to vote if you have been improperly dropped is to make yourself obnoxious. He called it “the obnoxious rule,” if I remember correctly. But we had testimony about all these local officials who weren’t able to get through on the phone, so one can guess how many did not get to vote. And that’s by way of emphasizing what our later report said that the biggest sin was not all the people who voted whose votes weren’t counted, et cetera, it’s all those who didn’t get to vote, who — our estimate was in the thousands.

Now, with that testimony — incidentally our second one was a registrar in another county who testified that when she got the list, her name was on the list as an ex-felon, and she knew she wasn’t an ex-felon, so she decided not to use the list at all. She didn’t pay any attention to it. She left everybody on, even if they were on that list because there’s — and this goes back to perhaps the Jim Crow days. In Florida, the election officials are locally elected, and they have quite a bit of autonomy. For example, they are the ones who draw up the ballots. That’s why you ended up with the butterfly ballots in only one county but not in others. Interestingly, however, that’s more of a tradition than anything else, because the law is very specific. There is a specific law that says how you are supposed to have the ballot, and the duty to enforce that law is on the secretary of state and the governor and they haven’t done it, I think for political reasons because the local officials are quite jealous of what has been their prerogative. There’s a lot of blame to go around in Florida.

Then, let me just mention one other interesting aspect of Florida law. I have always found that the sample ballots we get are very instructive and very important in my decision making, and it makes voting easier. In Florida, whether or not a voter gets a sample ballot is a local option. If the county can afford to send out sample ballots they do. If they can’t afford it, they don’t do it, and they are authorized to simply publish a sample ballot one day in a local authorized newspaper, which very often is a weekly newspaper that charges not very much. As you might guess, the poorer counties don’t send sample ballots, and as you might guess, people who live in poorer counties are poor whites and minorities. So, you have these built-in structures in Florida that practically make for trouble. There is one other interesting law in Florida and it’s this: If you are registered, you can vote if you are registered, but you must vote in the precinct where you are living. So if you’ve registered where you *were* living, you can go there and they will have your

name, but they will ask you for your address. If your address meanwhile has changed, under the law, you must then go to a new precinct. That new precinct will know you are coming because your old precinct will call them and say, “We have properly authorized here José Jiménez to vote, and he is coming to your precinct.” We have tons of testimony, one, that phone calls couldn’t go through; two, from voters who said, “I was given this address, I went there I couldn’t find it,” or “I got to that address, I could find it, but they didn’t have my name and they couldn’t get through on the phone to get my name.” And so many such folk didn’t get to vote. Finally — and I just heard somebody from California tell me that she had this same problem — but we had testimony that Florida, like California has the motor voter registration concept. In one area, many college students registered in their equivalent of the DMV [Department of Motor Vehicles]. None of those registrations got to the county registrar, so none of those folk got to vote. Now, I should tell you I was talking to a law student here in California, here in this law school who told me that’s what happened here to her. She registered in the DMV; when she went to vote they didn’t have her name there.

So, things can go awry anyplace. I have told people that any close election in any state can bring up Florida-like issues about who really won, but Florida, we have got to name it as sort of the champion of these problems. I mean, they have got so many things wrong in their electoral process that it is far easier for things to go awry in Florida, as in fact they did. Then there were other problems. There was a large registration effort to register African Americans, and it was successful. There is a statute that calls upon the local registrar to let the state officials know, month by month or week by week, what their registration numbers are. And everybody could tell that there was going to be a huge number of new voters. There is a specific statute that mandates that the secretary of state must do everything that she or he can — in that case, she can — to educate the new voters. To educate voters — period. They spent several millions of dollars on radio ads, warning people that if they voted improperly they were committing a felony. That’s all the education they did. She had requested — we have testimony that she had requested \$100,000 in the next year’s budget for education and the governor cut that out of the proposed budget.

Basically, the state failed completely to meet any of its own obligations of oversight. That turned out to be very important later on, when in a recount, the Supreme Court said, “There are no rules for how a recount will

take place.” Well, that obligation squarely lies with the secretary of state, and we had testimony from local registrars, who said, “When we had the recount, we kept calling the registrar’s office to say what are the rules?” And they kept saying, “We don’t know, we don’t have any rules for you.” And they have that specific responsibility. So, as I say, there was the element of negligence. Now, one of our commissioners did write a concurring opinion saying, “Well, you know, the conclusion is that there was no intent to discriminate and maybe that was true. On the other hand,” she says, “you had a Republican administration. You had the governor and the secretary of state being leaders in the Bush campaign. You had all these new registrants coming in — most of them Democratic and most of them African American. Clearly what interest did the state officials have in educating those voters about how to vote properly? I wonder,” she said “if there really wasn’t, before the election, an affirmative negative, an affirmative effort not to do anything.” And I guess one can wonder about that, though I must say that I think probably if the Democrats had all those same offices, they may have responded the same way also.

My own conclusion was that there was not an intent to discriminate. However, the law on voting is very specific. It does not require an intent. It is an effect law. In fact, a voting rights case went up to the U.S. Supreme Court on one occasion. The U.S. Supreme Court held that there was no violation because there was no intent to vote. The Congress then immediately passed a law saying, “Supreme Court, you are wrong. We said that intention wasn’t required and we meant that intention wasn’t required. It is simply an effect. The person who gets discriminated against, it really doesn’t matter whether somebody intended to keep his vote from him or whether he negligently kept his vote from him or affirmatively kept his vote from him. He or she still needs to vote.” So that’s the test. Now, the interesting thing about that is that by the time we had the hearings, President Bush had appointed a member to the commission. And in the hearings, she kept asking every witness, “Governor, did you intend to discriminate against black people?” “Heavens forbid!” “Madam Secretary, did you intend to discriminate against black people or Latinos or disabled?” — because we had a lot of testimony on disabled and language minorities also, and so on — and of course they all said no. That is not — that’s an important matter but it’s *not* the test. I was interested that much later, senators raised the same point with a justice official from the Bush administration. He said that he wasn’t prepared to answer. He would answer in writing. He sent a letter, and

much of his letter emphasized the issue of whether or not there was intent or a lack of intent. That's really — that's not the test.

Our conclusion was that — well, again this will illustrate the problem. There was one county that was poor and predominantly black or at least a large percentage were black. Of those who voted, 12 percent I believe were discounted for a variety of reasons. They may have voted for too many — for more president than one because the ballot was quite confusing. For many reasons it was discounted. A neighboring county that had — I guess he is the leading local official, who was very aggressive, got foundations and businesses and individuals to contribute money to his office so they could, one, buy good equipment and, two, educate the public on how to vote. In that county, the number of votes that were discounted — these are cast votes now — was a little bit under one percent. So, you had that great variation there with a predominantly black county, 12 percent get discounted; predominantly white county, 1 percent get discounted. Our studies — and we hired a professor who does this type of work — came down with, I think his figure was that something like ten African-American voters were discounted for every one non-African-American voter that was discounted. Now, I should tell you there was a separate opinion by the same Bush appointee.

LABERGE: And who was that?

REYNOSO: Abigail Thurnstrom, saying, “Hey, this whole science is wrong. You can't tell what the relationship is of African Americans to voters, and so on,” but frankly, the expert was brought in when our staff that's not an expert in those types of studies, noted just with a map that the percentages of those who were discounted seemed to be in African-American areas. So then they entered into a contract with this gentleman who did this study by county and sometimes by precinct. How many African-American voters are in that precinct and how many were discounted? Then they do an analysis and come up with an estimate. And as I say, Abigail disagreed with all of that, but I am persuaded that he was right. We had testimony from disabled. I still remember one gentleman in a wheelchair said he went to vote, and the voting booth table was so high that he had to push himself up, had to put an elbow down, and had to sustain himself with one elbow while he tried to vote, and getting more and more tired all the time. Another one testified that she was in a wheelchair, she got to the voting site and there was actually

a construction job going on and there was a big hole between her and the construction site. Fortunately, some people saw her dilemma, went out and got some boards and put the board over the hole and she was able to vote, but we got testimony of all kinds of that sort of thing going on.

There was one precinct that was, I think, either in a commercial building or in a firehouse, I forget, but there was a door in front, a big door that normally closed automatically at 5 p.m. They thought they had undone that instruction to the door so it would not close at 5:00, but apparently it wasn't done properly so it closed at 5:00. And we had testimony from several people who went and tried to vote at 5:00. The door was locked; the building was a little bit far away. They called to people. Nobody heard them, nobody came out. They discovered half an hour or so later that the door was locked. So, they called the engineers and all that who were at home. Finally, they came and opened the door, but how many people didn't get to vote, you know? We still don't know. So, as I say, Florida is just the champion.

Now, we have, I notice, revisionist historians. One is a member of the U.S. commission appointed by Bush, who says "Hey, what are all these numbers? This doesn't mean anything. We have heard so often that there were problems in Florida, but it is all the imagination — somebody's imagination. There were no problems in Florida. It's hunky-dory." And these get blown up quickly into political issues, as you know. That's why I emphasized that when we first went there, one, the vote was unanimous, and, two, we heard about the problems before we even knew it was going to be a political issue. And we would have investigated whether it was a political issue or not. And we recommended that the U.S. Attorney General investigate these matters, which of course he hasn't. And we made a series of recommendations to the Legislature, some of which they — now, the governor, and he has to get credit for this, did appoint a commission to investigate. Unfortunately, they focused a little bit too much on the mechanical voting problems, but based on that, they did, one, recommend different machinery for voting — which was good — and, two, they recommended that the provisional ballot be made a part of the voting mechanism. I tell you the latter part with some trepidation because we had looked at the statutes and the way we read it, the statutes permitted a provisional ballot, but nobody knew about it. So, it was not enforced at all. But they did make that recommendation. Apparently that statute has been enforced. That would be very important because if somebody shows up, and they say, "Sorry, your name is

not on the list,” and they say, “Look, I have a right to vote,” they can vote, and then later they can check to see whether or not that person was right. So those were very important changes. But they haven’t changed the felony rule, I don’t think they have changed the rule pertaining to the ballots, et cetera, et cetera. I am afraid that they may still be the champions — not quite as clearly, but probably still the champions — in terms of problems with voting.

LABERGE: Well, I hope you don’t have to have another investigation next November.

REYNOSO: I hope not. Because the election was so flawed that President Carter, who has been involved in monitoring many elections in many countries, was asked whether or not he would have agreed to monitor the Florida election. The president said that he would not have because he and his team always insisted that the rules be clear before they monitor an election so they can then issue an opinion later, and that the rules were so unclear in Florida that he would not have agreed to have been a monitor in Florida — i.e., the Florida election is worse than third-world country elections. That would seem to be the implication of the president’s remarks. It is sort of sad that here we are this late in our process. But you know, voting hasn’t been that easy.

Nowadays, we assume — and you talk to young people and they can’t conceive of a ballot that’s not secret. We didn’t get secret ballot until late in the last century and early this century — late in the eighteen hundreds and early in the nineteen hundreds, and as you know it’s referred to as the Australian ballot. During the Civil War, you know, an officer would go and line up his two hundred troopers and say, “Who are you going to vote for? Are you going to vote for Abraham Lincoln or that dirty traitor running against him?” Well, you know, everybody would vote for Abraham Lincoln and he got reelected and that was the way we voted. Non-citizens voted until the late eighteen hundreds, and it was only because many voters were concerned about all those Catholics, particularly all those Italians and Irishmen that were coming over, and they were afraid that they would end up with some power, especially since one of them got elected mayor of Cleveland in the 1880s, and they said, “Hey, from now on only citizens can vote.” And interestingly, I was just rereading a history of Hawaii, and when Europeans and Americans overthrew basically the Hawaiian government, they passed a rule that said that everybody who lived in Hawaii, citizen or not, could vote. Why? Because they wanted their own people to vote.

So, all these things that appear to be so natural are not God-given rules. They are rules put in place, very often by folk who really say they like democracy, but not that much. They want to be in charge. And it seems to me that a democracy has to be as universal as possible. But, as you know, we started out with white-only could vote, property owners could vote, et cetera. Men-only could vote, and slowly we have been expanding the concept of democracy to where we are now, but clearly Florida reminds us that we have a ways to go to have the type of democracy that we as Americans believe that we are entitled to.

LABERGE: Well, shall we move to this other part of democracy, namely the court system?

REYNOSO: By all means, by all means. Except that their role is not democratic and that's the problem that we have. Many judges — there was a suspicion, historic suspicion against judges in the colonial days because they were appointed by the king. Then, later the U.S. government appointed federal judges. It's true that they had to be approved by the Senate, but nonetheless, there was still a great deal of suspicion of judges. And during the Jacksonian era, a movement was founded, particularly in the South and in the West, to have judges elected. That seemed to be more democratic. The problem, of course, was that judges have a non-democratic role. It's their job to enforce the Constitution of the United States and the constitution of that state. And very often the Constitution tries to protect political and other minorities — but particularly political minorities — and if a court protects that political minority, it often is making a political majority very unhappy. One of the most important roles that judges have is a non-majoritarian role, and how do you square that with a majoritarian way of selecting judges? And that's been the quandary that many jurisdictions have been struggling with for many decades now.

LABERGE: Let's go to how you were selected and appointed, and then tell me too what — how you would change the appointment process. You were, in 1976 in New Mexico. And so, what happened?

REYNOSO: I was teaching in New Mexico, minding my own business, when I received a phone call, shortly after Jerry Brown had been elected, from a gentleman whom I knew very well who was on his transition team, Mario Obledo. And he said, "Cruz, if the governor wanted to appoint you to a high political office in the state, would you consider that?" I said, "Why

sure. It depends on the timing. It depends on the job and all that.” And then nothing happened for a year and a half. I didn’t hear anything.

LABERGE: By this time are you a citizen of New Mexico?

REYNOSO: I am a citizen of New Mexico. I am voting in New Mexico. Sargent Shriver had announced his candidacy for the presidency of the United States and had asked me to be his statewide chair and I had agreed to do that. No, no, I was very much a citizen of New Mexico. Then, a year and a half later or so, I get a call from another person, by now a member of the administration, Anthony Kline, Tony Kline, who was the appointment secretary. And he said, “Cruz,” he says, “the governor wants to appoint you to a high administrative office. I can’t tell you what office it is, but the question is will you accept? And it’s a very important office and the governor is very anxious to have you be in that office.” And I said, “Tony, I am in the middle of a semester, I can’t” — oh, I said, “When will I have to report?” And he says “Yesterday.” And I said, “I am in the middle of a semester; I just can’t do it.” And he nonetheless called several times and I kept saying, “Tony, I just can’t leave in the middle of the semester.” After a while he gave up and I thought, “Well, that’s it,” because my impression had been that governors are pretty self-important, and if they ask you to do something and you say no, that’s pretty well it. Much to my surprise, a while later, a month or two later, Tony calls back. “Cruz,” he says, “the governor wants me to ask you, if you can’t accept an administrative position, would you be able to accept a judicial position?” I said, “When would I have to report?” He says, “It doesn’t matter.” I said, “Could I wait until next summer?” He says, “Oh, sure.” I said, “Well, what position did you have in mind?” And he said, “Court of appeal.” Then he said — I forget all the discussions. We had several discussions, but basically he asked, “Where would you like to go?” At that time, you will remember, Jerry Brown was in trouble with a judiciary in the electorate because he had said that judges shouldn’t worry about their pay. They should be happy with the psychic rewards of being a judge. And so I think he was trying to prove that you could run the judiciary without that many judges because he had not appointed one appellate judge at that point, a year and a half into his governorship. He had openings throughout the state. I think Tony thought that I would say San Francisco because he had been with a public interest law firm, I had been with a legal services law firm and we often cooperated on cases. But, in fact, I said, “You know, I’d like to go to the

most rural area that you have.” And the only place that they had an opening I think at that time in a smaller area was Sacramento. He said, “Well, let me explore that. That’s more difficult. One, because we have only one opening there and, two, we have some really good candidates. So I don’t know whether it will work, but let me check it out.” Later he called back and said, “Yes, that will work.” And so I accepted. I must tell you that my wife, who didn’t want to move to New Mexico, once we were there loved New Mexico, didn’t want to move back to California. So it wasn’t easy.

LABERGE: And how old were your children now?

REYNOSO: And my children, three of them were school age and one was preschool, so they didn’t want to move either. The law school interestingly just before that had named me to be the associate dean, the academic associate dean. Something funny happened. My neighbor at that time, professional neighbor, was a fellow by the name of Joseph Goldberg, Joe Goldberg. And in the morning he would always say, “Good morning, Professor Reynoso,” and I would say, “Good morning Professor Goldberg.” And then the next day he came in and said, “Good morning Dean Reynoso.” I said, “Good morning Professor Goldberg.” And then the next day he came in and said, “Good morning Justice Reynoso” — it happened so quickly. They were hoping too that I would stay with the law school. So it wasn’t an easy decision.

On the other hand, I just couldn’t say no to an opportunity to be on the appellate court. As a litigator, I used to analogize going before the appellate courts to a doctor operating. A doctor can do many things, but if you are going to operate on a person, you have got to set everything else aside. When I had a case before the appellate court, I would really set everything aside and concentrate on that because that was the one time where you were not only representing your client, but you could make law that would then affect many other people. So, I always had really an element of awe with respect to the appellate courts. I also wondered whether I really had — you know, whether I would be a good judge at the appellate level. It is true that by that time I had been a litigator, obviously, I had been a law professor, and I had sort of all the background that one would think one needs to go to that position, but I really didn’t know. It was obviously going to be an adventure for me.

Basically, that’s what happened. Until later I was given a just one or two-page opinion by the attorney general. They had been carefully — I didn’t realize,

they knew more about me than I knew about myself by the time they appointed me to the “vetting process” that the governor goes through. It is really quite an extensive one. When I got to California, Tony gave me this attorney general’s opinion that said the following: “To be appointed to the appellate bench, the Constitution requires ten years of membership in the California Bar. It does not require residency.” And that was clear. That’s been the constitutional provision all the time. Nonetheless, it is rare that a non-citizen gets appointed.

LABERGE: But you certainly fit that.

REYNOSO: Yes, and obviously I fit that, so that’s why they felt free to appoint me. And then — life is very strange. When I first started practicing law, I, among other things in Imperial County, represented farm workers, filed civil rights cases and all kinds of things that were viewed as controversial — as you might guess — in a conservative community like that, but that’s why I had become a lawyer. I had several people come to me and say, “Gee, Cruz, that’s no way for a young lawyer to get ahead.” In fact, I still remember a conversation I had with this great gentleman in the Latino community who came to see me. I still remember his name. He used to go by three initials, MCL and his last name was Ruiz. And Mr. Ruiz came to see me, and he had read in the paper that I was representing a person accused of selling or dealing with drugs or something, and he came to see me. We exchanged pleasantries, and finally he said, “Señor Reynoso,” — this was a discussion in Spanish — “we’ve so appreciated your practicing law in Imperial County, the leadership you’ve provided in the community,” et cetera, et cetera. He says, “But you know, I just read about this case, and I am just concerned that it might sully your reputation if you represent people of this sort. I wonder if you could just do civil cases instead of criminal cases.” We had this whole discussion and I don’t know if I ever succeeded in persuading him, but I tried to persuade him what the role of a lawyer was. In a criminal matter it is to say, “Look, constitutional mandates need to be afforded and provided in court. If the state says you’re guilty, now you have got to prove that this person is guilty, et cetera, et cetera.” So these sort of pressures came not just from folk that didn’t like what I was doing or didn’t like most of what I was doing, but from other folk too. Nonetheless, that is why I had become a lawyer.

Then, by circumstances of history, we end up with a governor who admired Cesar Chavez and people who worked with farm workers and who

admired legal services lawyers. Many people in his administration fitted in that category, or public interest lawyers. Mario had been a public interest lawyer; Tony Kline had been a public interest lawyer. So, I think when he looked around for people to appoint, a person like me came up high on his list. I imagine that's what happened. Aside from that, he was interested in bringing some ethnic and gender diversity to the bench, and I think that had some impact also. I told my story about how I got appointed to a federal appellate judge, and he said to me — he then recounted how he got appointed. He had been a law professor and he wanted to be an appellate judge very badly. He wrote about all these important issues, and then he figured out that law professors seldom got appointed to the bench. So he became a dean and that had more visibility. Then, after a while, he figured out that even they didn't have a chance to be appointed to the bench, so he quit being a dean and joined a big law firm. A litigator, those are the type of people that get appointed to the bench, and he got active in politics and he contributed money and all that sort of thing. And he says he really worked hard at it, and after about ten years he actually was appointed. And when I told him my story he said, "My goodness, that's the first story I have ever heard of a person being appointed on their own merits, because I really had to work hard." He said, "I thought I was meritorious" — you know, he had all the background — "I had to really work hard at it."

But for me, that's actually the way it happened. In fact, I had thought as a young lawyer that it might be nice to be appointed to the bench when you got to be fifty or sixty or something of that sort, and I quickly gave up on that idea because, at that time, when I became a lawyer, so many of the judges were ex-DA's and people who had not at all been troublesome in their communities, let's put it that way. I didn't fit that category at all, so I gave up completely on that idea. And I was happy in what I was doing, you know? I enjoyed the work that I was doing, and I figured you can't ask more from your profession. So then this came as a complete surprise to me, but I ended up on the Court of Appeal.

LABERGE: Did you ever find out what administrative positions you might have been appointed to?

REYNOSO: They wanted me to be the chair of the then new Agricultural Farm Worker Board, which would have been exactly the wrong position for me to have. They needed more neutral people and I was so closely associated

with farm workers that I was glad I said no, not just because I couldn't do it but I think that would have been exactly the wrong position for me to have.

LABERGE: Tell me a little bit about what you knew about being an appellate judge and how you got orientation to it and —

REYNOSO: I had always assumed — and there is an element of truth; but I found out not necessarily — that it was the role of an appellate judge to decide a case and to — obviously to decide it in writing. The Constitution requires that it be in writing, but not just to decide the case, but to indicate the reasoning for your decision, which in a democracy may be one of the best things that we have going because then you know not just that the decision was made, but why. So I looked forward to that challenge. In terms of training, I had zero training. That is, I had a lot of training because I had been a litigator, I had studied appellate cases, I knew the process. In some ways, I'm not sure there was that much learning to do. That is, in how you put briefs together, how you research, how you do all those things, those are really many of the same skills that you use in being an appellate judge. In fact, I used to tell people that being an appellate judge, in contrast to a Supreme Court judge, is the best job that a lawyer can have because you do true lawyering work. You look at cases, you distinguish them, you do all of the things that we have been trained to do as law students and as lawyers and law professors. But the way I got trained was on the job. There was particularly, Justice Bertram Janes, was just a wonderful person. He was a Reagan appointee, former DA from Plumas County, but was a Republican of the sort that we find seldomly nowadays. You know, very socially moderate, liberal on civil rights, et cetera, et cetera, but a very, very distinguished and conscientious judge. Whenever I had problems or issues, I would discuss it with them and some of my fellow judges also, but I was particularly close to him. So, I learned from others around me. "I disagree with this; is this the sort of thing where I should write a dissent or not?" "Is the notion that it's important to have unanimity sufficient that you ought not to write a dissent unless you have really strong feelings?" "Should I write a concurring opinion on this?" "What do you think about this argument; does it make sense or not?" All of those sort of things I would discuss with him and some of the other folk on the bench, especially later when some folk were appointed to the bench who were more attuned to my way of thinking. Because, when I first got there, most of them — a majority of them had been appointed

by Reagan, and most of them were not on the same social persuasion as Judge Janes. A couple had been appointed by Pat Brown, and I felt close particularly to one of them, Justice Leonard M. Friedman.

LABERGE: What was one of your most memorable cases?

REYNOSO: Before that, let me just tell you that when I was then sworn in late that summer, it was — folk got together and it was a very exciting time. Somebody was there from the Bar and said what a great person I was, born in poverty and now a judge, and other folk were there and I could hardly believe they were talking about — and then there was a big celebration.

LABERGE: Where was it? In Sacramento?

REYNOSO: It was in the courtroom in Sacramento, and the Sacramento courtroom is, in my view, *the* most beautiful courtroom in the state. And then there was a big get-together and my dad was there and brothers and sisters and all that, so it was just a wonderful occasion. Then we got to work. There was an element of pride there. Or even my mother. I may have told you when I went to visit her one time when I was in law school, a neighbor came over and she said, “You know, my son is in law school and he is going to be a lawyer.” I think that’s the first time I noticed sort of a tone of pride in her voice. So, no that was really quite special.

And then we got to work. Being an appellate judge is an amazingly interesting job. By the time I got to the court, we were expected to work on ten cases a month. Judge Janes told me that just a few years before they were working on five cases a month, so it gives you a feeling of the increase, and now they are working on even more than that. That may sound like more than what it is because many of the cases, they were criminal cases where there was an appeal and the result was quite clear. We would actually have the staff study the case, write an opinion, and then it would be assigned to judges. We would review the opinion, make any changes we wanted, review the record, but generally it was very clear. So, on half of the cases, we didn’t spend that much time. On an important case you might spend the whole month or a couple of weeks on it, so it varied a great deal but, remember, each judge had ten cases to work on the average. The judge sits with three other judges. That meant we had thirty cases a month to work on. If you figure that out, it’s less than a day a case on the average. But, as I say, those simple cases you might be able to do in two or three hours. So, the work was really

daunting. We had meetings once a week to decide writs. And the presiding judge would usually sit there with two other judges on a rotating basis. And because of the composition of the judges there, I ended up dissenting quite a bit. I used to refer to myself as the “not-too-great dissenter,” but I dissented quite a bit. Most cases that went up to the Supreme Court, not all, agreed with my dissent because philosophically, the Court of Appeal had a majority of Reagan appointees, and that was not true on the Supreme Court.

When we first got there, we had no externs in the court. I asked why we didn't have any, and they said, “Well, we used to have them some years ago, but the practice fell into disuse; I guess we didn't really need them. So,” they said, “we ought to have a meeting about that.” All the judges got together, and we agreed that judges could have externs, but that it would be an option on each judge. Well, I immediately had a whole bunch of externs, and the judges kiddingly would refer to my chamber as the “Reynoso Law School.” But, at that time, we had only one — and I should say really only one *partial* clerk because the main role of that clerk was to study cases that we were going to hear, and to write a memo on the cases, a “bench memo” as we called it. The reality is that, even though he was your clerk allegedly, he really had a responsibility — or she had a responsibility — for all three judges. So, you were sort of the supervisor for that case. You would discuss the case with him or her — I had a male as a clerk — and then you would have that bench memo.

LABERGE: And did you pick your clerk, or did you inherit?

REYNOSO: I picked my clerk. I forget who I was replacing. But, anyway, I picked my own clerk, though I think he was interviewed by the other judges also. Basically I could veto. And I picked my own secretary. I selected one who was there already, so that was my team. Well, when you are writing dissenting and concurring opinions — I also felt that it was the role of a judge to sit back and look at the structure of the common law and the law and try to make sense. I would write concurring opinions from time to time saying, “I've got to decide it this way because that's what the Supreme Court said, but the opinion of the Supreme Court, in light of recent developments, doesn't make sense for this and these reasons, and I would suggest that it's time for the Supreme Court to take another look at this case.” I just viewed my role as a global role.

What I have got to tell you, though, is that when I became an appellate judge — now, the only constitutional requirements were that you decide the

case and you do it in writing. I think all of the judges met that constitutional requirement, so I am not being particularly critical. But I could count, I thought, on the fingers of one hand, the number of judges who had the same interest that I had in the structure of the law, the history of the law, and I thought it odd that here I had been so concerned and yet — you know, I may be unfair to my fellow judges. We had at that time fifty-six appellate judges, but really from talking to them and reading their opinions, I felt that only about half a dozen had the sort of interest that I had.

LABERGE: And this is fifty-six throughout the state.

REYNOSO: Throughout the state. Yes, throughout the state. I had to work very hard. Cases, sometimes, were difficult to decide, and sometimes the presiding judge would get unhappy with me because I would take a little bit too long to decide. There was a case, for example, in which there was a Spanish-speaking defendant, and there was a tape. And we didn't have his tape where he allegedly confessed, and the record seemed unclear whether he had confessed or not, so I asked for the tape. The superior court then had to send it to me so I could listen to it, and that delayed deciding that case awhile. And, obviously, in terms of justice to the litigants, we wanted to decide them as quickly as possible. What's interesting is we dealt with criminal cases, civil cases, all kinds of cases. So, it was a great job and I very much enjoyed it, and I was there for five-and-a-half years. What other questions do you have about the Court of Appeal? The Supreme Court is quite a different story.

LABERGE: How did you get appointed to the Supreme Court and what was that story?

REYNOSO: There were speculations that if Jerry Brown had an opening to the Supreme Court, I would be the first person appointed because very often that's what governors do. And, in fact, my former partner from El Centro, was so excited he sent me an article that appeared in a magazine, saying what chance people had of getting to the Supreme Court. And I had at least a 50–50 chance. I was on the way to the Supreme Court, and by golly, then an opening came up, very early on, and that was the opening for Rose Bird. And there were predictions that I would be appointed as chief justice also. In fact, one time, I was at the Supreme Court for some type of meeting and I was in a line, I think to get into the chambers or something. I heard these two people in front of me talking about who would be the next Supreme Court justice, and they were all

convinced that I would be it. So, it is sort of interesting. Then, a second opening comes up, and people say, “Obviously Reynoso is going to be one of those two appointments.” Well, he appointed two people, not Reynoso, to the chief justice and the associate justiceship. Most governors don’t get to appoint many people. By coincidence, a third appointment came up, and they said, “Ah ha, now must be that Reynoso is going to be appointed.” A non-Reynoso got appointed. A fourth appointment opportunity came up. They said, “Surely now!” Nothing. Finally, his fifth appointment I think, and finally he appointed me.

LABERGE: And who were you replacing?

REYNOSO: I was replacing [Mathew] Tobriner. And it was such a wonderful thing for me to replace Tobriner, the judge on the bench that I most admired. I got a letter from Ralph Abascal, I think I showed it to you.

LABERGE: You did show it to me.

REYNOSO: And I have framed it since you were here. And I am going to put it up on this wall, because it was just wonderful for me to replace him. At that time — no longer, since the Court has been redone — there was a plate on the chambers, outside the chamber door saying who had been at those chambers and Tobriner had been the judge preceding me, so it was a wonderful — that element of it was quite wonderful.

LABERGE: I must say for the tape, this is a letter that Ralph Abascal wrote to Mrs. Tobriner.

REYNOSO: Yes, and sent a copy to me. On the occasion of my going to a reception as a new justice, and he is talking about the coincidence of his coming to Sacramento to argue a case that Tobriner later wrote. His suggestion that this was like one justice passing the torch to another. So it is a beautiful letter. When I was appointed, I got a call from the appointment secretary saying, “The governor would like to see you.” And I went over to the governor’s office, and then somebody took me to a very small office, and there were about six people, including later Governor [then, Secretary of State Gray] Davis and others. And the governor said, “Cruz,” he said, “I am going to appoint you to the Supreme Court.” And he says, “We need to have a press conference tomorrow. And don’t tell —

Actually, by that time, I had sat with the Supreme Court two or three times on assignment, so I understood their role and how they did their work

and all that. It was not going to be that new to me. I was prepared to accept if it were offered, so that was not a question for me. So that's the way it happened, just very quickly. And the coincidence, again, of a governor having that many appointments. Why he hadn't appointed me earlier, I don't know, though a discussion that I had with him, which I dismissed at that time, but it turned out to be prophetic, may have been a reason. He said, "Cruz," he says, "I am going to appoint you to the Court; it's up to you to keep that job." I dismissed it because at that time, those weren't issues. Later they turned out to be an issue. Maybe he already saw darkened clouds on the horizon, I don't know, but that was — mostly it was a very nice affirmative talk. But I remember that he did mention that.

The big political issue already was the death penalty. They said, "Justice Reynoso, are you opposed to the death penalty?" And I told them, no, I was not morally opposed to it. I see a lot of problems with the death penalty, procedural and others, but I have never been morally opposed to it. So that's what I said. They asked about some other issues, but that was the main thing that they were concerned about because already the death penalty was a big issue with many people having been attacking the chief justice for several years on that and some other issues.

I felt that practically all of the attacks on the chief justice were unfounded. I still remember two, then state senators, one now present congressman, [John T.] Doolittle held a press conference at the time, on the site where a murder had taken place, and the Court had just overturned, I guess the death penalty on that case. And they always spoke about the Supreme Court putting murderers out on the street. In fact, they knew that in death penalty, the only portion that normally the Court was overturning was the imposition of death because the Briggs initiative, which became the law in California, violated the U.S. Supreme Court rulings. When you reverse, the person was still convicted of the murder and still had to serve at least the sentence, which was life without possibility of parole. So they knew that they were being untruthful — to put it mildly.

But then, what I want to tell you is that either on that or another occasion, Doolittle produced a list of cases that they said showed why the chief justice was exactly the wrong person to be in that position. The list included cases decided before the chief justice had been appointed. The reporter said, "Why are you including those cases?" And he said, "Because she is a symbol of what's

wrong with the Supreme Court. So it is perfectly proper for us to point to those cases even before she got to the bench.” That was the quality of the attack on the chief justice. It was just very unfortunate. Then, though even Doolittle and others had not really been able to muster the political support for their attacks on the chief justice until the then attorney general, later Governor Deukmejian took up the call. And then, when the chief enforcement officer of the state — the governor — starts attacking the chief justice, the people, I think, naturally will listen. And when the Democratic leadership, out of the normal political aversion to anything that might cause problems to them, didn’t come to her defense, the people of the state simply heard time and time again, repeated over and over again that the chief justice was not following the law of the state. What was the public to believe when all they heard — and they didn’t hear an answer from those who were in a position to know. In some ways I have never found it in my heart to blame the people of the state of California for voting not to return her — and then I was included and Justice [Joseph] Grodin was included and they didn’t return us. But in some ways I really couldn’t blame the people. I used to tell people, “If I believed what these folk are saying that I am not obeying the law, I would vote against me.” It happened not to be true, but the people, I think, in our political process couldn’t know that.

But then I was appointed and the press conference went well. Then a committee was formed to celebrate my appointment, and apparently they gathered a lot of money and so on. They gave me a new robe and they had this great big celebration in San Francisco. I was sworn in in this huge auditorium and it was completely filled, and the judges and the chief justice and I were in the front, and there were tons of people there. Folks spoke, and when the chief justice was about to swear me in, this gentleman whom I knew from Stockton, and I forget his name, but he was very well known in the Latino community. He always wore a little hat that was the type of hat that the park rangers wear. You know, like the old World War I hat, and he had embossed it in some sort of gold substance so it was stiff and he always wore that. People used to refer to him as *el hombre del gorito*, “the man of the little hat.” And all of a sudden, he either stood up — I don’t know what he did, but everything was very quiet as the chief justice, I think, was about to swear me in, and this booming voice came out saying, “Viva Cruz Reynoso.” [laughter] And the audience responded by saying, “¡Qué Viva!” The chief justice said, “My goodness, this is the most celebratory swearing in that I

have ever attended.” But I still remember that. And again my dad was there and brothers and sisters, and it was just really an emotional occasion.

LABERGE: Oh, I bet. And your kids too?

REYNOSO: Yes. Oh, the kids were all there. We still have pictures of them with the chief justice, and that sort of thing. And then they had rented a place for us to stay in San Francisco. We did have a little bit of a problem. My family and I don’t drink alcoholic beverages, so we told the committee, we really don’t want alcoholic beverages served at this big ceremony. They said, “What, no alcoholic beverages?” but I think finally they were convinced, particularly I think when they checked it out and found out how much money they would be saving. [laughs] They even put on the invitation, “No alcoholic beverages at the request of Justice Reynoso.” They didn’t want to take the blame for it. [laughter] But, it was really a grand occasion.

LABERGE: Did you have to move down to San Francisco?

REYNOSO: No, by the time I was sworn in — that was really a ceremonial swearing in. I had actually been sworn in privately by the chief justice, the day after I was appointed. It was just a couple of days after. In fact, I believe it was February 13. I think it was the day after my wife’s birthday, which is the twelfth, Lincoln’s birthday. So I was already at work. I knew the work, and there were a couple of clerks there, who were already with the Court, that I hired, and then I hired another clerk who was not with the Court, a graduate of this law school, Davis. We had three clerks at that time; later it went to four. And I immediately started working on the cases.

But I mentioned to you that the work there was very different than the work in the Court of Appeal. In the Court of Appeal, constitutionally, we have to hear and decide — we have to decide all the cases. We had a technique of writing to the lawyers, the presiding justice would write saying, “Hey, we don’t think we need an oral argument on this case,” and most of them would waive argument. Maybe about half of them. We had to decide constitutionally all of those cases. At the Supreme Court, as you know, we decided which cases to decide, and I was — though I knew this, I was still taken aback by the reality that at least half my time and the time of all other judges was taken in reading and deciding what cases to take. We would meet on Wednesday morning and we are very imaginative, we used to call it the Wednesday morning conference, and we would go in with a stack of cases literally a couple of

feet high, sometimes three feet high, and we would have to go and make a decision on each one of those cases. They do it differently now, but at that time, I would distribute them among my clerks and externs. Then we would get together on Tuesday afternoon and go through all of them — not only mine, but the others — discuss what we wanted to do, hear arguments back and forth on issues that were close and so on. And, of course, you never have any commentary about that. Analysts of the Supreme Court are always analyzing how many cases they issued, and if they issue a lot of cases they are working hard, and if they don't issue quite as many they are not working hard. False! Judges work very hard. I remember one time after I had left the Court, I ran into a Supreme Court judge sitting in the airport, and this was late at night, he was obviously catching a late flight from Los Angeles to San Francisco. He was waiting for the plane and guess what he was doing.

LABERGE: Reading briefs.

REYNOSO: Going over all those briefs. I went up to say hello and I said, "I see you are busy. I know what you are doing." He says, "Yes," he says. It is like a constant stream every week, but the cases you decide determine the jurisprudential public policy of the state, and that's really the job of the Supreme Court. Very different, in a way, than the job of an appellate court or a trial court. Then, when we would decide the cases, the chief justice would assign a case to a judge, normally to a judge who had voted to take the case, but there had to be at least four votes out of seven votes to take a case. So, again, the Supreme Court in California is very different than the Supreme Court in Washington. In Washington it takes four votes to take a case, but five votes to decide it.

LABERGE: Before we started, you were going to tell me a story that you and your wife do disagree on several things, including Cesar Chavez.

REYNOSO: Well, including some of the current heroes, most current heroes like Martin Luther King and Cesar Chavez. I didn't know Martin Luther King, but I knew Cesar quite well and Dolores Huerta who worked with him. My wife is a very good person, but who looks at things on a very personal basis, and I take a broader view. I think Martin Luther King was a great person for the things he stood for. On the other hand, she concentrates on the apparent reality that he was not faithful to his wife, and she says, "How could a person like that think to be a minister? How could he claim to be speaking for all these good people when he was a disloyal person?" So, I've

had a hard time convincing my wife that everybody has strengths and weaknesses and we have to look at the broader issues of whether or not they have done good for society. And for many individual people. I think that Martin Luther King in fact captured the spirit of America in challenging us to do better for ourselves as Americans, for all Americans, and I consider him a great hero in the American scene. My wife still looks at the peccadillos and says, "How could a person be great when he has done these terrible things?"

In like manner with Cesar and Dolores, one time we were talking with Dolores, she and I, my wife and I about some publications that had been issued during a strike where the publications published by the UFW [United Farm Workers] were saying some pretty unkind things about growers. My wife or I said something like, "Gee, are you sure about these things?" And Dolores said, "Oh, you know how these things are. We are in the middle of a battle and sometimes we exaggerate things." My wife says, "She's saying that's not true, and they are putting out information that is not true. How could a person do that?" And she has always remembered that the UFW in some circumstances were untruthful and that's not a nice thing. On another occasion, the UFW and we had a disagreement. We and CRLA [California Rural Legal Assistance] had a disagreement. And the newspapers had a wonderful time with it because the UFW picketed the CRLA offices in San Francisco.

LABERGE: Were you working there then?

REYNOSO: Oh yes, I was the director. In fact, I served coffee and doughnuts to the picketers. [laughter] And we talked about it — they were very unhappy because they had heard that one of our lawyers in the Santa Maria office had agreed to help another farm worker group organize as a union. It turned out not to be true, but they were very excited about that because it would mean a competing group speaking for farm workers and all that. All of which I can understand, but my wife still thinks of that unfairness of picketing CRLA. "Here you are working twelve hours a day, twenty hours away, working for the farm workers and the UFW shows up and pickets you. How unfair that is." So, she remembers those individual things, and I confess that I, on the other hand, think of the more global effect that Cesar had on this country and on Latinos.

Because the success, I thought, of his effort was that he combined traditional labor tactics with traditional civil rights tactics to try to bring some changes about. And he was working for those who had never had and still

don't have the sort of power and respect that they ought to have from society as a whole. Those were the folk who picked the fruit that feeds all of us. And yet, economically, we still treat them like dirt, frankly, and socially they are still looked down upon, and so on. Yet, these are very important folk, and Cesar Chavez was to elevate their standing in the community — their economic standing, their educational standing and so on. And again, calling on our country, I think to remember that a society is judged by how it treats its lesser citizens — and by lesser, I mean those who have less power and less money — and not its greatest citizens. I mean, when a mayor or a president always comes about everybody kowtows and is nice to them and tells them how great their speeches were and all that sort of thing. That's true whether you have a dictatorship or a communist country or a democracy or whatever. The real test is how do you treat those that don't have that much power because they are simply fellow human beings and they are children of God. And I thought Cesar did great work along those lines.

Incidentally, he did change many of his views that many folk don't write about. I had discussions with him before he started organizing farm workers and his idea about organizing farm workers was to do with them what he had done with the Community Service Organization — because he was a full-time employee of the CSO before he started organizing farm workers. And actually had worked organizing farm workers, and became convinced that he wanted to spend all of his time working with farm workers and not, as the CSO did, working both with the urban poor and the rural poor. That's why he went out, and his idea was that he was in fact going to go back, and he had little faith in folk being able to organize who weren't part of the community. So he told me — and he did it — that he was going to go back and work as a farm worker and so was his wife because all of them would have to work, as happens so often, to be able to feed the family.

LABERGE: Had he not been a farm worker before this?

REYNOSO: He had been a farm worker as a young person, I believe. His family was farm workers out of Arizona and then California. So, he knew the work.

LABERGE: As you did.

REYNOSO: Sure, sure. And he did that. But his idea was that he would be an organizer as he had been with the CSO. He never conceived of himself as being a leader. And he was always soft-spoken and so on. It's more because

his efforts and Dolores' efforts along those lines ended up not working that he became the leader. That is, I chatted with him a few years later about how come he ended up as president of the UFW, and he said, "Well, you know, what happened was that we would have meetings very democratically, and a person would be elected president, but they really didn't provide the sort of leadership that we were hoping, and then further, they would resign after a year or two. And we didn't have the consistency that I knew we needed." So, after two — I forget how long — two or three years of that experimentation, he and Dolores and Gil Padilla and the other people, many of whom had worked or been associated with the CSO, that went to help Cesar, said, "You know, this is really not working. We are the ones who have the ideas about how to put — ." But their hopes for the type of leadership that would evolve somehow didn't. So, finally they placed themselves as candidates for those leadership positions, and of course the folk who were with them already knew that they had the leadership capacities, so they were voted in and they became the leaders. In some ways they became leaders by default.

I never had this discussion with Cesar, but I think what happened was that after several years of self-help, they saw that even then they still didn't have the power that it would take to truly protect the farm workers as well as they needed to be protected vis-à-vis their employers, principally. Because they also were involved in registration drives. They encouraged their members to vote and do all of those things that have to do with self-help. Then, when the AFL-CIO organizing committee — headed at that time by Larry Itliong and it was predominantly a Filipino-American group of farm workers — decided to strike, they asked the UFW to join them. My sense is that the UFW had some deep thinking about "Do we shift from self-help to a union?" And they must have concluded that the self-help that they had been involved in was all very good, but they needed to go beyond that to really help the farm workers get to where they needed to be, and decided that maybe it was time to unionize and to go with Larry Itliong. Ironically, the farm workers were far better organized and had greater numbers than the union, than the formal union. So when they got together, they all agreed that Cesar would be the president and Larry would be the vice president, and then it became a labor effort. But that was all evolutionary, and some of the articles I have read seem not to recognize that.

LABERGE: This is wonderful to have this recorded because even before when we talked about him, we didn't talk about this part. What we were going to talk about today is more on the Supreme Court. I thought today if you could talk about what you think your most significant cases were.

REYNOSO: Well, it's always hard to tell, but one in which — I will just mention one case because in some ways it was special. I trust that I am not breaching confidences, because I won't speak of individuals, but what happened was that a case had come in, *People v. Aguliar*, having to do with the use of interpreters. There had been one interpreter in this criminal case, and the interpreter was then borrowed by the judge to help interpret for the jury and to be a general interpreter for everybody. There was an appeal, arguing that their basic due process had been violated, and it was assigned to a judge and the judge wrote a very fine memo saying, "I don't think there is anything new about this case and I don't think we should grant it."

But I had had a lot of experience with interpreters, and I knew how difficult it was and how unfair it was to have a defendant sitting next to you, to have a witness be speaking in English and say — most of my clients that spoke another language were Spanish-speaking — have that client be there, not understand what the witness is saying and turning to me and asking over and over again in Spanish, "What's he saying? What's he saying?" The difficulty that I had in continuing to listen to the witness so I could better cross-examine him, but not be able to talk to my client about what had been said to see whether or not the client had a different version that would then help me in a more effective cross examination. And the frustration of the client sitting there, not knowing what the judge is saying, not knowing what the witnesses were saying, et cetera, et cetera. I had read articles and so on, on that issue, and in fact, that issue had been faced, even by some other courts. Certainly, writers had written about the due process violation involved in that type of situation. So I asked for a continuance of our deliberations on that and wrote another memo where I argued that in fact it was a very serious issue and we should take the case. Indeed, the Court voted to take the case. We had a hearing, and a majority of the judges agreed with me that in fact there was a serious due process consideration, and I wrote an opinion about the use of interpreters — frankly, going way beyond what the briefs said about it. I had my research assistants go and look up articles and so on in the public library as well as the library, and so on, because I consider this an important issue.

And then I wrote an opinion, which I understand is still the leading opinion in the use of interpreters (*People v. Aguilar* (1984) 35 Cal.3d 785). How one has to be conscious of the administration of justice and how it affects — you need at least two interpreters, maybe sometimes even three because you have got the interpreter for the court and for the jury. That interpreter is interpreting what happens off the witness stand. That's completely different than the due process right that the defendant — if the defendant doesn't understand what's going on, understand what's going on. That person should be right next to the defendant to be interpreting what's happening, so then the witness or the defendant, the client, can help the lawyer be more effective. And then it may be that there is more than one defendant. It may be that for other reasons, you want to have everybody in the trial know what's going on. That was the basis for the opinion, and fortunately a majority of judges agreed with me. And I think that was an addition to the administration of justice in this state. I think that's an example of the strength of having a Supreme Court with individuals with many different backgrounds. We had in our Court, a former attorney general. We had in our Court at one time, a person who had been a rancher. We had in our Court, a person who, like me, had been a small-town lawyer and then a bigger-town lawyer. We had, with me, a person who had been a legal services lawyer. We had a judge who had done, as a private attorney, mostly work with large law firms in corporate and insurance matters. Just a combination of folk that — I think there is wisdom in having folk with different backgrounds be on the Court.

LABERGE: I know just from interviewing Peter Belton, that his experience with a disability influenced Justice [Stanley] Mosk, and there was a case about — now I can't remember exactly what — but the defendant was disabled. And that really informed how they looked at that case in a different way.

REYNOSO: You know, in the Wednesday conferences that I mentioned, when we were talking about which cases to take, judges would often refer to their personal experiences and say — or something they had read, not in a legal periodical, and say, "Yeah, you know, I have read that this is a real issue and I hear it has become even more important, so don't our courts need some guidance in that area of the law?" Personal experiences in terms of disability and so on become very important. In a democracy, I think one of the most important roles of a court is to make sure that everybody is treated

fairly with equality and procedurally with due process. Everybody gets a fair shake. The problem — one of the problems we have in a democracy, at least a democracy like ours, is that a majority rules. It means that minorities can very often be ignored. I am not just talking about racial or ethnic minorities. It means anybody who has experiences that are not shared by the vast majority. Let me give you several examples.

Few people have relatives, relatively few have relatives who have immigrated to this country, so they don't run into the problems that folk who have immigrated to this country and aren't yet citizens will have very often. I often cite the experience of my dad who thought — it turned out that he hadn't — he'd lost his identification card as an immigrant. He went to get a replacement, and here he is in his late seventies and had to stand in line all day long. Got there like at seven in the morning. Like at four in the afternoon, the officials came out and said, "Sorry that's as many people as we can serve." Then he goes there the second day, gets there at like four in the morning, stays in line all day long. Hot sun in Los Angeles. About three in the afternoon somebody comes and says, "Sorry that's as many people as we are taking." If that were happening to citizens, to a lot of citizens, on a different issue, say getting your driver's license, would we ever put up with that? Absolutely not.

And my dad said, "You know, if they want to — I am an old man; they can deport me if they want to. I am not going to go back there." Then my brother called me and said, "Hey, we have got a problem. Look what happened to dad." He said, "You've got to help him." I said, "Okay." So I called a lawyer I know in Los Angeles who did nothing but immigration work, and I said "Lawyer," this is a person I knew very well, "my dad has this problem. Is it solvable?" She says, "No problem." She says, "The office" — and this is how clever folk in power can be — "the local office has one day out of the week they call 'lawyers day.' And on that day, we lawyers walk in with our clients and they take care of the issues immediately." What a clever way of a governmental agency to get rid of anybody who has got any power, any money, any influence, right? So she says, "Have your dad come by and I will take him with me next Wednesday." Sure enough, my dad went by, they went in — you know it takes two minutes to fill out a form. They fill out the form and it was done. And I thought, one, a democracy that understood, if we all understood those issues, we would never put up with it. The reason we put up with it and the reason the INS [Immigration and Naturalization Service] in those days didn't get any money and

all that is that most of us just didn't know that. That's the type of person who ought to be able to go to court and challenge that type of activity that affects only them and not a whole lot of other people.

Let me give you another example. At the U.S. Commission on Civil Rights, I can't tell you how many hearings we have had that in one way or another deal with the administration of justice. Okay, we had hearings in Santa Rosa one day — actually, by the state advisory committee, and a couple of us commissioners were there. The chief of police told us with great pride they run surveys in the community, and their last survey showed that 85 percent of the people in Santa Rosa approved of the police department and how they did. In fact, they got a lot of very positive feedback and so on. I think that's wonderful that they — I mean, you don't often — police, 85 percent. There is only one problem: it's the role of the police to represent 100 percent of the people well, not just 85 percent. Yet, we had so many people and organizational representatives at that hearing that the hearing room couldn't hold them and they had to set up loudspeakers in the foyer of that big building for the overflow crowd of people who came to complain about police malpractices.

What went awry? What went awry was that there was a substantial minority that felt they were not being well treated by the police, but meanwhile we had tons, seemingly, of city council women and men coming forward saying, "I support the police department in our community." This was a hearing not just about Santa Rosa, but about the whole county. "In our community, this community, or that, the police are great. They put their lives on the line, et cetera, et cetera." They get elected by a majority of people. It was to their best political interest to say, "What a great institution we have," and so on. Who was there to look out for the 15 percent? Nobody but a group of civil rights organizations that worry about those things, or courts when those issues are brought up. Democracy seems to be incapable of responding to that. I will just editorialize: one of the greatest sins of the U.S. Supreme Court is that for the last twenty or thirty years it's forgotten or never learned that role, as I see, a role of a court in our type of democracy. We just see that over and over again. When you talk about the disabled, only a certain number of them either are disabled or have relatives and others who understand the problems of disabled. My wife, for a while, had a hurt leg and couldn't get around, so we bought her a three-wheel scooter, and she got around very well in that. She told me that most of the restrooms that are now retrofitted for disabled,

for wheelchairs, didn't work. She had a very small little scooter, and she said even that scooter wouldn't easily maneuver into some of those restrooms and so on. I confess that I always feel good when I see that a sidewalk or something else has been made, has been retrofitted so the disabled can use it, because I tell myself, on this occasion, a majority of Americans recognized the problems of a minority of Americans and have said to themselves, "We want them to have as good a life as possible. Approximating the life that we have." And I think that's a great thing to say for our country.

Well, that individual case can come to a court, and the court may be — you know, judges — a lawyer — we always talk about how, as a lawyer, you have got to become an expert on the issues in that case, and that case might deal with the manufacturing of sulfur and you become an expert on the manufacturing of sulfur. It may deal with deep sea diving and you become an expert. Well, judges are the same thing, and they will then get to see how the disabled may suffer in a certain way and ask the question: is due process being met here? Do we really have equal protection, and so on? When politically, more often than not, we can't do that or don't do it. Now, from time to time we do. We did it with the Civil Rights Act, we did it with the Voting Rights Act, we did it with the Americans for Disability Act, and very often, when democracy is working at its best, we do it. But very often, we don't.

LABERGE: What would make the Supreme Court step up to that? You mentioned that the Supreme Court has been not paying attention. Would it be different people, having it more diverse or — ?

REYNOSO: I think it would be different people with different ideas. That is, people like [William] Brennan and [Earl] Warren that in some way accepted the notion of that role of the Court. I don't mean to be disparaging of the California Supreme Court, but I think it's fair to say that traditionally the California Supreme Court, up until the time of Rose Bird, had been very conscious of that responsibility on the part of a supreme court. So, I think it takes judges who think differently and those who appoint them who think differently. For example, the U.S. Supreme Court now is so respectful of — well, not in the Florida case, but more often than not — so respectful of the power of government and the power of a majority, speaking of that as being "democratic." For example, even on the argument of the Pledge of Allegiance, I understand from reading, that [Chief Justice William] Rehnquist asked the gentleman —

the lawyer–doctor who was arguing the case — in this fashion: “Well, when there was a change in the flag, how many Congress people voted against that change?” The lawyer–doctor answered correctly, “None.” Then Rehnquist said, “Well see, that doesn’t sound to me like much of a difference in opinion in this country.” Then he responded, “That’s because people who are atheist can’t be elected to Congress.” That’s clearly true. We have very few atheists percentage-wise. Does that mean that atheists aren’t entitled to equal protection in this country? Of course not. Query whether that’s involved in this case, but all I am saying is that it is so easy with a certain mentality to think that Congress actually represents most of the people. Well, they don’t. They represent people who, in a majority in their district, voted for them.

In fact, I remember one time, a friend of mine who was the head of an organization was very unhappy with what the governor of California had done. He wrote a letter to the governor and pointed out how, in light of the total number of eligible voters, only a certain number are citizens. And of those, only a certain number have registered to vote. And of those, only a certain number voted. And of those, only a certain number voted for him. If I remember correctly, 12 percent of all of the adults voted for that governor. He was pointing out that he wasn’t really representing all of the people, and yet once being a governor, he had the duty to represent the interests of all of the people. Well, it’s tough for a politician to represent more than the folk who just voted for them. I remember one time, Governor Deukmejian was asked whether he was going to look out after the interests of the farm workers. And his answer was, “Did the UFW endorse me for governor?” The answer was no. Sort of a realistic response saying, “I have a duty as a politician to respond to those who have elected me.” But of course as governor, not as politician, you have the duty to represent everybody. But it is very difficult in our type of democracy, and the Court — which is basically a non-majoritarian institution — has the duty to then represent, if you will, constitutionally the interest of all those folk who didn’t vote for the governor, who didn’t vote for our president, who didn’t vote for those Congress people. How each case will come out is a different matter. All I am saying is that there is that responsibility. I am not sure that the current U.S. Supreme Court understands that, frankly. I am not sure they agree with me. They may have a completely different view. That’s my view of one of the important roles of a supreme court in a democracy.

LABERGE: As far as when you were on the Court, and you mentioned that until the time of Rose Bird, that was the way the California Supreme Court —

REYNOSO: In my view — and I don't want to say it's not that way now; I don't want to speak to that — I am just saying that I know that up to that time it was. The Court, at that time, had not changed for about fifty years. And during that time it had gotten a national reputation for being protective of consumer rights, of the environment, of little people, in a way. And that comported very much with my own way of thinking. When I was on the Court of Appeal, I think that I may have mentioned to you that I referred to myself sometimes as the “not-so-great dissenter.” But probably thirteen or fourteen of my cases that were appealed to the California Supreme Court were affirmed by the Supreme Court. That is, I was in tune with the way of thinking of the Supreme Court. So when I got to the Supreme Court, I happily ended up agreeing most of the time with the judgments of the Supreme Court.

I should perhaps tell you about one case where I disagreed with the Supreme Court. Here's what happened. There was a property owner in a commercial area. There were two empty lots and one property owner then built a building for the storage of materiel and so on, some sort of warehouse. And trucks would come and take things. They had built in such a way that the trucks couldn't go in and out too well, so they would trespass upon the neighbor's land. They did that for several years. The neighbor complained about it. They even built a little mound to keep the trucks from going onto that land; the trucks went over the mound. Eventually, the second owner built their own building. Then the first owner said, “Hey, we've got a prescriptive right over that land.” To me it's an interesting case. And based on the opinions on prescriptive rights, they were right. They had used it for over the prescribed number of years and if you have a prescriptive right, you are basically the owner. The case had gone to court and the trial court said, “Hey, they are right, they have a prescriptive right.” And, if I remember correctly, ordered the owner of the second building to tear down the building. I mean, quite drastic. Presumably, they also had the option of selling it by settlement. But said, “Hey, you've encroached on land that these people now own by a prescriptive right.” It went to the Court of Appeal and it ended up before a very conservative panel. And the conservative panel overturned the opinion and said, “Look, we agree there was a prescriptive right, but here what you really have is a private taking of property. And under those circumstances, in equity” — because there is a

concept of equitable laws which basically give the judges a lot of authority to make sure that the case is decided fairly, and the appellate judges said, “At least the fair thing to do here is to have the owner that took the prescriptive ownership at least pay the other owner for it.” Because the irony of common law was that one minute you are a trespasser and a criminal; the next minute you are the owner. I have always thought that to be very strange.

It made sense in rural England several hundreds of years ago when they were trying to encourage people to use the land well and to use all of the land. Nowadays, in crowded California, we do well to discourage people from doing that. The case came to us and we accepted the case because the Court of Appeal had changed 100 years of law. We had to either agree with them or not agree with them. So, I agreed that we should have taken the case. We took the case and we heard the case, and a great majority of the judges said, “The Court of Appeal is clearly wrong, and if we don’t change it, that’s going to be the law of the land” — because the trial court judges are supposed to follow appellate precedent — “so we have got to write an opinion saying they’re wrong.” And a judge wrote a very fine opinion saying, “Well, it’s true it’s an equitable case, but the state of California took all of the then existing law and adopted it to California and then codified it. And they codified the rules of equity. Therefore, if there is going to be a change in the law, it ought to be done by the Legislature.” Okay? Perfectly proper thinking, but it didn’t agree with my way of thinking. The thing was so patently wrong. It was just unfair. So I did a lot of reading. I had sort of fun. I remember, at that time I was commuting to San Francisco, catching a van that left Sacramento at five in the morning. It was a very good van because it had good reading light like airplanes. So I was going through all these books written hundreds of years ago. How does a judge decide what fairness is? And the teachings of those writings and those cases went something like this: “You don’t just depend on your own notion of fairness. What you do is try to perceive of what the community notion of fairness is.” I had absolutely — now, a judge is not supposed to talk to non-lawyers and people outside of your own circle to answer a question.

I argued in a dissent that it is true that California had codified the rules of equity, but the rules of equity going back hundreds of years said that the judges had to look at fairness. And when California codified that rule, it also codified the basic notions of equity that you look at fairness. And I thought that the appellate court judges had put down the very basic notion of fairness.

At least pay for it. Not to talk about the fact that these guys were bad guys. They knew they weren't supposed to be trespassing. There was even a mound built and all that. They shouldn't have even been trespassing, from my point of view. But the least — if we are going to have a prescriptive right, the least they ought to do is pay for that property. So that was my dissent.

But I just felt we really missed the boat there. Sure the Legislature can pass it, but tradition and the law of equity said we as judges had that duty. And how we could look at something so unfair — now I should tell you, after the case was decided and published I asked tons of people. I gave them this scenario and I said, “What do you think is fair?” And they said, “You should have put those trespassers in jail. What are they doing? Of course it's fair to have them at least pay for the property.” I didn't talk to one citizen or resident that wasn't a lawyer who didn't agree with my dissent. To me, to this day it's absolutely clear. And incidentally, we — judges issue opinions saying very often — we didn't on this case, but very often we say — maybe I did in my dissent — “the Legislature ought to look at this issue again.” More often than not the Legislature doesn't. They have very often bigger fish to fry, and this is just dealing with a small aspect of our community life. So there's a time when I dissented, even though I normally agreed with the majority, but I just thought they were dead wrong. And here I was agreeing with this very conservative panel who looked at property rights and all that, but I think they were right. So anyway, at least those are two cases that I remember well.

LABERGE: Now, since then, haven't you taught Equity?

REYNOSO: Oh yes. I am teaching Equity right now.

LABERGE: That's one of your specialties.

REYNOSO: Absolutely, yes. I was asked to say a few words about Justice [Frank] Newman when he died, and one of the things I mentioned was that he was my Equity professor at Boalt Hall. And then I built that into my talk saying that in fact he always did worry about justice and fairness. But I learned all about equity from Frank Newman and now I am teaching equity as part of the Remedies class. We used to have a class just called “Equity.” Now, it is part of a class called “Remedies.” But equity is one of the important remedies, and that case dealt with the issue of *what's the remedy* in this situation. I am getting excited. I kept my class an extra five minutes. I didn't pay attention to the time this morning because I had gotten excited about an issue we were talking about.

LABERGE: Let's talk more about the Court and the others on the Court. We invited Rose Bird to do an oral history, but she never wanted to. So we don't have her philosophy or her words on how she decided things. Before you even were on the Court, what was your take on the fact that Jerry Brown appointed her, and then, what kind of a job she was doing?

REYNOSO: There had been the position by many that I would be the first appointee, and of course I wasn't. Rose Bird and Wiley Manuel were. I didn't know Rose Bird. I didn't know anything about her. I was impressed with the work she had done with the governor. I was impressed that she had been the first female cabinet member. I had been impressed by her background as a lawyer, and she clearly was a very bright person. When she got to be Supreme Court justice then, I agreed with practically everything she did. But she was breaking traditions and that's always a little bit dangerous. For example, in California, unlike the U.S. Supreme Court, if a judge recuses himself, the chief justice has the authority to name other judges to the Supreme Court — to sit with the Supreme Court. There had been a tradition, ever since I could remember and knew about, that invariably an appellate judge, very often a presiding judge — sort of going by pecking order — would be named to the Cal Supreme Court to sit with the judges. She started naming trial court judges from time to time also, and I think there was sort of a sense on appellate judges of, "Gee, who does she think she is? There is the tradition that we get named to the Supreme Court. Now she is naming all these other judges." So she started breaking traditions.

Secondly, Jerry Brown had already broken two traditions by appointing her, maybe three. One, he had appointed a very young person. Two, he had appointed a person without judicial experience. Three, he had appointed a woman. And there had been many predictions that Stanley Mosk would be named chief justice because he had been named by a Democrat — his father — because he had been there a long time and so on. And he was not named. So there was sort of a sense by many of the senior judges, and not just on the Supreme Court but on the appellate court also, of — "betrayal" is too strong a term, but of not being respectful of their important status in society. I shouldn't say that. There you started to see some of the things — I thought it was a good idea, incidentally, but I could understand sort of this nervousness on the part of some of the judges. Then she had a philosophy of judging that is not uncommon, and to be respected, and some present judges have the

same philosophy. Mine was a little bit different. I viewed the Supreme Court as having the duty to set the jurisprudence of the state. Therefore, I believed that having a fair ruling by the Supreme Court was important. I lamented, for example, many of the rulings that had been coming down from the U.S. Supreme Court where there were like four of five opinions and one opinion would say, “I agree with section one and three of the opinion, but disagree with sections two and four,” et cetera, et cetera. It was an unclear ruling.

The chief justice, apparently — I never had this discussion with her but I have to assume, and from some of her speeches and so on, I think it is pretty fair to say that she felt very strongly that a judge has an independent, individual responsibility to express his or her views on constitutionality, on the various issues that came before the court, because the issues are important and you have been appointed there as an individual. My filing a one-person dissent, for example, for me was quite rare. And I thought that if you were going to sign a dissent, you had to have pretty strong feelings about it. She often wrote separately — would write dissents, or write concurring opinions, and so on. Now, interestingly, at the Court of Appeal level, I felt it was my duty to file dissents and concurring opinions if I didn’t agree. I would sign dissents because I didn’t agree, or I would sign concurring opinions because sometimes a concurring opinion in summary would say, “I agree that the majority has done what the Supreme Court said needed to be done; I disagree with the Supreme Court for these reasons, and I think the Supreme Court ought to take a second look at it.” I felt that was my duty in the appellate court. At the Supreme Court level, I didn’t feel any compunction to write concurring opinions because I was more interested in having there be clarity of ruling. So, I would sometimes suppress my own feelings about a matter to make sure — to fit within that philosophy. I think the chief justice had a different view, and therefore, she started to be viewed by some as being in some ways too individualistic. So, that all had a sad and cumulative effect, where she was unable to garner — even from the judiciary and sometimes from the Bar — the sort of support that a chief justice had traditionally had in California.

But in terms of the things that she did, they were admirable practically in an extreme. I will just give you an example. A judge cannot use public materials for personal use. On the other hand, a judge is in a difficult situation. A judge is a full-time judge, they have a secretary, and at that time a typewriter and then later a word processor, but normally you don’t have all that at home

and so on, so if you are going to write a personal letter, how do you do it? By tradition, though in a technical sense you are not supposed to use it, everybody understood that so long as you don't abuse it, it's fine. One item came up that I think really ticked off judges. Public funds, again, are not supposed to be used for private purposes. It had always been assumed that paying dues to the Judges Association — then it had a different name — was proper use of public funds. So the Court would always pay the dues to the association, and the association would have programs on what judges should do, and all of that. It was an educational effort also. Rose Bird decided that that was a private organization, and it was because it also lobbied Sacramento for higher wages and all that. She decided that it was really a private organization — and one can certainly see that — and decided, if I remember correctly, that it was not proper for the courts to pay that. Well, that hurt the judges in two ways; monetarily, but I think they also thought that it somewhat demeaned the importance of their organization. There were a lot of little things that accumulated in that way. Another judge and I used to kid about the fact that there was a copy machine.

He and I would kid sometimes if we were copying a newspaper article or a private letter. We would say, "Gee, I wonder if we should figure that this is 1/1000th of the cost of this and we should reimburse the Court." Of course, we never did because we followed that tradition, but Rose Bird was so conscious of her responsibilities that in some ways she was practically overly conscious and she worried about those things. "Are we really properly using public resources for private purposes?" And she was, of course, very fruitful in protecting the public. But that in turn, I think, turned off some people who thought that she was too — well, in fact one of the much mentioned matters was that the Supreme Court used to have a limo that would carry the judges around, and one of the first things she did was to sell the limo. And judges now simply had cars in the pool. Indeed, near the end — she started ameliorating that idea, I think, because the last couple of years, she actually authorized the judges to have cars issued by the state for their use. And she understood that some of it would invariably be used, at least a little bit, for private purposes. We actually had cars assigned to us the last year or two that I was on the Court. Maybe she started changing her mind about some of those things. Obviously, it was a convenience to have a car and it saved time and then saved the taxpayers and all that. But I think some of those little things went against the grain of how judges had done work before.

One lawyer told me this story. He had called the chief justice to see if she would perform a wedding. And, in fact, she did perform weddings; I attended some of them. But on that occasion, her assistant told them that she was too busy. And after all, she is chief justice, she has these big things to worry about. Anyway, he was completely turned off by that phone call, and I don't know whether the assistant was doing that on his or her own or whether they were under instructions, but I remember that he was turned off because he had been a long-time admirer and friend, apparently, of the chief justice. Little things like that went awry, and that all ended up with her not being able to have the type of support that she really should have had. On the other hand, I admired all of the things she was doing, and in terms of her decisions, I not infrequently disagreed with her. I would be with the majority and she would bring a concurring or dissenting opinion, but I thought they were always very well researched, very well structured, and sometimes looking toward the future. In fact, sometimes, I rather agreed with her, particularly when she wanted to change the law. Appellate judges have to worry about whether there is more merit in changing the jurisprudence because there is so much merit in stability of the law. And sometimes I thought there was more merit with stability of the law, even if I disagreed with it, than changing it. But her feelings were so strong and so individualized that she would still write a concurring opinion or dissenting opinion. Not infrequently I disagreed with her, but they were always well-written, well-reasoned opinions.

Now, some people said that she was hard to get along with. Maybe that was true; maybe it wasn't. All I can tell you is that the Wednesday conferences and the way I saw her deal with the judges was always upbeat and marvelous. I don't know what the tradition was before we got there, but she would always, during our Wednesday conferences would have trail mix or something else for us. She was always jovial. She was very fair in the discussion. Never cut anybody off. Frank Newman used to describe the Wednesday conferences as the greatest seminars he ever attended. And that's the way it was. I mean, everybody was free to talk; she was very respectful. In my view, she was a great chief justice. Now, the sad thing is that because she had been a public defender, I think, and because politically some folk didn't agree with her, folk — mostly Republican legislators — started attacking her from the day she was appointed. So the attacks had gone on for like ten years before the confirmation election came up. Also, by the time the second confirmation came up — she was confirmed the first time — by that time we had quite a few death penalty cases.

In fact, we were reversing a lot of those cases. One of the reasons we were reversing them — and I have another reason why I thought those cases were difficult, but one of the main reasons we were reversing them — is that we had had an initiative in California called the Briggs initiative, where the author, Senator Briggs, had bragged that his initiative was tougher than the U.S. Supreme Court rulings on the death penalty. Because the Supreme Court had first declared the death penalty unconstitutional, then changed its mind and said, “Well, it can be constitutional if you follow all these rules.” His initiative didn’t follow those rules, and the Legislature interestingly had passed a statute that did follow the rules — a statute, ironically, sponsored by Senator Deukmejian, who later became attorney general and governor. However, the initiative passed. An initiative takes precedence over a statute. So now the law of the land was the initiative. Sad to say, the initiative didn’t comport with the U.S. Supreme Court rulings. But it takes time for a case to be tried. Well, first for the charges to be made and then the case would come to trial and then be tried, then appealed. So it was several years, very often. By the time it came to us, if it did not comport with the U.S. Supreme Court, we had to overturn it. And we were overturning many of those cases.

Now, when we overturned a case, we generally were overturning only the — death penalty cases are tried in two different trials. One trial asks the question, did the defendant do it? The next trial asks the question, what should happen to this person? Either sentenced to life without the possibility of parole, or death. So when we reversed the second trial, which is normally what happened, we were saying, “You got it wrong in terms of how you held that trial. You have got to do it in conformity with U.S. Supreme Court rulings.” None of those defendants were set free. They were in jail for life at least. The court became the political enemy of folk who disagreed with its ruling of protecting consumers, protecting workers, setting higher standards for insurance companies, et cetera, et cetera. Most of the Democrats were afraid of the death penalty issue, so except for one senator out of Oakland, who campaigned vigorously for the Court, most of the Democrats were silent.

LABERGE: Who was that? [Nicholas] Petris?

REYNOSO: Petris, yes. He was the only one. Most of the others were silent. So the public, one, didn’t understand that it was a partisan attack and, two, never heard publicly, I think, with the vigor that they should have, the

arguments in favor of an independent court system, the reality that we were simply enforcing the law, et cetera, et cetera. So it is not surprising to me that the vote went very poorly, particularly against the chief justice, but also against the two of us who late in the game were added to the attack. That was all to me a sad episode. Very unfair to the chief justice. I think that she was very conscious of her obligation. You know, the title of the chief justice is not Chief Justice of the Supreme Court; it is Chief Justice of the State of California because the chief justice has administrative responsibilities as well as judicial responsibilities. And I thought that as to everything, she took it very, very seriously, and I think I agreed with most of her positions, certainly administratively. In general, I just thought she was a great chief justice, and it was sad for the State of California that we lost her.

LABERGE: Now, what about you? I have got several questions, but let's just go with the election. What did you do, if anything, before the election to — not to campaign, but to deflect any of what was being said about you?

REYNOSO: Well, I always accepted a lot of speaking engagements, so I spoke all over the state talking about the concepts of judicial independence and that sort of thing. But, you know, when you speak, you speak to a hundred, two hundred people; television you speak to 35,000,000 people — well, at that time, only 33,000,000 people in the state. And certainly our talks didn't get on television and all that. So, the answer is that I didn't do anything for a long time. Eventually I was convinced that I needed to set up a committee, so I set up a committee and that committee tried to raise some money. I would go around and talk to those folk who gathered in different parts of the state. Eventually, incidentally, we grossed nearly a million dollars, which I thought was rather amazing for starting so late and doing everything on a small scale. But it showed that a lot people were really quite interested. But a million dollars goes nowhere in the state of California. Then, very late in the campaign, I hired — just the last two or three months, I hired a political consultant. I don't think he did any good for us, actually, except one thing. At the end of the campaign, he ran those polls that those folk run sometimes about how well you are doing — and near the end, they run it every day or every other day — and he told me that we were going to lose. And that's really the only real true value that I got out of that campaign. So I forewarned my family, and I got all kinds of calls from people who wanted to have a

party and have a celebration and all that. And I told all of them, “No, no. Thank you very much. I really appreciate it, but I am going to just stay at home and listen to the returns.” So, in a way, nothing unexpected happened. In fact, I got more votes than what I thought I was going to get. I forgot what the percentage was, but Joe Grodin, Judge Grodin and I didn’t lose by very much. The chief justice, unfortunately, lost very badly.

So I had forewarned the family, and I had decided that I had been out in the public enough talking to reporters, that, after all that, I was going to take the day off after the election. My wife and I went up to the foothills, went to Jackson. This was during the week. The election is on a Tuesday, so it was on a Wednesday. We visited a local museum that I think is open on Wednesdays for two hours and we had a nice lunch. It was one of the nicest days that we’ve spent. I always understood the campaign to be a political campaign, not a campaign really judging me because I knew that folk didn’t know anything really — the voters knew very little about why we were voting the way we were voting, and so on. I always remember a headline in the *Woodland Democrat* when I was on the Court of Appeal. Court of Appeal judges also have to run for confirmation, and by tradition, we didn’t do anything. We didn’t do anything on the time that I came up for confirmation, and the *Woodland Democrat* ran a headline that said, “The Candidates Nobody Knows.” They had pictures of the three of us judges who were on the ballot and then it said something about us and all that, but they are right! The electorate doesn’t really know who we are. So I always thought about that. I never considered it a vote on me personally. It was a campaign and how effective the campaign had been. We had enough money to, I think, put a few ads on television, but very few. We knew that it wasn’t going to compare with what some estimate to be ten to twelve million dollars that the people attacking the Court had raised.

Those who were attacking the court had one particular television ad that ran a lot, that later got an award for being one of the most effective political television ads. And it showed a rectangular box, if I remember correctly — I will paraphrase — and it said, “The people of the state of California voted for the death penalty. Rose Bird’s vote.” Then it showed cases that came up, say forty, thirty — whatever it was at that time. “Rose Bird voted to uphold the death penalty: zero.” Then it said, “Is she following the law?” Then it said, “If you don’t like Rose Bird you can’t like Grodin. Voted against the death penalty twenty times; for the death penalty four times. And you can’t

like Reynoso. Voted against the death penalty so many times, for the death penalty so many times.” Both Judge Grodin and I had voted in several cases to uphold the death penalty sentence, but more often than not we had voted not to for the reasons I indicated. So they started with Rose Bird then went to the two of us, and it was very effective.

LABERGE: They didn’t say anything about Stanley Mosk?

REYNOSO: No, they had decided by that point that, one, all they needed was three votes to take over the court because Deukmejian had already appointed one justice, so they didn’t need Mosk. And, two, Mosk had been attorney general, and he had a lot of friends. He could have raised a lot more money than the rest of us, I think. So I think they were afraid that it might look partisan, and they could see then that practically all the Democrats were cowardly and they weren’t going to speak up. I remember calling a friend of mine whom I had known for years and years who was in the Legislature, and I said, “Gee, so and so, why aren’t you folks speaking out on this? This really is an important issue.” And I remember he said, “Oh, Cruz,” he says, “about the last thing the people want is to hear another politician talk about the death penalty.” Then, to show what a good guy he was he sent \$1,000 contribution or something to my committee. But even he, who came from a safe district and all that, somehow didn’t want to take on an issue that he viewed as gratuitous I guess. So the people got very much a one-sided view.

I remember, I had an interview one time by a person, I forget what his issue was, but he was interested in the independence of the judiciary, and he asked me whether I thought the California Supreme Court would be too tied to politics, and I told him that I didn’t think so. I mentioned to him that when all is said and done, the people on the Court are still conscientious and if anything appeared to be too partisan, it would hurt the Court. It takes a confluence — a historic confluence of matters to have happened what happened with Rose Bird, and that I didn’t think that was going to happen. I still had faith, I told him, in the electorate. He says, “Boy, that’s a funny thing for you to say in light of what happened in that election.” But, in fact, I still do. It’s just that the voters unfortunately just didn’t get a true picture of what the law was, what the death penalty rulings were, and mostly I blame the Democrats for it. The Republicans though — frankly, Deukmejian was unethical in my view. He sent me a series of questions when I was named to the Supreme Court that certainly

there is a little bit of a question as to whether they would now be considered unethical — but at that time, they were clearly considered unethical. And he was a lawyer. He knew better. And the people who were attacking Rose Bird and the Supreme Court, they knew that what they were saying was not true. So it was not a very upstanding campaign against the Court and the chief justice. Frankly — I don't know whether I am now sounding cynical — that is sort of what I expected from that wing of that party, but that those who better understood, many Democrats, didn't then stand up and help educate the public about what was happening, I think, is a very sad commentary on how politicians think and their unwillingness very often to take on an issue that they don't consider vital for their reelection. Which I think is what happened.

LABERGE: George Deukmejian sent you questions because he was going to be on — voting whether you would be confirmed?

REYNOSO: That's right. The confirmation vote. When one is named to an appellate court, those judges have to be confirmed not by the electorate, but by a special constitutional commission composed of the chief justice, the attorney general and the senior presiding justice of the Courts of Appeal. And just to give you a sense about how much the political environment had changed: When I was appointed to the Court of Appeal, I was in New Mexico, and I got a call from the chief justice who called and said, "Cruz, this is so-and-so calling from San Francisco," referring to himself by his first name. I thought, "Who do I know in San Francisco?"

LABERGE: Was that Donald Wright?

REYNOSO: Yes. He said, "This is Don calling." Which Don do I know, which Don do I know? Fortunately, I didn't say, "Don who?" And then from the conversation it was clear that it was Chief Justice Wright. And he says, "Congratulations, you have been appointed to the Court of Appeal. As you know, our commission has to confirm you, but don't worry about it," he says, "I have read your background that is sent to us by the governor. It is an exceptional background. I know you will be confirmed. It is a public hearing, so somebody might show up that has some private grievance against you that happened years ago, and we will hear them out, but you don't have to come," he says. "A person from the Bar will be there to talk about your background, and what a fine background you have for this position. And then, anybody else can come, but that's done by tradition. So, don't worry about it, I will call you after the

hearing.” Sure enough, two or three weeks later he calls and says, “Hi Cruz, this is Don calling. We just had the hearing. Everything went well. Nobody showed up to talk against you. The testimony by the Bar was really great. You have such a great background. You are confirmed unanimously.” That was it.

Now, when I got appointed to the Supreme Court, I get this several-page questionnaire from Deukmejian asking how I would have voted on cases and on issues and all this sort of thing. I refused to answer it. Then, I knew that it was going to be a tough hearing.

LABERGE: Did the chief justice call you this time or not? It would have been Rose Bird.

REYNOSO: I don't think she called. I think one of the clerks, one of her assistants called, to tell me that I would be receiving a notice of the hearing. I don't think she even talked to me. No. That comports with the way she would do things. And certainly didn't say, “Don't worry, Cruz.” No, I don't think I got a call from her. So we went to the hearing. I told friends that my wife and I always took our children to any public hearings, many years before when I was involved in politics. I remember, our children — little three- or four-year-old kids would learn how to clap very early. [laughter] And we always took them to important meetings and so on, but on this occasion I told my friends that we had left all the children at home because we wanted to save them from bloodletting because we knew it would be a tough hearing. In fact, it was very tough and I was confirmed on a two to one vote.

LABERGE: It was Deukmejian, the chief justice, and —

REYNOSO: And the senior presiding justice of the Court of Appeal in Los Angeles who was Roth, Justice [Lester] Roth. Very respected guy.

LABERGE: So, who voted against you? Deukmejian?

REYNOSO: Yes. Right. How did you guess? [laughter]

LABERGE: Did someone come to speak against you?

REYNOSO: Oh yes. Well, the most serious and precedent-breaking activity was that two judges I had served with came to testify against me. One was actually still on the court and one had resigned from the court. One was Justice [George] Paras, who had resigned from the court. He issued a press release at that time, saying that he could no longer be an appellate judge serving under the junta led by Chief Justice Rose Bird. So you can tell what his

feelings were. When he resigned from the Court of Appeal, he had written a private letter to me saying, “Cruz, nobody knows about this letter except you and me, and I am now practicing law and I had my private secretary type it. I just want to let you know that I think you have the great potential for being a great judge, but you haven’t shown it yet.” Then he cited several cases I had decided, to show what a bad judge I was. Just recently I had decided a case that he approved of. And he said, “Ah, but this case that you decided shows the real potential that you have.” He mentioned that he thought I was too often, too much in — I considered poor people and minorities my clients, and that was a bad thing. He had some not very nice things to say. I got a phone call one time from a person I knew very well, and he says, “Cruz, I am just calling to let you know that Paras is going to release the letter he had sent you to the press.” He didn’t say, but apparently that was just part of his urging the commission not to confirm me. And sure enough, I got phone calls. Oh, he had put in the letter that I got off to a very bad start because I had showed how prejudiced I was in favor of colored people because I had appointed as my secretary a woman who was African American. He forgot, actually, that I had interviewed everybody. Oh, he said, “And you had such a great opportunity to hire this great lady that came to see you from San Francisco. Her judge had just retired from the First District Court of Appeal, and you didn’t hire her. Instead, you hired this young black woman.” Actually, interestingly, the black woman was working for the court already and everybody spoke highly of her, so I thought, “Well, I will hire her.”

Later, I learned incidentally, that [Frank] Richardson who was very concerned that there was so few minorities in the court — and he was a conservative Republican — when he was presiding justice of the Third District Court of Appeal had said, “You know, we have got to do better.” And it was through his efforts, actually, the courts started hiring a little bit of diversity in the court. Interesting. I didn’t know that when I hired her. I just hired her because people spoke well of her, and in fact she did very well for me. And she was hired by another judge after I left. But that was his proof — among other things — that I was prejudiced in favor of black people. I was very concerned when I heard that, and I took my secretary aside and I said, “I have never shown you this letter, but I hear that it has been made public, and so I have got to show it to you now.” And I showed her what he said. It turned out that he had had the good the grace of cutting that paragraph out of the letter.

He didn't cut out other things about my prejudices from his point of view, but he did cut that out. I guess he issued it with a press release, and he said that for personal reasons, he was cutting out a paragraph, and if I wanted to I could make it public. I think that's the way he handled it. It turned out that he did make that part public. I remember feeling so badly when I felt I had to show that to my secretary. She got along very well with everybody, and to have her know that one judge thought that she was a nincompoop, that I had just hired her because she was black — I thought it was really demeaning. So, he showed up and testified against me. Thought that, you know, that I just — well, I would be part of the junta.

And then, Evans, a judge by the name of Evans. Anyway, he appeared, but he had written to the Commission which had to approve or disapprove my appointment, saying, "Reynoso is a terrible judge, and the proof of it is that he wrote this opinion." He attached the opinion. And it was an opinion, of which I was terribly proud, that went to the Supreme Court and they reversed my opinion. I never took it personally. They have got their views; I have got my view. It was a case having to do with the standard of proof before you can separate a parent from a child. Not separate; when you are breaching that relationship and you are saying, "You are no longer a parent." I thought that was a very important decision for a state to make, and I set down what I thought ought to be the proper rules, which made it tougher on the state to reach that conclusion. It went to the Supreme Court, and they didn't think that the rules ought to be that tough. I think any judge or anybody reading that letter would quickly conclude that he just disagreed with my opinion. I really didn't worry about that opinion, but to have two judges that sat with you show up and say, "This guy is not going to be a good Supreme Court justice" was very bothersome, and I think that's the only thing that bothered Judge Roth. He asked several questions that somewhat related to that, and of course I responded and apparently he was convinced that in fact I would be a good Supreme Court justice because he voted for me. But that would be troublesome to anyone. Then, of course, there were many judges there who had served with me who said, "Oh yeah, he is going to make a great judge," but that's common.

Then, incidentally, there is a judge, the presiding judge of the Court of Appeal, with whom I often disagreed, Robert Puglia. I always nonetheless considered him a very thoughtful and ethical judge. He tells of Deukmejian coming to see him, when he was the presiding judge of the court to solicit his

vote against confirming a new judge [to that court]. As the story goes, and I have heard it from several people, including Judge Puglia, Judge Puglia said, “You know, we have got a procedure, and if you really believe there are good reasons why this judge shouldn’t be appointed, you really should write us a letter.” Apparently, Deukmejian took umbrage of that because the new judge was a very politically liberal judge, would no doubt disagree with Puglia and Deukmejian, and apparently had had some run-ins with Deukmejian as a senator because this fellow lobbied for some folk. So, apparently, Deukmejian had some personal qualms about this person. That was his approach. The presiding judge knew the lawyer, and knew that while he disagreed with him, he was a really competent lawyer, really ethical and all that. So, when it came to a hearing, he voted in favor.

Everybody had predicted that if Deukmejian got elected governor, the presiding judge, Bob Puglia, Robert Puglia, would be the first person appointed to the Supreme Court because he was respected, because he had exactly the same philosophy as Deukmejian on the death penalty, on criminal law, et cetera, et cetera. He was a perfect candidate. Deukmejian got to be governor; never appointed Bob to the Supreme Court.

LABERGE: And you wonder whether it was because of that?

REYNOSO: I don’t wonder.

LABERGE: You know.

REYNOSO: Of course. And that’s sad to say because Bob is a very bright guy. I would have disagreed with him probably nine out of ten cases on the Supreme Court, but personally — I may be wrong, but I have little doubt that that’s what happened. I should tell you another story. These are stories that I may talk about in my biography, but I never speak to them publicly. I was once going to be appointed dean of this law school.

LABERGE: Of this law school?

REYNOSO: This law school. I had been a reluctant candidate. I got a call from the chancellor here saying, “Cruz, we need a new dean, and the search committee is very interested in talking to you.” I said, “I don’t think I want to talk to them if, one, I am not a candidate. I am not sure I want to go through all of the processes — being interviewed by the students, by the faculty and all that.” I said, “You know, I am not sure that I want to go through all that.”

He said, “They are quite insistent that they want to talk to you.” I said, “Well, I will talk to them, one, if it’s not at the law school and, two, if I am not considered a candidate.” He says, “Fine, I will set something up in my home.” Which he did. I went to the house —

LABERGE: And who was the chancellor? [Theodore] Hullar?

REYNOSO: Yes. So I went and met with them. Apparently things must have gone well because he called back and said, “Oh, they are very excited about you, and so on. Won’t you agree to meet with the faculty?” Or something. Anyway, somehow I slowly slipped into being a candidate. Hullar was very excited about it. He called me every other day saying, “Oh, I talked to this person. Oh, when you become dean you will be part of my cabinet and it will be so good to have your voice there,” and oh he was so excited.

LABERGE: This is in the nineties? After you were on the Supreme Court?

REYNOSO: It must have been late eighties. Everything seemed to be going well, and by that time, I had decided that if in fact I was offered, I was going to accept. And then, suddenly, the phone calls stopped. My wife said, “Aha, something has gone awry.” I had mentioned to Hullar, “You know, Deukmejian” — I had already heard some of these stories; it may be completely untrue — my description was, “I think he is a very vindictive guy and I don’t think he will ever allow this to happen.” And Hullar says, “Oh, this is not at all political. It is strictly academic. I make the recommendation to the president, and by tradition the president always accepts it.” Anyway, I ended up being a candidate and the phone calls stopped. Then, later, actually a member of the regents who was very favorable to me said he got a phone call from Hullar saying, “Hey, how do you feel about Reynoso being the dean?” And he was all enthused and so on. But, no doubt, the same phone call went to all of the regents, and I think a majority had been named by Deukmejian by that time. A person whom I respect a lot — it may be untrue, I want to emphasize that — but what I heard happened by a person close to Hullar and close to some other people in the loop was that the president of the university —

LABERGE: David Gardner.

REYNOSO: Gardner got a call from the governor saying, “I hear this blanket-blank guy Reynoso is about to be appointed dean. How could you have such a terrible guy be dean of such a fine law school?” And that Gardner

called Hullar and said, “Hullar, you just can’t put me in this position.” Deukmejian had been very good to the university. Had been very good with the budget, had been very supportive of the university, and so on — so it all sounds right to me — and said, “You know, Hullar, you just can’t do this.” So then, after a long, long time, I got a call from Hullar saying “Gee, Cruz, I am really sorry. I have got to open the search again,” he said, “because I haven’t been able to get a unanimous vote from the faculty for your appointment.” I have never known of a unanimous vote by any faculty. It may have been true that he couldn’t get a unanimous vote, but frankly that wouldn’t be surprising. So, the story sounds right to me. It may not be right, but in light of what happened with Puglia, and in light of the fact that I had mentioned during the campaign that the governor was a lawyer, that he should know better, that what he was asking me to do was unethical, and so on, I can’t help but feel that maybe that’s true. It may not be true, but I have a feeling it is true.

LABERGE: We haven’t talked about the other justices, how you worked together, what the collegiality was like. Maybe just to start — because I just mentioned to you that we are going to be interviewing Professor Grodin — how you worked with him, or your impressions of his contribution.

REYNOSO: When I was going to the Supreme Court, I had read many articles about tensions within the Supreme Court, and I had told myself that I had a reputation for being able to work with people, and therefore I viewed myself as going to the Court and being sort of a peacemaker — having people work together in a collegial way. If I had those skills, they never came to use because I found that those reports were false. That is, when I got there, everyone seemed to get along very well. The chief justice was always jovial and very respectful of the other judges during the Wednesday conferences that we would have. Now, it was an element of some disappointment to me, however, that the judges didn’t work as much together informally as I had assumed they did. In fact, I remember, one time, Justice Kaus, Otto Kaus, coming to me and saying something to the effect of, “Well, Cruz, I don’t want to lobby you on this case, but I wonder if I can discuss this issue with you?” I said, “Otto, lobby me. That’s what we are here for.” I think it’s more a pressure of time that didn’t permit us to sit down and talk with our fellow judges about issues that concerned us. Very often, that communication was done through memos, and I had hoped that it would be more by discussion.

I found that coming to a conclusion on a case at the Supreme Court level with seven justices was a completely different dynamic than coming to a conclusion at the Court of Appeal with three judges. The system at the Supreme Court was that after we had a hearing, the chief justice would assign a case to a judge to write. Meanwhile, no doubt we were working on several cases at the same time. So, another judge would finish his draft or her draft and come to us while we were working on our own draft. And so you were just busy all the time, and I think that made for our not getting together informally with one another as often as I had hoped that we would. In some ways it made the Wednesday conference even more important because that's a time when we were all together where we really could talk about the issues that were coming before the court. Was it important enough to grant the case? Was it not? Et cetera.

When I first joined the Court, we had a Court that was, I would say at that time a traditional court in terms of its reputation of the last fifty years before I joined the Court. That is, it had a reputation for being very sensitive to consumers, to working people, and to the citizens of this state and residents of this state who didn't have great partisan political power. So the Court, in my view, was very responsive to its responsibility to enforce constitutional mandates that do deal with notions of equality and due process and so on. We had only one judge at that time who had been appointed by a Republican. That was Justice [Frank] Richardson, and he was really a truly fine gentleman. Would often file dissents, but they were generally respectful. Though, on one occasion, he wrote that the majority was legislating, and I had always felt that it was unfortunate that dissenters so often say, "I think the majority is legislating," because the majority generally is doing what courts do. There is a vagueness in a statute or a vagueness in the Constitution and the judges have to fill in the blanks. And you might say that there is an element of legislating or "constitutionalizing," if there is such a term, but that's the traditional role of justices. So I went to see him, and I could tell that he felt that he had a right to express himself in any way he felt appropriate. I just sensed that very quickly in the discussion, so I didn't push it. So sometimes, even though you have your own views about how things should be done, you have to recognize that others have their own quite legitimate views.

A lot of what courts do is more by tradition than from mandate of the constitution. For example, the constitution only requires that the decision be in writing. The decision could be a one-sentence decision. Why do the courts

take the time to explain why they have done what they have done and so on? That's really more by tradition. It's a great tradition. I have told people that even though the deliberations are not public, since everything the Court does is public, it may be the most public of all institutions because there you have it in black and white and people can agree or disagree. But again, that's really more based on the tradition of how judges in the common law jurisdiction function more than the requirement of the Constitution. I remember being taken aback sometimes when I would see some older opinions of the California Supreme Court, and the dissenter would have a two-word, one-sentence, one-paragraph dissent. It would say, "I dissent." But that was fitting that judge's constitutional duty. It was putting down in black and white what his decision was.

I found that the work at the Supreme Court, in terms of a judge's work, was quite different than on the Court of Appeal. And I just provide those comparisons because I served on both courts. In the Court of Appeal, I would do *most* of the work on the opinions. I would get a draft from a clerk, but then I would work on it quite extensively on those opinions that had been assigned to me. I wrote many dissenting opinions and concurring opinions where I, or maybe with the help of externs, then did everything. At the Supreme Court level, aside from some dissents and concurring opinions, I don't think I ever wrote an opinion from beginning to end. We would always get a draft from the staff, and then one would change it considerably. But there is a difference, I think, in thinking through yourself how to structure your opinion and have it be truly your own than taking a draft and then working on that. So, that was different. And I guess that was different because so much of our time — I have mentioned, about 50 percent of our time — was taken in deciding what cases to take, so there was an element of pressure to move cases, if you will. In essence, the work on the Supreme Court is really quite, quite different than the work of a judge on the Court of Appeal. I confess that I felt comfortable with both roles, though I understood that they were quite different.

My immediate neighbor when I joined the Court, because I replaced Justice Tobriner, was Frank Newman. I guess I had probably more discussions with him just because of the proximity than with others, and probably the person who I had most discussions with aside from Frank Newman was Joe Grodin. You asked about Joe.

LABERGE: Did you come in on the same day? You and Justice Grodin?

REYNOSO: No, he came after I did. He and I had actually served on the Court by assignment a time before, and I remember somebody saying, “Maybe this is reflective of the Court to come.” Whoever said that obviously had a premonition because both of us ended up on the Court. I have at least one story to tell you about Joe. There was a case that came up, that I don’t know if I mentioned this case to you, having to do with equity.

LABERGE: No. Unless it’s the real property, the trucker?

REYNOSO: Yes. Yes. What happened was that I disagreed with the majority. They felt that if there was going to be any change, the Legislature should change it and I felt that because there was an equitable issue, that by tradition, the courts could update equitable concepts. And I think Joe must have felt sorry for me because, at the Court of Appeal level if you file a dissent it’s one third of the votes; it’s quite respectable. At the Supreme Court level, if you file a dissent it’s sort of six-to-one and a reader might wonder who this oddball is. So Joe wrote a concurring opinion of that case, and he said, “I agree with everything that Reynoso said, but when all is said and done I think the majority is right — the Legislature should do it.” The vote came out five-to-two, so it sounded better. [Laughter] I still remember that case. Maybe it shows his sensitivity. Joe and I generally agreed on cases, or we never had much opportunity to be at odds intellectually or in terms of our analysis of history. I just found working with him — and we did quite a bit of travels. We had hearings in Sacramento and Los Angeles, and I very much enjoyed getting together with him and his wife, who traveled with him on those occasions. I stayed overnight at his home from time to time and that sort of thing. So, it was just a very, very nice relationship. On the other hand, he wrote a book —

LABERGE: *In Pursuit of Justice?*

REYNOSO: Yes. And he talks about me there, but he made a mistake. He said I grew up in Imperial County, and I didn’t. I grew up in Orange County. [Laughter]

LABERGE: That was the only mistake, huh?

REYNOSO: That’s the only one that comes to my mind. I started practicing law in Imperial County, so many people think that I grew up there.

LABERGE: You two were in the confirmation election together. Did you discuss how you were going to deal with that at all?

REYNOSO: Yes, we had discussions. And particularly, we had discussions with the chief justice. I remember a particular day when we had a discussion, where she was telling Joe and me that if we wanted to separate ourselves from her that she would not at all take it personally, because she understood that it was she who was under attack, and the polls indicated that, in fact, those who had been attacking her — in my view, illegitimately — were having some success. She was saying that if we wanted to separate ourselves from her and so on that she would understand that and perhaps even encourage it. Joe and I, I believe had talked about those issues before. At any rate, without consulting with one another, we both rejected her suggestion out of hand. We felt that it was an institutional attack on the Court, and that we all had the same obligation to come to the protection of the Court and the notion of an independent judiciary, and that her issues were basically our issues. We talked from time to time about whether we would hire a professional to help us with the campaign. Frankly, I am not quite sure whether Joe did. I think he did. We hired a professional person the last few months of our campaign, but there really wasn't that much that one could do as an incumbent judge to defend oneself. Really, anything that one would say, it seems to me, would be self-serving. The person we hired — who was a very low-key person, which is what I wanted — did produce a couple of television spots that were rather staid. My recollection was that he put me on, sort of a talking head in a way. No, I think he had two commercials. One was with me saying something nice about the independence of the judiciary, and then he had another one with a well-known actor, whose name I forget, talking about me and talking about the importance of an independent judiciary. We had a little bit of money to put it on for a few days, and that was really about it. Other than that, I accepted a lot of speaking engagements at that time, and traveled all over the state speaking to various groups, and met with folk who would do endorsing — bar associations and so on. And all of those groups endorsed us. But, in a political campaign of that sort where people don't know the issues very well, the folk who have money win, more often than not.

It was interesting, however, there were several organizations that were gathering money to fight against the chief justice, but many of those folk pay themselves very well. And they ended up near the end of the campaign with very little money even though they had raised several millions. So I have always thought that their success was due to a large extent to the governor taking

a strong stance against the chief justice. And the impression I have is that, in the last few months, he encouraged his supporters to then contribute to the organizations. I think by that time, it was reduced to a couple of organizations that were heading the campaign against the chief justice. And I assume — I don't know the ins and outs of it — that they started cooperating with one another, because they were able to put together some television ads that were very effective against the chief justice and Justice Grodin and me. I had told Joe just a few days before the election, our consultant had run a survey just not on me but on the others. And he mentioned that the chief justice was going to lose — according to his surveys — quite badly, that Joe and I would be quite close, but we were both going to lose. So I told Joe that to aid him in his — in deciding what he wanted to do. I remember now; he did have a consultant because he told me that his consultant hadn't done that last-minute survey. However, he couldn't believe it, I don't believe, because he did have in downtown San Francisco a hotel, one of those victory get-togethers that you have on election night, but it was a very sad occasion for them. I had thought that maybe if he were convinced, as he was not, that in fact the election would not come out well, then he would not have been in that type of gathering. I had decided not to, but it was very difficult, I think, for anybody who knew the history of the Supreme Court in California to accept the notion that justices would not be returned. And most of the people who were supporting the Court and the justices, this was their first experience in fighting that sort of really quite reckless attack on the Court, and folks I don't think quite know what to do about it.

LABERGE: Well, I was going to ask you, what — in your perfect world, if you could decide how justices are chosen and how long they stay, if they should have a lifetime appointment — what do you think the best for justice is?

REYNOSO: I think that despite all the weaknesses of the federal system, that probably lifetime appointment is best. Another system that would also be quite good I think is to have long-term appointments. Appoint a judge for say fifteen years, subject to reappointment by the governor. I do believe that it's perfectly proper to have politics be involved in the naming of judges, because judges need to keep up with changing times. And that can be done by the appointing power — more often than not, the governor — appointing folk that he or she believes are judges who represent those changing times. However, once a judge is appointed, I think they have a duty to forget about who appointed them

and be true to the constitution of their jurisdiction, the statutes and all that. I think it's Pennsylvania, I am not sure — there is a state that has a system of appointing judges for a long time, long-term, and then they're subject to reappointment by the governor. It seems to me, that way a judge would have time to develop his or her own style, would be there long enough to make a difference in the court, and presumably after fifteen years, the judge would have some sort of retirement when he or she left the court. It's a long-enough term to be enticing to good lawyers and folk who would do well on the bench. So, I think that might be also a good system. The literature indicates that the people of the state thought that they were depoliticizing the Court when they went to the confirmation process. The literature seems to indicate that the confirmation process was a substitute for the federal system of having to go through a trial to remove a judge. So the idea was, only if a judge had really acted improperly would it call for a no vote. I don't think those who suggested the confirmation process had in mind that the issue would be as politicized as it got.

LABERGE: You mentioned a couple times the role of the media — for instance, in that election. You also mentioned it, I think, in relation to the farm workers. I wonder if you would comment on the strength of the media, its importance, how it handles —

REYNOSO: The evolution of the media in covering this issue was very interesting. At first, the folk who talked about any criticism of the Court were those who wrote about the Court. As the issue continued, however — say, for the last year — most of the newspapers then turned those assignments to political reporters. So most of the reports were very much the type of reports that you read about the presidential election or the gubernatorial election. The Court has now come down with this opinion; that's going to hurt them politically. Right or wrong? A judge said this or the governor criticized the Court for this decision or that. That is not looking at the merits at all, and not investigating — taking at face value that the issue was the death penalty, for example. Never investigating where the money was coming from, whether there were folk who had qualms about the Court's long-time rulings on insurance companies, for example, on employer–employee relationships, on workers' compensation — any of those issues that in fact were very important, I think, in terms of who provided money against the Court. So far as I can recall, there may have been one or two articles that dealt with some of those

issues, but mostly they dealt with the death penalty because that's what those who were attacking the Court wanted people to believe. Little effort, it seems to me, by the press to explain that in a death penalty case, an overturned opinion did not mean that the person was out free; it just meant that there had to be a retrial. Very little effort to explain that, oftentimes, decisions were overturned based on the United States Supreme Court rulings. Very little in depth; very superficial. I think a good grade for the press might be an F-.

LABERGE: Now we are hearing — all this week [week of May 16, 2004], particularly — about *Brown v. Board of Education*. How that was, in a way, long in coming, but a reaction to changes in society. Or now with gay rights. How do you approach that? I mean, how much did you take into your consciousness, “Well, times have changed,” or what the society was saying?

REYNOSO: What you do is you take a second look, I think, at the basic documents that mandate how you as a judge should look at the law. So, what *Brown* did, for example, was simply take a second look at what equal protection meant. And by the time they ruled, it was not in the abstract that they were ruling, but they were ruling on the basis of what they all knew had happened since *Plessy [v. Ferguson]*. So, they knew the real effect of “separate but equal” meant “separate but not equal.” Secondly, *Plessy* was decided sort of in the shadow of the Civil War. *Brown* was decided in the shadow of the Second World War.

I have always felt that the modern civil rights movement began with the Second World War when veterans came back and they said, “I lost my buddy, I lost a leg fighting for democracy. I am not going to stand it, to not have our own country not live up to democracy.” So you had the formation of groups like the GI Forum, where a city in South Texas declined to allow a returning veteran who died at war be buried in the municipal cemetery and folks said, “Hey, wait a minute! This is not right.” Then you had in California the *Mendez* case, where the court had said that segregation in and of itself is unconstitutional. It had to do with ethnicity, not with race. In fact, it couldn't have said that about race as *Plessy* was still the law, but they had clearly said that segregation, in and of itself — segregating people based on ethnicity — and it's not a big jump to say also based on race or whatever. And the lawyers in *Brown* had filed amicus briefs in the *Mendez* case. Thurgood Marshall's biography indicates that Carter particularly, who was on the briefs with him, argued strongly that they should go for the same approach at the Supreme Court. It

says that Marshall was initially sort of reluctant to do that, but then decided, “Yeah, we’re ready to take that step to fight.” They had been fighting most of the issues, based on the fact that the reality was inequality — that the law was separate but equal. And now they were prepared to say, “separateness alone is not equal.” There had been testimony, interestingly, by a sociologist in the *Mendez* case about the intensifying of any sense of inferiority on the part of a class of people in the community that’s already separated from the majority. And of course, that’s what was done in *Brown*. So then the court looked at the issue of equal protection with new eyes. The basic policy of the Constitution is there, but based on experience and so on, you can now reinterpret what true equality means, not just formal equality. So, that’s what the Court did in *Brown*, and I think that’s the role of courts. Now, I confess that I think the Supreme Court has lost its way and hasn’t done that for the last twenty years maybe, but I think that’s a very important part of the role that courts have.

LABERGE: Well, since we are on this subject of civil rights and equal protection, let’s talk about affirmative action and what your views — both in general, but in education and the University of California, Prop. 209. Whatever you would like to reflect on.

REYNOSO: I am very much in favor of affirmative action as it has been utilized by educational institutions, employers, and others. And what I mean by that is that affirmative action includes a great many things. When I served with the Fair Employment Practices Commission [FEPC] in the middle of the 1960s, I don’t think we used the term “affirmative action” then, but we encouraged employers to reach out. To not be content simply, for example, with advertising a job in the principal English-language daily newspaper. To also advertise in minority press and so on. To reach out. To act affirmatively to make sure that they got the best employees and that everybody got a shot at it. For example, I remember talking to a gentleman who was in charge of the local bank in Brawley, California, when I was a lawyer. Brawley, at that time, was about 40 percent Latino. Had a lot of monolingual, Spanish-speaking people. Had a small, but not inconsequential, group of African Americans and Asian Americans. And, at that time, every single employee, including the janitors and everybody was Anglo American. So I asked the gentleman in charge how come it was that here they were in this very racially and ethnically mixed community and they served all of them, and yet, every single

one of their employees was Anglo. Why didn't he get word out? And he says, "We don't need to get word out. Word gets out in the community when somebody is leaving. We normally have several applications before the person even leaves. Then we hire the best person. We don't discriminate against anybody." But, of course, who would hear that somebody is leaving? Friends, relatives, and so on. And normally folk would be of the same race and ethnicity, then they would hire that person, and that was a continuum.

I wasn't with the FEPC at that time, I was just having this discussion with him, but the FEPC affirmatively encouraged a bank like that to let everybody in the community know. That way it would be good for the bank because everybody could compete for that job and they could find the best person that could do the job. And obviously it was good for the element of fairness to the community. That was affirmative action — anything that tries to bring about some fairness in the workplace or in the educational establishment. What it does *not* mean is that you hire anybody that's not competent. So often, those who attack it say, "Aha! You've hired somebody that's not competent." I have never heard anybody, certainly not us in the 1960s with the FEPC, not with the EEOC when I worked with them later in the late 1960s did anybody ever suggest that folk who were not competent should be hired. So, to that extent, I could be said to be against quotas if that implies that you would be hiring incompetent people. Incidentally, I don't believe that merely having quotas means that. That is, for example, when I was on the EEOC in the late sixties, the commissioners put together — I was on the legal staff. The commissioners put together what they called the one thousand list. That was a list of employers who had over 1,000 employees in areas that had a sizable minority population and not one of the employees for that employer was minority. I mean, it's extraordinary the level of segregation that we had developed in this country.

I remember seeing a movie put together about the construction of Hoover Dam and how these companies were hiring thousands of people — not one black person. Finally, the secretary of the interior insisted that they hire some black people. So they hired a few black employees who were all completely segregated, but at least they hired some black employees. But until the government insisted, they had hired thousands of workers; not one African American. You know, we were really — it's amazing how efficient we were in that segregation. Now you have laws saying, "Fair employment." You don't get over it by continuing the same practices; you have got to do something different.

Affirmative action has meant that you go out and let people know about it and that you do take their race and ethnicity into account, in part, in hiring. So that if you have 1,000 employees and you have not one African American, and you have an applicant that's African American, you take a careful look to see whether or not the person is qualified. You don't hire them simply because they are black, but you do take that into account. Not only that, but you tell the people that are there that it's their job to hire the best-qualified person irrespective of race and ethnicity. If you know there are a lot of folk in that community that are African Americans, they are bound to find some that are competent. And you ought to keep track. If the workplace is 25 percent African American, and you are looking at unskilled laborers, and you have got 500 unskilled laborers in your plant and not one is African American — you survey those who are in the workplace, and you know that there are just as many or more African Americans in that community or more that are unskilled, and yet you end up with none, there is something not quite right. So you keep track of it, too. And you keep track of it, not incidentally by asking them to identify themselves, but by yourself identifying. Because whether or not a person considers himself African American or not, if others consider him African American, he will be discriminated against, perhaps. You can have a self-regulatory system, only by keeping track of that and sensitizing your supervisors, and so on, to that responsibility, and it really works out best for your company also. You will end up with the best people. Can you keep track of whether or not your company is doing, from my point of view, the proper legal and moral — whether you have taken the proper legal and moral steps in that process? These things don't happen automatically. Then, if minorities hear that an employer is hiring or a college is admitting students of color or students of various ethnic groups and so on, then they themselves are encouraged to apply. So it helps in that process.

For some time I was on the board of directors of a group called CLEO, Council on Legal Education Opportunity. It was a group whose purpose it was to try to get more minorities and poor whites into law school. At one point I became chair of that group.

LABERGE: Is it national?

REYNOSO: It's national. Well, it used to be a subsidized group by the federal government. They actually would give a stipend to the students, they would

pay the professors, and all that. Apparently all that has disappeared. The group still exists, but students now have to pay their own way to go to it. It is a summer program meant particularly for those folk who don't have great LSATs, but who may have a potential for being good students. In part, it's to teach the students about law school, but also to sort of test whether they have a good shot at success at law school. Some students are sufficiently interested that they actually — as I understand it there are only one or two summer institutes now — they actually pay to go to them. When I was involved, there were government funds actually for all of that. I would meet with them, and my talk in summary would say, "Look, you are not here because we love you. It happens that we love you, but you are not here because we love you. You are here because we think the country needs you. We need, in the legal profession, folk to come from all walks of life that in times past haven't had the opportunity to go to law schools. Poor people who haven't had the money, minorities because of discrimination or linguistic or other issues haven't been there. We look at the statistics — even today we look at the statistics, and we don't have the type of representation that we need to have the people of this country have confidence in the legal and judicial system."

Today, I still get phone calls from prosecutors and defense attorneys saying, "Hey, recommend some minority lawyers. We have a disproportionately large number of folk accused of crime. They go into a courtroom, everybody there is Anglo or white, and we sense that it is not legitimate to have so many minorities coming through and having everybody in charge be of a different race. We think we ought to have more minority prosecutors, more minority judges, et cetera, et cetera." So I would tell them, "Society needs you. *That's* why you are here. And there is no free lunch for you. You are here because you are being tested — you are being taught, but you are also being tested to see whether or not we think you will do well in law school. You will have a far harder job than others who are being admitted to law schools. So don't think you're here because it's going to be easy for you." And I believe that. That is, many of those folk who have been admitted — well, Villaraigosa [later mayor of Los Angeles], the fellow who was an assemblyman and got to be the head of the Assembly and then ran for the mayorship and didn't get it, used to say of his own experience. He dropped out of high school and got into trouble and all that as a youngster. Finally, sort of shaped up and was admitted to UCLA. And he said, "You know, I was admitted under affirmative

action. Some say I got in through the back door.” He says, “Maybe that’s true, but let me tell you, I got out through the front door.” That is, he had really turned his life around and he has gone on to do great things for the public.

Once a student is admitted to a job or to a school, that student has to produce. And the reality is that the tests that we have for employment or for school very often test only a tiny amount of what goes to making a good student or a good employee. Well, the same thing applies to education. We give an LSAT test, which even those who put the LSAT say has nothing to do with how well the students will do except during the first year of school. That, in turn, has some relationship — but not that much — with whether or not that person will pass the bar, and has *no* relationship with how good a lawyer that person will be. And yet, the LSAT is one of the two absolutely most important matters that we look at in admitting. We look at their GPA and their LSAT, and most law schools will then put them together and come up with a figure, their own formulation of what that combination does. Well, we know that doesn’t tell you how good a lawyer they will be. Meanwhile, from the point of view of society, don’t you need more lawyers who are willing to serve the poor, who are willing to go to public jobs, who are willing to do many other things? If we ask ourselves the question, “Is our role to train lawyers who will serve society well?” — as medical schools try to; not with great success, but with some. I mean, a medical school looks at what’s needed in society, and what’s not needed is more plastic surgeons. A disproportionate number of doctors will become plastic surgeons because they can make money. What you need is doctors dedicated to serving all those folk who are underserved. So the medical schools try, by interviews and so on, to identify those who have a greater chance of going to those communities, and actually the statistics indicate that they have had some success, particularly with Latino and African-American graduates of medical schools. Well, we as lawyers, shouldn’t we be looking at that also? What do we need in society? Instead of just looking at LSATs and GPAs, which tell you something, but obviously don’t tell you the whole story about whether or not that person is going to be a great lawyer. We need to go beyond that, and one of many things that you look at is the background of the youngster, including ethnicity and race.

And I have long felt that what has been done based on affirmative action, which has forced many institutions to look at a person more, if you will, “holistic” — as they say nowadays — has been a great boon not just

to minorities, but to everybody. Because everybody who is applying to law school, who is applying to a university as a freshman, who is applying for a job ought to be looked at as a whole human being, not just whether you can type, but whether you can relate to people, whether you can remember things, whether you can file papers properly, and so on. So, in general, I continue to be very much in favor of affirmative action. I reject completely the notion that anybody should be hired who can't do the job. I think it is bad for that person. They will end up being fired or end up being dismissed from law school. What a tragedy. It is our job as educators or as employers to use our best judgment to make sure that those folk in fact do do well. There is an element of risk-taking that takes place, but we ought to be judicious in that risk-taking also. I am not in favor of simply admitting folks into the law school, even if we think they are going to be great lawyers, if we don't think they are going to make it through law school because they are never going to get to be great lawyers. So, I think we have to take all of that into account, but principally we need to take a look at the person as a whole, and then ask ourselves, "What does society need at this time?"

Right now, we have in California about — I see various figures, but I would say about 3 percent of the lawyers are Latino. Meanwhile, about a third of the population is Latino. We have probably about 2 or 3 percent are Asian, but 8 or 9 percent of the population is Asian. About the same figure are African Americans, so we have about 6 or 7 percent of the population as African Americans. We have a long ways to go before we see any sort of proper representation in that great profession, and we need representation in any great profession it seems to me. Affirmative action has just been one of many steps that one could take to do better in society from the point of view of representation of folk in different professions. Even after nearly thirty years, we are still at the figures that I just mentioned to you. So, this notion that somehow affirmative action has done all these great things for minorities is simply not true. In the black community, you hear a lot of discussion about the reality that affirmative action simply helped the middle-class and upper-class blacks. It did very little for poor blacks. I think it is still very important, but we have to recognize that it's of limited utility. It is a very important utility, but it is limited utility, and even that has come under attack. I completely disagree with the folk who think of affirmative action as a preference. I think that it is really a program that's good for *society*. It is

not meant to just help those given individuals; it's meant to help society be a better society. I don't view it as a personal preference at all.

I disagree — even though there is an element of truth to it, nonetheless, in terms of policy — I disagree with the notion that we ought not to have affirmative action because it makes minorities feel inferior. People will think that they just went to law school because they were there under affirmative action. In fact, sad to say, I talked to many minorities who have run into that. Minorities who had excellent grades and excellent LSATs, who under no condition could be said to be affirmative action admittees. And they say that very often they sense that as soon as some folks see a minority, they say “Aha! Another affirmative action admittee.” So there's that element. On the other hand, most minorities say, “Look, if that's the cost that we have to pay to get more of our numbers in the law schools, that's fine with us.” I am reminded of a discussion I had with a female professor here who was involved in some discussion about the fact that Davis, like most other universities, didn't have a fair number of female professors, speaking generally. One argument was, “Well, we don't want to do that because we feel that we hired them only because they are female,” and meanwhile the group of female professors had the figures indicating the lack of representation. And they said, “We don't mind. Go on and hire them. We would rather have them hired than not.” And I think that's the way most minorities feel.

Not all. I have written an article of Latinos in L.A. County, and there are several folk who responded saying, “I don't like affirmative action. I want to do it on my own.” In any large group you are bound to have those sort of disagreements. You now have in the black community some folk that call themselves the New Black Leadership, and they reject affirmative action. They reject anything that smells of civil rights. They think that everybody ought to be able to stand on his own two feet and pull himself up by his own bootstraps, whether he owns bootstraps or not, et cetera, et cetera. But, you know, you have to expect that. Incidentally, I also believe that affirmative action is not something temporary like Sandra Day O'Connor thinks it's all going to be done in twenty-five, thirty years. I think it ought to be a continual concept for our society. Thus, for example, for years and years we at the university have discriminated against the mountain counties in California. Many of those schools don't provide all of the courses that we require. Many of the kids there, mostly Anglo, are poor and we have never had good

representation in the UC system of the mountain counties. I think we ought to have affirmative action to get more of those kids, just in terms of fairness. They pay taxes; they ought to have their own children come to the UC system. That has also been true of youngsters in the Central Valley, irrespective of race or ethnicity. It seems to me that we have a duty in a democracy to look around and see whether or not any group is being excluded. Pragmatically. I don't mean that there is a policy that says "No mountain kids," but we look at the figures and we see that they are being excluded for one reason or another from participating in that educational institution, that employment institution, whatever. And it tells us we are not doing something right.

I will tell you a story because it turns things topsy-turvy. I may have told you about this. I was invited to go speak on a Saturday to a parent-student group in a school in the Los Angeles area. When I got there, I noticed that practically everybody involved was Spanish-speaking, and a great majority of the kids there were there, but the leadership of the PTA and practically everybody in charge was Latino. So I asked, "Is this an entirely Latino school? Do you have some other folk?" And they said, "Oh yes, about 20 percent of our students are Anglo." And I said, "Well, where are the Anglo parents?" And they said, "We don't know. We keep inviting them; they just don't come." I was bemused because I have heard that story told a hundred times about Latino parents by Anglo parents, "You know we keep sending these notices. They don't come. They must not be — " They don't say this, but the implication is "they must not be interested in education or must not be interested in their kids." Well, I just said, "Maybe you ought to do something more so they feel comfortable when they come to these meetings and so on." Something is not quite right when 20 percent of the parents don't come to a Saturday function that is supposed to be good for everybody. I don't know what they have done right or wrong, I really don't. I nonetheless have the absolute sense that they haven't done enough. Somehow those parents, when they have come to a meeting, have felt uncomfortable, as my parents did when they went to a PTA meeting. And we as human beings are smart enough to be able to figure things out on how to make those folk feel more comfortable and so on.

I think affirmative action is and ought to be a continuing concept in our country, and in fact, we have seen that evolution at Berkeley. There used to be an affirmative action plan at the university as a whole for all the underrepresented folk, which included at that time, Japanese Americans and Chinese

Americans. When the numbers of those two particular Asian groups then got to be even more than their representation in the population and the high school and graduating population, those two groups were dropped from the affirmative action plan. I thought that was perfectly proper. Then they could worry about the Asian groups, the Hmong and others, that weren't well represented — Latinos and African Americans and so on. It ought to be a matter of private and public sensitivity when public or private institutions are not serving the folk that you know ought to be served.

Folk who disagree with me are perfectly honest in their opinions, and I think sometimes based on folk being such good people that they really can't believe that discrimination takes place, or they can't believe that the opportunities aren't there. That is, they can't believe that an Anglo parent would feel uncomfortable going to a predominantly Latino school, or that a Latino parent would feel uncomfortable going to a predominantly Anglo school without there being some special effort to make sure that they feel comfortable. These folk — and I know many of them are really very, very fine people — they just can't believe that those things can happen. Just as so many people can't believe that our soldiers would actually torture people in prison. And they say, you know, "It can't be." Sad to say, those of us who have been around and have seen what's happened in our own prisons in California and elsewhere find that — I'm sorry to say — unsurprising. But most folks just don't. When the Rodney King beating took place in Los Angeles, the mayor and all, they immediately start talking about "the few bad apples." Well, my own experience has been that there are a few bad apples, but very often — more than that — it's an ambience that has been created from the top. It's lack of enforcement by middle management, and therefore a sense on the part of those folk at the bottom that it's not only a good thing to do, but it's a matter that will be rewarded. So I blame, in terms of what happened for example in Iraq, everybody who was involved — from the buck private to a person called the president of the United States of America. And certainly every general and colonel in between.

There are many people who would fight against it, but many folk who were there did not. And that's been my experience in any big institution. You also know that there are bad apples. You sometimes see folk who finally have a little bit of authority, and they really want to exercise it. Sometimes against the regulations of their own employer or their own institution. But then the important thing is, what happens to those people? And very often the answer is "nothing"

or they still get rewarded. That also sends a message. If those photographs had not been made public, I'll bet you dollars to doughnuts that there would have been very few punishments coming out of that torture and so on.

It's somehow practically a natural inclination of institutions on how to protect themselves. There was a report this morning [May 19, 2004] on the prison system in Iraq that the first reaction by the people who got a report from the Red Cross was, "How do we keep the Red Cross out?" Not, "What do we do about the abuses?" It's a perfectly natural thing. That's also perfectly natural in who you admit to your institutions, who you hire, and so on. We need external forces, very often a program, a law, a regulation that tries to get us out of that so we try to do the right thing. And affirmative action is just simply one of those methods, if you will. That's the way I see it. There is nothing magical about it. You have to use discretion on how to use it, and there are many pressures going the other way. In law schools, for example, you always worry about the passage rate on the bar. Then, you have got to worry very much about maybe not admitting people who eventually won't pass the bar. You worry about people getting jobs quickly because all that goes into the national system of pecking order, right? Then you worry about how many of your students are going to get clerkships. Well, more often than not, folk who get clerkships, folk who get hired and all that, are hired by people who have a certain affinity to them. Very often the affinity, though unstated and probably unconscious, has to do with race, ethnicity, particularly with cultural background. A middle class person would feel more comfortable with a middle class person. *Et cetera, et cetera.* These are just natural institutional pressures, if you will, or practices.

I have always admired the U.S. Constitution because it recognized that power corrupts, and that therefore we need different power sources, different departments, who are able to curtail that corruption. To a certain extent, what's going on now in our country is that one of our institutions, namely the executive, is now claiming great power and we see the obvious corruption that comes from it. You know, that's one of the great thinking of the Constitution. They recognized an element of selfishness. An element that folk truly convince themselves that what's best for themselves individually is somehow best for the country. If it was completely up to you, you would quickly declare yourself king because you know you are wiser and smarter than anybody else so you know exactly what's right. That you end up with Cadillacs and houses all over the country and all that is simply because you

ought to be rewarded because you are so wise and evenhanded with everybody else. I mean, those are just natural tendencies that some folk who are spiritual and so on are able to reject, but most folk are not.

I don't even accept that about myself. I have to remind myself about those things. It is so easy. Many people admire the things that I am doing. I will go and talk to some group and folk will come and say, "Oh, what a great talk," and all that, and I think to myself, "Oh boy, I must really have been right." Then I will hear a talk delivered by a person who absolutely disagrees with me on everything, in which he is talking to people who agree with him, and they all go up and say, "Oh, you are right. No, that war against Iraq was exactly the right thing. Oh, you are so wonderful." And those people are bound to say, "Oh, you know, I must be doing the right thing." So, I have to check myself too. [Laughter]

I just spoke before, actually a Latino group, Boalt Hall students and alumni. And I said, "Look, we are now a third of the population. Our responsibilities now go beyond the Latino community." And I have never viewed that the Latino community wanted anything extraordinary. They want the same thing for their children that other folk want. It may be that it looks a little bit different. Bilingualism might be viewed a little bit differently, but it is only because those parents want the same thing for their own children that others do, i.e. a good education. So we've got to be sensitive to the vehicles for bringing fairness to everybody. Latinos — and now that we have maybe a third of the Legislature in Latino hands — we have a responsibility to be sure that everybody in California is treated with respect and with equality. I believe that. Unfortunately, I have long said that those who are in political control need to be conscious of those who are not because in the future they may not be in political control and they have to establish the tradition of fairness. I am sorry to say that I haven't seen that yet come about. So it may be that, when Latinos are in political control, there will be sort of an element of say, "Look, you did us in, now we are going to do you in." I hope it doesn't happen, but there is a danger of that because there is still too much anti-Latino ambience. I listen from time to time to find out what people I don't agree with say. Some of these talk show hosts. I mean the racism, the anti-Latino rhetoric, all of that just really floors me, and I can see the possibility of that happening, though I hope it doesn't. Anybody in charge needs to be aware that their responsibility is for everybody, not just for their own constituency. And sad to say, you see folk not being conscious of that.

LABERGE: Well, let's go back to our own Court, and the separation of powers in our state and how you felt that played out as you were in the judiciary?

REYNOSO: When I was on the Court, I believe that — but for the political attack led by the then governor, which I thought was absolutely inappropriate — the relationship had been one of respect. That is, there are many traditions that have to do with that respect. For example, the Court will seldom rule against the Legislature and issue an order against the Legislature. They will issue an order against an executive that carries out something pertaining to the legislation. That's an effort to not be confrontational with the Legislature. Each branch of government has the duty of self-reflection and self-control, if you will. A respect for the other branch. And generally I saw that happen. Now, the Constitution doesn't tell you how that is to be done and one of my favorite examples of a debate that then was worked out amicably had to do with what I described as the window story. The Library and Courts Building in Sacramento is a grand building, and the Supreme Court chambers there are my favorite of any court. It's a wood-on-wood motif. The bench is rather low so you can have a good discussion with the lawyers. It's just wonderful, but it was built in the 1920s, and a time came when I was there when the executive, through the office that takes care of buildings, decided that they should close the windows, I guess for air-conditioning purposes. That was very common in those days. Now, architects have changed their minds — they think open windows are actually okay — but at that time they wanted to close all the windows. The windows in the individual chambers were these great big windows that you could open. And it was wonderful on a spring day to be able to open the windows, and the judges said, "We don't want the windows closed." Well, who's in charge? They were our chambers, but the building actually belongs to the executive. So we asked the presiding judge to deal with those executives and try to protect our interests. I don't know the ins and outs of the meetings. He had several meetings with them. The end result was that our windows could still be opened. But see, there is no rule to tell you that. They could have said, "Hey, wait a minute, we're in charge of the building. That's our job as executive." And he could have said, "Wait, I am in charge of the judiciary."

I think the Constitution — state and federal — assumes and requires cooperation and self-restraint by the branches of government. One of the worst things that's happening now on the national side, is to have the chief executive officer called the president of the United States say that he wants to exercise

the entire power of the presidency. He believes that the presidency has been weakened. Well, that's absolutely wrong, in terms of our constitutional form of government. The executive — which has so much power — has the duty to be reflective about how to exercise that power, and to be respectful of the judicial and legislative branches. Self-restraint is a very important part of our government, and when you forget about that — as Governor Deukmejian did in attacking Rose Bird, or as the president [George W. Bush] is doing now in saying that the judiciary ought not to be able to review many of his positions and so on — I think that is exactly the wrong thing. Fortunately, we have been able to get beyond that historically in our country, and I assume we will get beyond those incidents that are more recent in history too.

We have to be reminded that everybody, every public official swears to uphold the Constitution. So the notion that it's the courts that enforce the Constitution is absolutely wrong. And I have heard legislators say, "It's up to the court to decide whether it's constitutional." Not true. Every legislator has a duty to decide whether or not something is constitutional. If, nonetheless, they go on and pass a statute that is unconstitutional, then obviously it can be challenged by the courts. And I think the courts have the duty to protect — to declare it unconstitutional — because the courts and the Legislature have two different responsibilities in a way. The Legislature is a majoritarian group, and they, for political reasons, respond to a majority of the people. The courts have a non-majoritarian role. Their role is to protect anybody who is hurt who has a right not to be hurt constitutionally. It's their role to say, "Sorry, we know you passed that statute because it pleased 90 percent of the people, but it happens that it discriminated against 10 percent of the people, and it is our role to protect those 10 percent." So they are quite different roles, and each branch has to be respectful of each branch exercising its role.

Now, each court has to exercise some self-restraint. I think the U.S. Supreme Court, for example, disgraced itself in the Florida election decision, because to me it was so clearly partisan. From my own reading — and I have read a few opinions in my time — I find it completely unpersuasive, and I find judges taking positions contrary to positions they had always taken in other cases in that one case. There, the Supreme Court I think did not exercise self-restraint, and I think it weakened the standing of the Supreme Court before the country. There are — what should I say — breaches of that responsibility of self-restraint by each of the branches. But, hopefully, in time

— hopefully it will happen not very often, and in time we will get beyond that and the people can continue to have confidence in each branch exercising its own responsibilities. I confess that the notion that the president could declare an American citizen an enemy combatant, and argue that that can't be challenged in court is so beyond my experience as a lawyer, as a judge, and a human being, that I can't even begin to understand it. But that's obviously my own view. Some, like Scalia, have a completely different view. They say, "Look, that's up to the president. He can do anything he wants. It becomes a political issue, not a judicial issue, and if people don't like what he wants, they can vote him out of office." I absolutely reject that. It seems to me that everybody, including the president of the United States, as the Court said in the Nixon tapes case, is subject to the law. Even the president has to obey the law. I think that's what a democracy is about.

LABERGE: We talked about your teaching, but we didn't talk about your practice or, too, what you thought you were going to do.

REYNOSO: Well, I just mentioned that because I remember Jimmy Carter wrote a book about life after the White House. Whenever you end up having a position of higher visibility — so often nowadays I'm introduced as retired Supreme Court justice.

LABERGE: Because that's the highest —

REYNOSO: Right, even though that's been how many years now. And I must say that my own experience has been that one can and should live a full life after being in offices like that. I always admired one of our presidents — I forget; I think one of the Adamses — who then ran for Congress after being president and he served in Congress. I think that's great. I think the tradition now that ex-presidents sort of are great-grandfathers for the country is wrong. I think they ought to be involved. They ought to run for Senate, they ought to run for Congress. They ought to be public servants.

LABERGE: Like Jimmy Carter has.

REYNOSO: Exactly. They ought to be like Jimmy Carter. So in some ways, my model really was the Jimmy Carter model. I wanted to do a couple of things. One, I was then going to be free to do things I couldn't do as a judge. And, two, I wanted to have it be clear that I considered it a political defeat, not a personal defeat. So I wanted to end up on my feet when I left the Court.

Fortunately, I was able to get a job as a lawyer with a firm that paid me more money than I was earning as a judge. I helped form a group called Latino Issues Forum, and we started calling press conferences. I remember at that time attacking a high official of the INS who said that undocumented were such terrible people that they should be dunked in burning oil, or something. I forget. So we called a press conference and attacked him, and started doing all the things that a citizen can do and a judge can't do. Then I got a call after a couple of years from UCLA asking if I wanted to teach, and eventually we agreed on my joining UCLA and I enjoyed that. Then I got a call asking if I was interested in being a member of the U.S. Commission on Civil Rights, and fortunately things went well and I was appointed by the Senate at that time to be a member of the commission. Even before that, I was appointed by Willie Brown to be a member of the California Post-Secondary Education Commission [CPEC], and that was very interesting work for me.

LABERGE: Now, we have not talked about that.

REYNOSO: Yes, again, it was combining private work and public work. I've always appreciated being able to do that, so I appreciated having been appointed to the California Post-Secondary Education Commission. Later I became its chair. That dealt with all the issues of higher education, so that was very interesting to me. I quit when I started teaching because you couldn't be an employee of an institution of higher education and serve on that commission. But for two or three years I served on that commission and that was very interesting work.

LABERGE: Did you make any changes or recommendations?

REYNOSO: Well, we were very concerned at that time — as we are now, even more so — with doing everything we could to support the plan that had been put together in the 1960s for higher education where the —

LABERGE: The Master Plan.

REYNOSO: The Master Plan. The UC system, the CSU system, and the community colleges had their own roles. And particularly the promise — which we have broken for the first time this year — that anybody who wanted to go and was eligible to attend those institutions could do so. I am really very saddened that this great state of ours with all the wealth that we have, has broken that promise to the young people of this state. I think it is really unconscionable.

And then we were concerned about, as now, the drop-out rate in high schools. High schools have to report their dropout rates, but they have systems that are very peculiar to each high school, where they very often assume that if a person leaves the school, they somehow have gone to another school district. In fact, when you examine how many students are in their first year of high school and how many graduate, we have a terribly high drop-out rate in California. I think something like 30 percent. Well, meanwhile, high schools report drop-out rates of 2 or 3 percent and it looks hunky-dory, but we knew on the facts that that wasn't true. We were coming up with plans to maybe have an ID number for each student that signs up as a freshman, and then that ID number goes with them to see whether or not they eventually graduate from some place within five years or six years or whatever. We had the same issues with college because we were very concerned that at that time — we have made a little bit of progress — it was taking something a little bit over five years for a student to graduate from college, from a four-year program, because sometimes they couldn't get the right courses, et cetera, et cetera. That just meant more time and more money for them and for the institution. So we were dealing with those issues. The staff was very competent. The CPEC is supposed to be an advisory group both for the Legislature and the governor, but we seemed to end up dealing mostly with the legislative committees on education. But they were very responsive to our recommendations and our reports, and I just found my work with the commission really very satisfying.

LABERGE: And what other people were on it with you?

REYNOSO: A portion of them were appointed by the governor and by the legislative leaders of the Assembly and the Senate. And then others were there because of their institutions. There were representatives from the UC system, CSU, community college, private colleges. So some were there by the position that they held already. It was a nice mix. I served — at that time, we set up a special committee actually to worry about access to college, and particularly about diversity, and we had informal meetings all over the state. We issued a report on things that were going right and things that needed to be improved and so on. It was a very active group. To this day, I am still in touch with some of the people that I worked with during that time. And then, as I say, when I started teaching, that's in a way a public position, but I was appointed to the U.S. Commission on Civil Rights — and I am still on

that commission, and will be at least until the end of this year or through January, I think — and continued again to do some public work, if you will. I have found that, as with other experiences, the fact that I have been on the Supreme Court has helped me perhaps be even more effective in the public positions that I have had, or the private positions for that matter. And so to me, I continue to be thankful to the people of this state for the opportunity to have served in the court system, and I have continued to be active both private and publicly. I feel fortunate, I must say, in terms of how my own life has evolved. I'm speaking professionally, but privately also.

There are some things that don't quite work out the way you would hope. My wife, somewhere along the line became a little bit disenchanted I may have mentioned to you. I think she probably went to a few too many meetings where Latinos had unkind things to say about Anglos, and she is Anglo. So, somewhere along the line, she became less interested in Mexican culture and language and so on, so that of our four youngsters, the first two have a pretty good understanding and speak Spanish pretty well, and so on, and the second two do not. And that's been a matter of sadness to me. My wife doesn't fly, so it means we haven't been able to take vacations in Europe and other such places. And from her point of view, she is a very religious person, and I have been attending church with her since we have been married, but I have never joined the church, and I'm sure that's an element of sadness to her. So in life there are some things that don't quite work out.

On the other hand, we have been married forty-eight years and I am still deeply in love with her and she with me I must say. I think. [Laughter] She calls me every night when she is away — she is on a train right now — and I call her. I just feel fortunate that we've been able to make a life together. I tell people that my life has been really idyllic. I sometimes think of those books that I read in kindergarten about grandchildren going to this grandma and grandpa on the farm, and we have a thirty-acre little ranch and grandchildren come and stay overnight. One of our granddaughters, her mother, our daughter asked her what she wanted for her birthday. What did she really want? And what she really wanted was to go stay in her grandmother and grandfather's home and have her cousins stay overnight with her, and that's what they did.

So, you know, in some ways my life has been magical, I would say. And that doesn't mean, you know, people sometimes — obviously there have been rough times in life and people ask me about it and say, "Gee, how can

you be optimistic when you've gone through this or that?" I don't know, I guess I haven't taken those things personally. Somehow, whether my internal fortitude was God-given or given to me by my parents or just one of accidents that one out of every ten persons or one out of every two persons has that fortitude. I don't know what it was, but I think I have mentioned to you that even as a youngster I ran into all kinds of problems and people ask me, "How come you kept going?" I tell them, "You know, I was just too dumb to know there were obstacles so I kept going." So, for all those reasons I just really have been very fortunate.

And, at the same time, if you are fortunate because of what God has given you or what society has given you, I think you have an obligation to try to do what you can for other people. That's why, particularly, I've valued anything that I could do in terms of public service, but beyond that — perhaps even more importantly sometimes — is what you can do as a private individual. Through organizations that I belong to, and so on, I have tried to do what I think is right. And again, I have to be respectful of those people who don't agree with my notions of what's right for society and so on. But you have the duty to think through what you think is the right thing to do and then act upon it, it seems to me. So that's what I've tried to do.

LABERGE: This has been a real privilege for me to be able to spend this time with you. Thank you, for all the people who are going to read this and use it.

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