

Clay Jackson

**Lobbying: Holding off the Future
Part 1**

**Oral History: Clay Jackson
Sacramento Lobbyist**

**Interviewed by Sigrid Bathen
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Sigrid Bathen: Hello, I'm Sigrid Bathen. As a journalist in Sacramento for many years, I've long covered legal and health care issues, education politics and government for numerous California media including 13 years as a staff writer for the Sacramento Bee and as a writer and editor for the California Journal, Capital Weekly, California Lawyer, the Los Angeles Times, the California Health Care Foundation and many others. I've taught journalism and communications at Sacramento State University for 30 years and was communications director for three state agencies.

Today I'm interviewing former lobbyist Clayton Jackson as part of an oral history project supported by a grant from the Institute of Museum and Library Services and the California State Library. Clay Jackson was arguably one of the most powerful and highly paid lobbyists in California for many years. This is the first time he has consented to an interview since 1995 when I interviewed him for the California Journal while he was serving a six-and-a-half-year sentence for racketeering, conspiracy and mail fraud.

One of 14 legislators, staff and one lobbyist, convicted in an unprecedented federal sting operation designed to ferret out political corruption in the California Legislature. Prior to his indictment in 1993 Jackson's lobbying firm Jackson, Barish was regularly the highest-earning lobbying firm in the state. He was a lawyer, as well as a lobbyist. His client list topped by the influential insurance industry included many major contributors to legislative campaigns and his influence was respected as well as feared. He earned an MBA in prison and returned when he was released in 1999 to his longtime home in the Bay Area -- continuing to work as a consultant to tech companies and maintaining a low public profile declining all interviews. This interview was conducted in Sacramento on September 6th, 2018. Thank you for coming, Clay.

Clay Jackson: My pleasure.

Bathen: How does it feel, coming back to Sacramento after all the years you spent here? We're doing this interview in the Senator Hotel where the CalChannel Studios are located. It's now an office building. How does it feel?

Jackson: Well, the Senator Hotel is the place where I first started here in 1970. We had a suite up on the ninth floor. Coming back feels a little bit odd... Not so much so, however, because of my awareness of the vast changes that have overtaken the Capitol, the politics, and the way things are practiced here. But it is a little bit different.

Bathen: A little unnerving perhaps.

Clay Jackson

Jackson: A touch.

Bathen: They say that lobbyists don't choose to be lobbyist, that they become lobbyists. Let's go back to the beginning. You were raised in Garden Grove in Southern California. Tell us about your family and what formed you before you went to USC and Hastings, and then became a well-known lawyer-lobbyist.

Jackson: My father was an oil company electrician, worked for Shell Oil Company in Wilmington, which at that time was the world's largest oil refinery. My mother was a stay-at-home mom until the kids got into high school, when she took work down at the local city hall in the records department of the police department. When I was young, we were raised in southwest Los Angeles, my dad who had been raised on a lemon ranch in Corona, missed that. The Depression had destroyed that for him. And he always wanted to go back to the country, so when Orange County started to develop, off we moved to Garden Grove, which is in North Orange County. At that time had a population of 20,000 people and a million orange trees.

Jackson: I went to high school there, developed a lot of very strong friendships many of which I still maintain. I played football, I was on the track team, I was an excellent student and won a scholarship that was sponsored by Lockheed Aircraft Company to USC which paid my tuition and then I also got a job with the athletic department there, which paid for my room and board.

Bathen: You played football, but you were not on a football scholarship? It was an academic scholarship.

Jackson: I was on an academic scholarship, but in those days, they called them full rides and half-rides. Full rides include the job and the tuition.

Bathen: But you had to work your way through school?

Jackson: Well, the other half-ride, all of the athletes had to get jobs at the athletic department and you worked maintenance for the university. So there was that. And then when I stopped playing football in 1972* in order to maintain my grades which were sinking for the reasons that many young men have sinking grades in the early part of college. I got a number of jobs working on my fraternity house in the kitchen and doing this, that and the other thing, until I graduated.

**Jackson later said it was 1962.*

Bathen: You majored in chemical engineering, which was not always regarded as a stepping-stone to either law or lobbying.

Jackson: That is correct.

Bathen: And how did that help you in your career? In starting your career?

Jackson: Chemical engineering per se, wasn't of any great assistance but the education in science and mathematics was. Because it taught you how to think, how to expect replication, how to be suspicious when you didn't have replication. How to understand things. How to develop hypotheses

Clay Jackson

that were alternative to the ones that you were given, or at first moved with. And I found that to be very beneficial all throughout my life.

Bathen: So, after you graduated from USC, you went to work for Richfield Oil.

Jackson: Right.

Bathen: And you'd already worked for Lockheed. So you were staying in the engineering field. When did you decide to go to law school and why?

Jackson: Well, during the period of time that I was in the engineering fields, even it was in the summertime, I was exploring to see what I might like to do, and unfortunately for the field of engineering, or fortunately for me, either way, I couldn't find anything that I really liked. To this day, I do not know why I selected law school as an alternative. I had never met a lawyer, I had never met a judge and the only thing I knew about law was Perry Mason. But it just came to me that that's what I should do and I did it.

Bathen: Was your family political. Do you recall discussions? You mentioned an uncle who...

Jackson: The family was not political, but my father was vastly interested in politics. As I said, he was a workingman. I had an uncle who was married to my mother's older sister, who was quite wealthy. He owned a steel foundry, and our families were very close, we were together every two to four weeks every year, year after year. And always in the afternoon, my dad and my uncle go out on the back porch and talk politics.

Bathen: Did they agree?

Jackson: No they didn't. My father was a 19th century Republican and my uncle was a Roosevelt Democrat.

Bathen: Those must have been interesting discussions.

Jackson: They were. When I was old enough, I started to go out there, and they would let me come out and I would go out there and I would listen. I wasn't allowed to talk but I could listen.

Bathen: What did you learn?

Jackson: What I learned was an awful lot about politics and about citizen participation and what you needed doing and why politicians were doing things and the like.

Bathen: You worked your way through UC Hastings Law School, working construction jobs, during the summers. You had also been accepted at Yale, Georgetown, USC, but they were too expensive.

Jackson: Like all dumb kids in those days when there weren't a lot of services available, it was time to go to a grad school. You just applied and after applying, then you found out that you had to think about how to pay for them. So after I was accepted in a number of places, I realized that I couldn't afford all this and I had to resort to schools that were relatively cost free, like the UC system.

Clay Jackson

Bathen: You said you worked summer construction jobs, and so you had money. You came back flush in the fall...

Jackson: My family was a construction family, even my dad. So I knew a lot about that business, and what I searched up were jobs that paid a lot more than you could ordinarily earn in a simple construction. So the two main fields I worked in were underground construction, that is laying deep pipelines and house moving. And they paid about twice as much as you would get for construction labor in the normal activity.

Bathen: Tell us about The 65 Club at Hastings.

Jackson: Well, that in my view, is one of the most brilliant innovations I could imagine in legal education. Hastings was established through the will of the first chief justice of California, SC Hastings as the law department of the University of California. In those days, the university had just been set up and had no law department. The chief justice thought we needed one and he used his fortune to establish Hastings. That was in the 1880s.

In 1910 or thereabouts, Berkeley, which of course was the first campus of the University of California, established its own law school, the now quite-prominent and well-deserved famous Boalt Hall. Since both of them were eventually funded by the state budget, a rivalry took up and naturally the stronger tried to defeat the weaker. So Berkeley was fighting Hastings all the time for a larger share of the state budget.

In the '20s or '30s, Hastings had a Dean, by the name of Snodgrass who got this very bright idea, which was that all the major schools in those days required people to retire, faculty people to retire the age of 65. But often, particularly scholars, particularly vigorous scholars that did not want to retire at the age of 65, Hastings having its own board, and not subject to all the rules of the state of California, could hire anybody of any age. So every year, Snodgrass would go around the country and recruit the finest professors from the finest law schools, who had just been forced out by retirement, and brought them to Hastings to form the faculty. And that became known as The 65 Club. When I was there, I'd say 80 to 85 percent of all professors were members of The 65 Club.

Bathen: So you had a lot of experience in institutional knowledge.

Jackson: When I was a freshman in law school, I was taught real property law by Robert Powell, who was the last great scholar of real property law, and wrote the last great treatise on American real property law. At the same time, the place he came from, Columbia, the students there were being taught first year property law, were being taught by a young man who was his replacement. The question was who won.

Bathen: That's a good question. Did you have any career plans in law school

Jackson: I did not.

Bathen: What did you do after you graduated? You passed the bar.

Jackson: Well, I passed the bar and towards the end, I was thinking where did I want to specialize and I decided I wanted to go into corporate securities because I've always been a builder, that's my

Clay Jackson

mentality, I like to create things. And corporate finance was unlike what it is today. In those days it was raising money to build companies. And that was a place to learn how to be part of the bar that assisted the entrepreneurs and the establishment people of the day in building their enterprises. I tried to find a job in San Francisco, but in those days the elite tendencies were very strong. The major firms would not hire unless you're a graduate of the top five law schools in the country, as they defined them. The only two in California, were Berkeley and Stanford. So I went down to Los Angeles and found a very fine law firm and went to work as a corporate securities lawyer.

Bathen: How long did you stay there?

Jackson: I was down there for two years when the smog got me. It was just, it was in the late '60s, when the smog was really awful down there. So I came back up here and looked for a job and found one with David Gold who was probably the nation's most prominent plaintiff's lawyer in business cases.

Bathen: How did this lead to lobbying?

Jackson: Eventually, I went to work for the firm of McFarland and Kutchins, which was a firm that had been founded in the early '20s. The senior partner there was John P. McFarland. McFarland was also the dean of the San Francisco Law School, which at that time was the oldest accredited night law school in California. I was doing some part time work for the Administrative Dean, a gal by the name of a Jean Fisher. And she was working on the Berkeley rent strike for a friend of hers who owned a bunch of apartments over in Berkeley. So I was her assistant all throughout that trial and when it was over, he hired me.

Bathen: So how did that lead to lobbying?

Jackson: Well, much of his practice was with insurance companies. He was probably the most famous insurance company lawyer in the western part of the United States. He was quite intelligent, quite good and he was a Terman* child down at Stanford and that's what he trained me to do. But all insurance lawyers in this country, spent part of their time doing traditional legal work, part of their time with the regulators and some of their time with the Legislature. So, in 1970, he said, "You need to come up with me." I said, "I don't want to." And because I'm not interested in that and he says, "You need to come up at least and see how the laws are made." And that struck a tone with me. So I came up here six weeks in a row and the...

**Dr. Lewis M. Terman, a Stanford University psychologist, identified 1,521 California children who scored 135 or over on his new intelligence test, the Stanford-Binet, and tracked their progress into adulthood.*

My great experience from those days was sitting one morning in the Assembly gallery when the Assembly had just started up, about half the members were on the floor, they were taking up a Senate bill, and the Senate bill was to lower the sugar content in grapefruits. And I'm sitting... Of course, I'd never heard of Ag Boards and I didn't know about price control in agricultural products. The only thing I knew was that grapefruits were something you bought in a super market and I liked them and they grew. And the debate from the standpoint of an ordinary citizen, which is what I was at that time, it was absolutely hilarious. There was much discussion about the new diet, just invented by Mrs. Milton Marks. And a lot of laughter.

Bathen: This is the wife of the legislator?

Jackson: Yes, she was the wife of Senator Milton Marks. He was a longtime member. And I left that debate sort of chagrined. How could you try to move something that Mother Nature's in charge of? Sugar content? And what kind of a debate was this where they're half the time, they were laughing? That was my introduction to lobbying and legislative work.

Bathen: So did it interest you or...

Jackson: Well, it interested me to learn how it worked. And McFarland put me through the paces. I remember one time he told me he wanted me to go in and meet Jack Fenton. Who was an Assembly member, a committee chairman. His district was down in Southern California, Montebello I think. And in those days, an outsider trying to see a member was almost impossible. So, while McFarland did all his work, I sat in the chair in Jack's office for four hours, and he went in and out and he finally gave up and says, "All right, if you're going to sit this long, I'll talk to you." That was my introduction to lobbying. I was not really interested in it. I was interested in learning about it, seeing what happened, what they did. But the thing that really happened was that McFarland had a stroke in late '71. And then I was brought in by the two remaining partners and there was a discussion about who wanted to come do this work. Why? Well, the work turns out to have provided about 40 percent of the revenue of the firm, so you couldn't just discharge it.

Bathen: The lobbying...

Jackson: Right.

Bathen: End of it. Yeah.

Jackson: And after I could tell the older guys were not going to stick their hand up in the air. So I stuck my hand in the air for the good of the cause.

Bathen: So that's how you started...

Jackson: That's how I started...

Bathen: Lobbying full time.

Jackson: Right.

Bathen: But you were still with a law practice. Did you have to register in those days with the state or other requirements?

Jackson: Yeah, yeah, you registered. I've always been registered, but I've never... I've always had a law practice and it's not the kind that lawyer lobbyists have today. I was the general counsel of a half a dozen insurance companies, four trade associations, a lot of other things. I spent most, about half my time I spent in San Francisco practicing traditional law. And half my time up here, and that was through for almost throughout my career. And there would be periods of time like the end of the session, where I'd be up here full time, but that wouldn't last more than two or three weeks.

Bathen: Well, it's said that the line between law and lobbying includes a significant gray area because there are certain requirements in terms of registering with the state. Where does the law end and the lobbying begin and how do you separate the two. You later created a firm, a separate firm.

Jackson: So that's a complex question because the first way I'd analyze it, is by looking at the time when I first started in this business. There was a gulf between the two fields, mostly because the mores of the legal profession and the legal rules and the way they were administered by the bar. They were very jealous of their prerogatives, and didn't want people who didn't practice law, having anything to do with the law firms. And the way the rules were worked, you controlled that by the revenue of the law firms. So you couldn't have any... You couldn't pay anybody in or out if it wasn't for legal work.

Bathen: OK.

Jackson: Now, if a lawyer did lobbying work, that was different because that was something that the legal client assigned to you and you could designate that as law firm revenue. But for a third party who did not have a legal degree and wasn't practicing law, it was not prohibited. Later, a lot of the rigor of the law disappeared. And you have the system that you have today where the legislative work and the regulatory work are somewhat intertwined, even in the beginning, because the regulator is often the person who has control of much of the information that you need to develop a policy.

On the other hand, the way our governmental culture has developed, as the regulations start to flow out, witness Dodd-Frank, the same people who were doing the lobbying are immediately over into the regulatory arena trying to make sure that what they meant is what it says. And when they run into trouble, they go back and call their legislative devotees to lean on the regulator. And that's a completely different system than the one we had when I was active.

Bathen: Very complex and very...

Jackson: It's extremely complex.

Bathen: Very difficult to...

Jackson: And I think the only way you separate the two, the two is by arbitrariness.

Bathen: How did you develop your clientele? You said you represented the insurance industry as a lawyer.

Jackson: Well, the first two clients I had, that had legislative work, were the insurance industry, the California insurance industry actually, and the hotel industry. With developing clients, my attitude was, in a way, it worked for me at least, was the same way it was in a law business, by reputation, acquisition of success, that sort of thing.

Bathen: When did you form or you and Joe Barish, formed Jackson Barish as your lobbying firm?

Jackson: Well, the background of that has to do with the mores of the law business at that time. I

Clay Jackson

was becoming too successful and hiring too many people that didn't have law degrees, and the legal profession basically indicated that I needed a separate firm. Joe, I ran into in '74 or '75. He came to see me, I didn't know him before that. He was part of an effort to try to stop the American Red Cross from taking... They were taking over the blood banks nationally as a way of augmenting their revenue, and in San Francisco, the Irwin Memorial Blood Bank was a revered establishment, maybe almost as famous as Coit Tower. And so it, it wasn't heard of that you should do this. So Joe came to me and asked me if I would help him on a gratis basis to do this.

Bathen: Yeah. He was a public affairs PR, right?

Jackson: Right. He was a corporate affairs, which is something that doesn't exist anymore. And we helped, we were part of the team that defeated that effort, and the next year we discussed forming a firm, a government affairs firm, and that's what we did. He threw his corporate affairs work into it and I threw my lobbying business into it.

Bathen: Your long time friend and lobbying partner, Joe Barish said he chose to work with you because he quote, "Didn't want someone who relied on the old-boy network," he wanted someone who focused on the client's needs, not what the Legislature thinks the clients need. Could you explain that distinction?

Jackson: Well, that goes back culturally to the change that happened while I was active. When I was first trained in this business, the attitude of business lobbyists was you represented the business. They had their own politics. They weren't Rs or Ds, they were insurance companies or railroads or banks or farms or whatever they were. And so when you went into the Legislature, either house, no matter which party dominated, you came with the interests of your client. That system started to change while I was active and you became more and more party oriented, so then you had to become a specialist in what the members thought, what the different parties wanted, how you fit into that. I personally resisted that as much as I could because I never believed in it.

Bathen: Of course, you've also controlled campaign contributions, which... How did that system operate and stay within the law?

Jackson: I never had any campaign contributions until 1975. In 1975, the Association of California Insurance Companies, which had had its own staff led by a political lobbyist by the name of Dave Oliver from the prior generation, had had his first heart attack. So the local companies, many of whom I represented legally, wanted somebody to go join with them in case something happened to Dave. And they picked me. So Dave and I operated together, until 1977. At the close of that session he dropped dead of a second heart attack.

At that point, I had campaign contributions. At that point, it was also becoming increasingly obvious that you needed to do it, because money was becoming more and more important to the members because it was becoming more and more into the function of electioneering. In my view, if you didn't have any money, you had to have other techniques or you weren't going to be listened to. Money bought you access but didn't buy you much of anything else. You still had to have a lot of other things going for you; not the least of which were the arguments, the impact of the members. One of the things that nobody talks about are the impact of the members in their districts. If I do this, what's likely to happen to me? And so there was a lot of work done to try to figure out how things would impact those people.

Clay Jackson

Bathen: OK. Well, Jackson Barish became the highest earning lobbying firm in Sacramento for several years based on secretary of state's reports. And that is tied to a variety of factors. You mentioned the money, campaign contributions, but also what else?

Jackson: Well for us, we always operated on the merits. Me and my people, the first thing out of your mouth, at least I taught them this, when you went in a door, was a -- this is what we're trying to do or this is what we don't want to have happened with this piece of legislation, and here's why, and if you pass it, or you don't pass it, this is what we think will happen. Secondly, this is what our opponents are saying and this is where the defects are in their arguments. Thirdly, this is what we think will happen to you and your district, if it'll have any impact at all.

Bathen: I was covering the insurance initiative wars in the late '80s when I first started interviewing you and there were multiple insurance reform measures proposed, I think five made it on to the ballot in 1988.

Jackson: Right.

Bathen: Those were difficult times.

Jackson: Very.

Bathen: Could you describe some of the interaction in the Legislature and why the initiatives were necessary?

Jackson: But first, to answer that, you have to understand what initiated all this. At that time, you had the rise of the trial lawyers as a political force. Now, they were around before, but politically oriented lawyers started rising in their organization. At the same time, litigation started developing out in the courtrooms of the state asking for major dollars for damages -- sums of money that were not heretofore seen.

When an insurance company calculates a premium, what they do is they take the aggregate losses of a certain type, say automobile accidents, and then they project them from the last date of the data to today's date, and then they project them off in the future for next year. That's how they calculate your premium. The biggest mathematical element of that base is prior losses. If you have a lot of litigation going on, new rules being created all the time in the courts, the mathematical base becomes increasingly unsound. Increasingly, when you use it, which is the only tool you'll have, it no longer projects what's going to happen 'cause what's going to happen is something you really can't measure or project, and that is the results of court decisions that you don't know about yet.

So the insurance industry started getting very concerned about this because the premiums were leaking, they were always inadequate. That meant the money had to come out of, what was known as their surplus account, which is retained earnings in the corporate world. And when your surplus account got low enough, you were seized by the state. So they were quite concerned.

So that was the background of this battle and of course the trial lawyers were very successful. A lot of them were quite competent. I had a number of friends who were trial lawyer presidents. As I explained to one of them once, I said, "You know, in your career you will probably last 30 years.

Clay Jackson

You work hard, you may handle 3,000 or 4,000 claims. Some will litigate, some will settle. Down at the Farmers' Insurance Company today," and I don't mean today today, but today then, "They handle 50,000 claims a month. So they have a much different perspective on this system than you do. And you guys have got to understand that just because you want something, you can't expand it everywhere all at once. Otherwise you'll wreck the system and the insurance people won't allow you to do that." And that was the genesis of the fight.

Bathen: Well, there was one initiative of that passed, that was backed by the consumer groups, millions and millions of dollars were spent on these five initiatives. Do you think there was actual insurance reform? What resulted from the passage of that?

Jackson: Well like most reforms, you got a mixed bag out of it. The consumer groups that backed it, still today claim that this changed everything. Well, in fact it didn't. If you think about the time that that happened, 1988, we were just coming out of a recession. Remember the Reagan recession, Paul Volcker? The economy started to boom... When an economy booms, the number of miles driven, goes up. That means, ordinarily that there should be more accidents. But there weren't because if you go back and look at the '70s when the Japanese arrived here with far better engineered cars than we had, the cost of the accident dropped continuously. So much of what they claim happened as a result of (Proposition) 103, happened because of these factors I've just described.

Moreover, 103 embodied an ancient regulatory form that had never been adopted in California. And it was being rejected all over the country. It was called prior approval. It was invented in the East Coast back, right after World War II, and it was a system whereby you could not charge a premium unless it had been previously OK'd by the state government, by the insurance regulator. And that is essentially the system of 103. It's not a system that's widely dispersed in the United States any longer.

Bathen: 103 also created an elected insurance Commissioner.

Jackson: Which I think was the worst element of 103.

Bathen: Why?

Jackson: The other things you can live with, but that you can't. If you look at the people who have been in the insurance commissioner's office, in my personal opinion, one of the very few commissioners that has actually been interested in being a regulator is Dave Jones, the current guy. The rest of them did what they did. And it's almost as if you had said, let's elect the members of the Federal Reserve Board. What do you suppose would happen to the banking business? The reason that the insurance industry survived was that number one, immediately the regulators cut the commercial business out of Prop 103. So none of the commercial insurances are really subject to the heavy regulation that 103 provides. It really impacts primarily primary auto and homeowners because of economic conditions, homeowners is in serious difficulty today, but the auto is not.

Bathen: The crisis levels that were experienced in the late '80s that led to, well, there was legislative inertia and then all of the initiatives that were on the ballot. That kind of crisis, does it exist today with the homeowner's insurance, fire insurance, escalating rates?

Jackson: No, but there's a reason to be...

Bathen: And health insurance?

Jackson: In the fire insurance area, there's reason to be concerned because in fire insurance, the rates are set according to a formula that I don't really remember it very well, but it basically deals with demographics. How close are you to the fire station? How close are you to the fire hydrant? How many fire hydrants are in your plot? All that sort of thing. Now, the kind of damage we're seeing today because of climate change brings huge elements that have absolutely nothing to do with that old system. What I'm afraid of is of course that the insurance people are not going to say much of anything, because this gets right into the guts of their operations and that the elected people not knowing how all this works are going to come in and seek relief for their constituents, rather than reform and solutions for the future.

Bathen: Around the same time in the 1980s, you also had a falling out with your principal client for many years, the Association of California Insurance Companies, which you'd represented for many years. How did that happen and how did it relate to the intense and very costly controversy over the insurance initiatives?

Jackson: Well, it didn't really relate to the insurance initiatives. It's a very odd little story. During the course of the battle for 103, the insurance executives formed a committee, national in scope, of which the local companies only had three members. I think there were 12 members, and out of the 12... Out of the 12 members, three were local, only one had joined together with the California companies, that was Allstate. All the rest of them had... Never had anything to do with the ACIC. They decided to make all the decisions. They had hired Clint Reilly to run the campaign. Whenever they had a meeting, they would have three or four of us. From what I can remember at the moment was John Norwood at the time who was representing the insurance agents.

Jackson: And they forced us to sit against the side of the wall and not talk unless we were spoken to. And these people with the greatest experience they had, were as trade association types going to various legislators or general counsels, testifying so forth. And they were trying to run this massive campaign. And the domestic organization, ACIC, my client, right in the middle of it. I don't, to this day know what happened, but there was a regular sequence, as in most trade associations for you're in and then you served so much time, and then the next person comes in.

That was broken without notice, and replaced by a man who was very controversial, who ran a little workers compensation insurance company down in LA, and he took over. And my fight was with him. He started trying to restructure my contract without notice. It was basically a Donald Trump-kind of a conversation. And I just told him no. And then I realized what was going to happen if we lost the election, which I was convinced we would, because I, by that time I was working very closely with Reilly, giving him a lot of insurance advice he didn't have, so he could incorporate that into the political structures he was building. And then I realized I was going to be blamed for it.

Bathen: This is the election.

Jackson: The 103 election.

Bathen: The 103 election. OK.

Jackson: And then when I got back, I wrote him a letter and I resigned effective the end of the year.

Clay Jackson

I expected him to show that to all of the members of the board. He didn't, he hid it. And then at the end of the year, since I hadn't heard anything from anybody, I was approached by the eastern companies under the aegis of the American Insurance Association, with all of the giant American companies, and they retained me and we made that announcement. After the announcement was made, then the fellow who received the letter released the letter to the rest of the industry and started calling me names.

Bathen: So, you survived that.

Jackson: I survived and prospered.

Bathen: You told me in a 1987 interview, that 70 percent of lobbying consists of defeating adverse legislation rather than working to pass laws. Although working on compromise legislation on hot button issues is also an important function. Could you give me some examples and explain that?

Jackson: Well, for example, one of the issues that was active then was what became known as the bottle bill, the effort to put a deposit on soda bottles and other such containers as we used to do when I was a kid. And that came out, what generated out of that was the system we have today where you pay an extra dime or so at the stand and then they collect it for recycling. The people that were really objecting to that were the beverage manufacturers. Certainly grocery stores were up front, because they didn't want the burden that it would put on them, but the manufacturers were very hostile to it, because the economics of beverage sales, a shift of a 2 percent or 3 percent on the prices.

Bathen: And you were representing?

Jackson: I represented, Anheuser-Busch who was producing beer. And a 2 percent, 3 percent increase on a price, changes the market. Just bang. So we resisted that for a long time, but it was obvious we couldn't do anything about it. We came up with a solution to the problem, which is the bill that you have today and then we negotiated that with the consumer groups and with the administration, not that we won every battle 'cause we didn't, but we came up with this system.

Bathen: So but most of lobbying then is...

Jackson: Negative.

Bathen: Defeating. Defeating.

Jackson: Yes, negative.

Bathen: Negative. Is that the same today as it was in your day?

Jackson: Well, I asked McFarland once when I was a very young man, I said, "What do you lobbyists do?" And he was a very smart and wise man. He looked me in the eye for about 20 seconds and he says, "We hold off the future." And I think that that's the best description I've ever heard of lobbying. Because it gives you time if you have the resources to do this, to make adjustments to the future. Now, the problem that we've developed is we got a new generation of people in charge who don't think or are unaware that you have to adjust to the future. So you have

these horrible brawls resulting in no solutions to any problems.

Bathen: Did you do, represent health insurers at all or have you... Did you have any experience in that area?

Jackson I did. When I first started up, I had the Health Insurance Association of America. Back in those days, these were insurance companies. In other words, if you had a claim, you sent your claim in, they send your money. Just like auto insurance, they were about 95 percent of the market. The other part of the market was Kaiser. Nothing else existed.

Bathen: OK.

Jackson: When all of the mechanisms you have today started developing, the insurance companies disappeared despite what they say in the press today about who's really taking care of the financing. The market today is about 5 percent true insurance companies. The rest of it is HMOs and a Knox-Keenes and things like that. I did represent some hospitals in the middle of this battle when it first started up. When they were trying to control the budgets of hospitals, a dozen of the top hospitals in the state came to me and asked me to help them fight off the budget control, which we did. And towards the end of my career, I did represent some Blue Shield-style insurers, if you want to call them that. To me they're just deferred bill paying mechanisms.

Bathen: The issue of health insurance has just taken center stage for so many people, and I don't know what the solutions are. Do you pay much attention to that?

Jackson: Well, I did pay a lot of attention to it, because I was giving advice in my consulting business to big league brokers and claims managers after I came home from the hospitality of the federal government. I don't see a way out of this. And the reason is that we are the only industrialized country and we're huge, that bases their insurance financing on payments by employers. Now that came out of price freezes during World War II, and things like that. But we have continued that system on so half of it is on the backs of employers and the other half is on the backs of the employee. And it's that second half that's having all the trouble. And with the kind of future we're facing with electronics instead of machines being the backbone in most of these businesses, you cannot continue like this.

Bathen: What about a single payer system?

Jackson: The single payer system sounds nice, could be nice, but it's got two questions that I can't answer A, Can you finance it on a livable basis? And B, how do you get the quality health care in there?

Bathen: A little more about the lobbying business. One former legislative staffer told me that your clout in the Legislature in those days was the result of who you represented and your ability to influence clients' campaign contributions. They also said you were always willing to share your expertise, conduct seminars for legislative staff; and how did you run your business in those days and how has it changed today?

Jackson: Well, we ran our business from the beginning to the end the same way. The only change was that when we got access to campaign funds. But even with campaign funds we did that by

Clay Jackson

committee. We used to sit down, sometimes we'd spend a day towards the end, during the insurance wars that we were spending up to a week, all our professional staff sitting in the office day after day. And we were trying to do it the right way, we were trying to make sure that contributions were... Let me stop there and say this was in the days of the rise of the campaign dinners and fundraisers and all that. So the members wanted their money when they wanted their money. And we were trying to keep the money away from the event when there was legislation around. So we couldn't be accused of buying bills. And that became increasingly difficult as the fundraising became increasingly focused on fundraising events, particularly towards the end of the session, when there's masses of bills up for hearing. But we did our level best to try to stay away from that.

Bathen: You were a registered Republican for a long time, but then you changed to decline to state.

Jackson: Well, when I was a kid, I was a libertarian. My first vote was for Barry Goldwater. My family is five generations California, I believed in freedom, all that sort of thing. But when you get up here, you begin to see how the machine actually works and you begin to see how the consultants work together without regard to party. And you begin to see how the members cooperate. And all of a sudden, I began to realize that the slogans you heard at election time were simply that, and if you didn't have the votes, you couldn't get them adopted. So I became, it was about 1980 or so, I became independent and I remain independent.

Bathen: That wasn't then a business decision?

Jackson: No.

Bathen: It was personal political decision. Assemblyman Lloyd, then Assemblyman Lloyd Connelly once said that, although you were often on opposite sides of an issue, you made sophisticated arguments, always respectful. How does that... You did a lot of activity across party lines. How does that collegiality, if that's a good term, differ from the partisan divide that we see today?

Jackson: Oh it's radically different. I don't see how the people today think they can succeed in governing unless they become... They have overwhelming majorities. Now here in California where we haven't had so much of that terrible partisanship that you see in other parts of the country, the Democrats have control of virtually all the organs. But you also have Democrats who are somewhat the kind of people that the citizen would expect to be in the Legislature and they actually do take up issues and they do things, and we still govern. Now, if you're Republican, maybe you don't like some of the things that they do, but they're sensible and that's the way things were done way back when. But now you look at the Republican party, which is here, which is a mirror image of what you find in the South, in the Midwest, they don't get anything done, because they don't speak the language of accomplishment, of governing, of taking care of the citizenry and moving to society forward. They speak the language of ideology. So I guess I'd say for California, I thank God they're not in power.

Bathen: So would you want to return to lobbying at this juncture, given the environment that have today?

Jackson: No. No. It's not my style... I am not a... One of my failings was that I was never an elections person, electoral person, and I never realized that that's where many of the people, even in my time, originated from. I always took the lawyer's approach to the stuff, and then added to that

what I'd learned about the political system, which seemed to work for me.

Bathen: Is lobbying the administrative agencies in state government, the agencies that actually have to implement the laws and enforce the regulations passed by the Legislature, with increasing partisanship and inertia, is more of the task of legislating actually going to the agencies. And how has that changed over the years?

Jackson: Well, when I started lobbying, the agencies wasn't such a big deal. Most of what's thought today was being handled by lawyers out of law firms that approached it in a lawyerly style. Occasionally, you'd help them, usually not in the agency office, but rather in their own office. But today, this process is somewhat seamless. So it becomes highly important because part of what's happened to us is the Congress, or the state Legislatures being a copy of the Congress, were contemplated when we founded the country of being the most important branch. They were the branch of the people, and they're very weak now. And so when they can't make decisions, oftentimes they would provide general language and leave it to regulators to parse it out. Of course, the Republicans scream and yell and all that like the devil that did that and that wasn't right, and so forth. That's, in fact, what happens when you don't have enough power in the Legislature to actually govern, so therefore it becomes extremely important to be in an agency.

Bathen: Let's talk a little bit more about the role of money in politics. You've said in interviews that while money, in the form of campaign contributions, buys access, it doesn't guarantee desired results. What else is required?

Jackson: Well, you have to know what you're talking about. You have to have a position that is relatively defensible on the merits, otherwise you're going pay for it at the ballot box or in headlines or something. Secondly, you have to have the right kind of friends. After all, lobbying is a function of friendship; you have to be related to the members somehow, and the members have to at least not object to what you're doing or trying to get done. Thirdly, you can't put a member in a very difficult position, which sometimes tough votes do. And there used to be the rule that if you did that, what you have to do is let that person off the hook, so to speak, and go find a couple of more people who didn't have that same problem. Lobbying is always, to me, has been applied human relations. And money, in the beginning, wasn't so important, but later it became the ticket to get inside the theater. But just because you were there it didn't mean you were sitting front row central.

Bathen: OK. Your employees often said you could be a tough taskmaster, requiring long hours, and sometimes-impossible deadlines. But you said that was nothing that you didn't expect of yourself.

Jackson: Well, that's true. It was required by the system. I mean, look, all I'd have to do is go to the Legislature and look at what it's like the last few days at the end of the session. And yet, what they're doing over there impacts the lives and the fortunes of all sorts of people. It's a serious business. And if you take that approach, you have to do what you have to do, which means if you don't sleep, you don't sleep.

Bathen: A lot of legislation is dealt with behind the scenes. We all know that. And you have some wonderful stories and anecdotes about behind-the-scenes legislation. Tell us about the napkin deal, the 1987 Napkin Deal that was worked out. Give us the description of what it was.

Jackson: Well, those were the days when tort reform was a very big issue for about four or five

years. And it got very hot that year. And Willie Brown, then the speaker of the Assembly, called a meeting in his office of all those he thought were significant to the battle, and the goal was to try to work something out. So it would be worked out behind closed doors, and you wouldn't have all this brawling all over the Legislature and end up with nothing but recriminations and bad feelings. So the interest there, I would say there are about a dozen interests. And we met there, in Willie's office, for five days. We sat down and defined the...

Bathen: Who is "we"?

Jackson: That's a long time ago for me.

Bathen: The major players.

Jackson: The trial lawyers were there, the unions were there, on the industrial side, the Chamber of Commerce was there, the doctors were there, the insurance industry was there. That's about all I can remember, and there was a half a dozen more. And we decided what the topics were going to be, and we argued about what the results were going to be, and how it was going to be set up, and so forth. After the first two days, every day after that was just as contentious, like any other serious negotiation, it almost broke down all the time. On, it was either a Wednesday night or a Thursday night, it got very hot, politically speaking, so the speaker broke the thing up about four o'clock in the afternoon and said, "Let's come back the next day at 10 or 11." And it was often the case then by 6 or 7 o'clock, all the factions were down at Frank Fat's, all sitting in different corners and different booths, conspiring and complaining and so forth. I wasn't there. I was over with my lady friend having dinner at her home.

And about 9 o'clock at night, I get a call, and it's from Jay Michael, who represented the MDs, and he was a great personal friend of mine. And he says, "You've got to come down here. I think this is just blowing up." He says, "The trial lawyers and somebody else are going at it here at Fat's, and you've got to do something." So I came down there, and Jay was setting the bar by himself, I sat down, ordered a drink and started talking to him and he told me what he knew. So I started walking around and saying hello to people, talking to people. He said, "It's even worse than you think." He said, "What can we do?" The only thing I can think of is to call Willie. So I went into the restaurant office and I called the speaker, and I told him what was going on and I said, "I think only you can salvage this." That was at 10:30 at night, I'll not forget that. By 11 o'clock, he was down there, he worked the room with the magic that only he had. And by 11:30, everything was put to bed and everybody was going back to the meeting room the next morning, he left. Shortly after midnight in the door of the restaurant comes Bill Lockyer, who was the chairman of the Senate Judiciary Committee at the time, and not really involved in the action here, but he was being kept advised because whatever we came up with on Willie's side would have to go to the Senate, of course, and he was critical to it.

Bill ended up with the trial lawyers and he took them up stairs, to the upstairs room at Fat's, which was a banquet room often with folded-up tables when nothing was going on in the banquet setting. And he opened up a big round table and he sat down at the head of the table and had them sit down, he started asking them what was happening on this point, this point, and this point. At some point, he sent somebody down to get me, so I go upstairs and I sit down, and Bill says, "This is what they've told me. Is that correct?" And I said, "Yes." And he says, "I have the following questions and nobody can answer them up here. Nobody remembers." So I said, "OK, start asking." So he got

Clay Jackson

somebody to get him a table napkin that Fat's always served, placed at the table setting when you had dinner there.

Bathen: Paper or cloth?

Jackson: Cloth. And he opened it up and it was about, I don't know, 14 inches square or something like that. And he asked the questions I had to answer, he started making notes, and he made notes, he asked me a number of things, lasted about half-hour. I left, I went downstairs, had a final drink with Jay Michael, and I went home. But while I was sitting there with Jay, the trial lawyers came down and they started going home. That was the napkin deal. Now, there's lot of mythology afterwards that was created about how some deal was negotiated and the terms of the negotiation were written down on the napkin. That's not true. A deal was negotiated in the speaker's office the next day or the day after, the next day on Thursday, or Friday.

Bathen: Was the napkin brought to the speaker's office?

Jackson: No. I never saw the napkin again until after it was all over. There was all these stories about the napkin deal, and then somebody produced a big poster with the napkin on it, celebrating the deal.

Bathen: So nobody knows where the napkin is today.

Jackson: Well, I have no idea where the napkin is today. I would guess that Lockyer still has it, or if he doesn't, somebody associated with the speaker has it.

Bathen: So, that's how legislation is often made, a combination of meeting in the legislative offices, in this case, the speaker, and then off-campus, in bars and...

Jackson: Right.

Bathen: Are there other major issues that you recall that maybe didn't get as much publicity that were similar?

Jackson: Well, if you don't mind, I could tell you a funny story.

Bathen: Of course, we'd love a funny story.

Jackson: I was approached once towards the end of the '80s by the city fathers of the city of Irwindale, which is a small municipality in the high desert in Southern California, and they had been negotiating with Al Davis, the owner of the then LA Raiders, who were playing football at the LA Coliseum. And Al, as part of his negotiations with the Coliseum Commission, was threatening to move. And one of the issues, would he move back to Oakland or would he do something else? So he made a move and he went out and talked to the city fathers. He made a deal with them to build a football stadium out in Irwindale. In order to do that, they need to take advantage of the favorable financing of the redevelopment agency law, which permits financing and redevelopment project at 2 percent rather than the standard market rate. And they said yes. They went to hire somebody. They found me. Generally, I didn't do these kinds of client endeavors, 'cause I didn't know who I was dealing with, but being from Northern California and being athletically oriented, and had a lot of

friends in athletic business, I knew Al Davis and who he was and how he operated and so forth, so it didn't bother me particularly that I didn't know much about Al Davis's operation, or Al Davis, because I knew about his operation.

So I said yes. And in order to stop what Al Davis was trying to do, his opponent, who was Georgia Frontiere, then owner of the LA Rams, this was before they moved to St. Louis, they had to disable Al from using the 2 percent financing, so they had to pass a law. And my job in the beginning was to keep an eye out. So I kept an eye out for the first year, and I kept an eye out for the second year. In the second year, also going through the Legislature for its second time was a very significant and highly desired bill called the court consolidation bill, where the Municipal Courts of California were consolidated with the Superior Courts of California, so that the court system had only one judicial body at the trial level instead of two. And towards the end of that year when the court consolidation legislation was moving along, I started hearing some rumors that maybe the anti-Al Davis amendment might go in that bill. I was very much involved in that bill 'cause I represented, at that time, the County of Contra Costa, which is in the East Bay, and I did a lot of work for them and they were one of our favorite clients. So I got a hold of them and I assured them that no matter what happened, for the sake of a football stadium, I was not going to participate in the destruction of the court consolidation bill, which is exactly how we played it.

And then, as often happens in legislation, a fluke occurs. What happens? Well, the author of the amendment sends the text to the Counsel's Bureau to have the Legislature's lawyers draft the amendment, but he got the text exactly backwards.

Bathen: Oh, dear.

Jackson: So not only did it not prohibit the use of the 2 percent financing it, it required it if the project was to go forward. And I went over to see the legislative counsel himself, who was a law school classmate of mine, and I said, "I want you to read this. I want you to read it the first time, wait 30 seconds, read it the second time. Do not say anything to me until I ask a question." He said, "OK." He did that, and I said, "Now, I think that says the following," I said. "Do you agree?" He said, "Of course, that's exactly what it says." So then I told him the story, what was going on, and he got quite a belly laugh out of that. So in went the amendment into the court consolidation bill. Court consolidation bill was heading for a conference committee in any event. Conference committee was meeting in the evenings because this was towards the end of the legislative session and the members were on the floor most of the daytime. At that period of time, the Senate side of the confirmation committee, those committees were temporary and they had three members of each house, and whatever bill you were considering, if it had passed, the party on the side of passing the bill had two members, a party opposing had one member. In the Senate, they had two members who were the Republicans, and the one member on the other side was a Democrat. All three of them were very good friends of mine.

So I went and I the whole story, and I said I'm going to try to defeat this amendment, but if I can't, I don't want... I'm not going to ask you people to try to get rid of the court consolidation bill for a football stadium. And (Senator) Kenny Maddy (R-Fresno) said to me, "Thank God." [chuckle] I said, "What I'd like to do, if you don't mind, is when and if it comes to that, fight right to the end and then graciously give up for the good of the state." And that's what happened. So the bill got voted out of committee and went to the floor. About a half hour later, was voted off the floor of the Senate, three hours later, was voted off the floor of the Assembly. In the meantime, I had asked

Clay Jackson

some members to go to the Counsel Bureau to ask for an interpretive legal opinion about what this amendment actually did, and then to have those legal opinions printed in the Journal of the house on the last day of the session, which is what occurred. Nobody pays any attention to printing things in the Journal. Everybody's trying to pass or kill bills. So both those letters saying exactly what the legislative counsel himself told me, that they required the use of the 2 percent financing were printed in the house, and the bill was enacted that way.

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