

California State Archives
State Government Oral History Program

Oral History Interview

with

JEROME C. BYRNE

Special Counsel, Special Forbes Committee of the
Regents of the University of California, 1965

June 3, 8, and 15, 1993
Los Angeles, California

By Dale E. Treleven
Oral History Program
University of California, Los Angeles

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None.

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PREFACE

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

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

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

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

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

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California State University, Fullerton

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Oral History Program
University of California, Los Angeles

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

John F. Burns
State Archivist

July 27, 1988

This interview is printed on acid-free paper.

TABLE OF CONTENTS

INTERVIEW HISTORY i

BIOGRAPHICAL SUMMARY ii

SESSION 1, June 3, 1993

[Tape 1, Side A] 1

 Early life in Grand Rapids, Michigan--Early education, college, and work experiences-- Politics and religion in Grand Rapids--Choosing to go to Harvard Law School--Student legal work at Gibson, Dunn, and Crutcher in Los Angeles leads to permanent job there--Memorable professors at Harvard--The Harvard approach to teaching law.

[Tape 1, Side B] 28

 Labor relations case leads to specialization in labor law--Labor relations experiences--Accepts job as special counsel of the Special Forbes Committee of the University of California Board of Regents--Ensuring total independence in assessing the University of California's administrative structure--Reasons for accepting the job--Assembling a staff--Interviewing heads of universities across the nation--Interviewing students.

SESSION 2, June 8, 1993

[Tape 2, Side A] 55

 Budget and time parameters for work of the Special Forbes Committee--Compiling a balanced history of events at the University of California, Berkeley--Byrne Report recommendations and the university's handling of the 1993 Chicano Studies Program hunger strike

at the University of California, Los Angeles--
Relationship of the Board of Regents' Forbes and
Meyer committees--Liberal and conservative
factions--The data-gathering process--Ruling out
outside influences as a cause of student unrest
at Berkeley--Recommendations for managing
student demonstrations.

[Tape 2, Side B] 81

University of California President Clark Kerr--
Byrne Report recommendation that the University
of California central administrative offices be
removed from the Berkeley campus--Absence
of interference from politicians during the
investigation--Regent Edwin W. Pauley's
political persuasion--Assembling the final
report--Response to continuing campus free
speech controversy--Report's recommendation for
a commonwealth administrative structure for the
University of California--Student involvement in
the administrative process of the university.

[Tape 3, Side A] 107

Student advocacy--Recommendations for direct
communication from university administration and
rotation of administrative meeting sites--
Recommendation on the relationship between the
university president and the Board of Regents--
Recommendation for restructuring the
governmental role of the regents--Reaction to
the Byrne Report--Releasing the report to the
media.

SESSION 3, June 15, 1993

[Tape 4, Side A] 131

Byrne's personal involvement in media coverage
of the report--Public reaction to the report--
Assessing the report's findings--Weaknesses in
the report--Byrne's assessment of students in
the sixties--University implementation of the
report's recommendations--Records of the Special
Forbes Committee--Byrne's involvement with
colleges and universities since completing the
report.

[Tape 4, Side B] 156

Representing El Camino Community College in labor relations matters--Involvement with the Constitutional Rights Foundation--Participation in the Industrial Relations Research Association--Involvement with Democratic Party political candidates--Work on John F. Kennedy's presidential campaign--Decision not to run for political office--Personal political leanings during the sixties.

INTERVIEW HISTORY

Interviewer:

Dale E. Treleven, Director, UCLA Oral History Program

Interview Time and Place:

June 3, 1993

Byrne's office, Los Angeles, California
Session of one and one-quarter hours

June 8, 1993

Byrne's office, Los Angeles, California
Session of two hours

June 15, 1993

Byrne's office, Los Angeles, California
Session of one and one-quarter hours

Editing

Janet Shiban, editorial assistant, UCLA Oral History Program, checked the verbatim manuscript of the interview against the original tape recordings, edited for punctuation, paragraphing, and spellings, and with the interviewer verified proper names. Insertions by the editor are bracketed. Alex Cline, editor, drafted the table of contents and prepared the biographical summary.

Byrne reviewed the edited transcript and returned it with only minor corrections.

Papers

There exist no private papers which the interviewer was able to consult for this interview.

Tapes and Interview Records

The original tape recordings of the interview are in the university archives at UCLA along with the records relating to the interview. Master tapes are preserved at the California State Archives.

BIOGRAPHICAL SUMMARY

Jerome C. Byrne was born on October 3, 1925, in Grand Rapids, Michigan. After graduating from East Grand Rapids High School, he earned his A.B. degree at Aquinas College in Grand Rapids, and in 1951 received his J.D., magna cum laude, from Harvard Law School, where he was an editor for the Harvard Law Review.

As a law school student in 1950, Byrne began his association with the Los Angeles law firm Gibson, Dunn, and Crutcher. Throughout his career as a partner and since 1981 as a member of the firm's executive committee, Byrne specialized in the field of labor law, employment law, and employee benefits law, and for several years headed the firm's labor department. Much of his work included negotiating labor-management agreements, drafting pension plans, and representing clients in litigation and arbitration proceedings.

In 1965, University of California Regent William E. Forbes, chair of a Special Forbes Committee appointed by the chair of the Board of Regents "to research basic factors contributing to the unrest within the University of California, giving particular attention to the disturbances on the Berkeley campus," asked Byrne to serve as the committee's special counsel. Byrne agreed, assembled a research team, led a far-reaching inquiry, and published a document known as the Byrne Report. This interview focuses primarily on Byrne's work as special counsel to the Special Forbes Committee and on the content and impact of the report's widely disseminated and immediately controversial findings and recommendations.

Long interested and involved in higher education, Byrne at the time of this interview served as a member of the board of trustees, Aquinas College, and of the board of regents, Mount Saint Mary's College (Los Angeles), and as director and secretary of the Kolb Foundation, which provides scholarships for students at the University of Pennsylvania. He has been a member of the board of directors of the Constitutional Rights Foundation since 1967, is a longtime member of local and national bar associations, and is a past president of the Los Angeles chapter of the Industrial Relations Research Association.

Byrne resides in Los Angeles, where he remains a partner in the Gibson, Dunn, and Crutcher firm at its Century City offices.

[Session 1, June 3, 1993]

[Begin Tape 1, Side A]

TRELEVEN: Just to begin with, I'd like to know a little bit about your personal and family background, and maybe to begin with, where and when were you born?

BYRNE: Well, that's a good point. Interestingly enough, I had to get a birth certificate recently. I didn't have one. I had my parents' birth certificates, but not my own. I was born at seven o'clock in the morning on October 3, 1925, in Grand Rapids, Michigan. Both my parents had been born in Grand Rapids, Michigan, before me. My family were Irish immigrants. On my mother's side, her father came directly from Ireland, and on her mother's side, she was second generation. My father's parents were second-generation Irish Americans who had settled in an agricultural area outside of Grand Rapids, which was very unusual for Irish at that time, to

migrate to agricultural areas. Most went to the big cities on the East Coast. My mother's father became what they call a gandy dancer on the railroad. He emigrated at the age of fifteen from Ireland and went to work on the railroads. He ended up being an engineer for the Pere Marquette railroad [Pere Marquette Railway Company], which is now Chesapeake and Ohio [Railway Company]. He drove the first train service from Grand Rapids to Chicago. Anyway, that's my background from the birth point of view.

TRELEVEN: Right, right. Let's get a few names here. Your father's name was . . .

BYRNE: Camillus Abraham Byrne. Camillus, that's my middle name, Jerome Camillus Byrne. His middle name was Abraham. That was his mother's maiden name. My mother's maiden name was Katherine Kelly. Her mother was a Cudahy, like the beef-packing family.

TRELEVEN: That's right, which originated in Milwaukee.

BYRNE: Yeah, right.

TRELEVEN: So you are 100 percent Irish.

BYRNE: Yeah, uh-huh. I'm not a professional Irishman though. [Laughter] I'm a little far removed,

because my family emigrated before the Civil War mostly.

TRELEVEN: So they had been . . .

BYRNE: And never into city, ghetto-type areas; they were in the country. And Grand Rapids was not a particularly heavy place for Irish immigrants, although there were quite a few.

TRELEVEN: I was going to say, was there sort of a rural enclave of Irish in that particular . . . ?

BYRNE: Yeah. There was a little town. It's still there. Not a town, a little corners called Parnell, of all names, that had a Catholic church and a cemetery. You walk through the cemetery, and you'll see big, clumsy old tombstones with the name Byrne very prominent, Malone, and other. . . . It's rather an interesting walk through that cemetery, my great-grandfathers and uncles and great-uncles and all of that. It's now a kind of an exurban community. The wealthier people in the town have moved out to that area, which when I was growing up was quite a drive. It was twenty miles at that time over roads that weren't that great, when we would go out to see my mother's sister, who had married

BYRNE: someone and had a farm there. But now it's very much exurban, very pleasant, rolling country, a beautiful country out there.

But my family from two generations ahead of me were from the city of Grand Rapids. My father's father was a police officer and then a sealer of weights and measures for the city. My father was a small businessman. He had a retail business of window shades, venetian blinds, drapery hardware. My mother's father, as I said, was a railroad engineer. And my mother taught music for a while before she married. But she missed a great opportunity in life. She was born too young. She really had quite an organizational mind and a business mind. During the war [World War II], she ran a company that made gun butts, with the conversion of a furniture factory to making rifle gun butts. The sales manager of this company was running it, and she was the number two, helping to run it. But in reality, she was doing a lot of it. I think that was her nature, to be a business manager, but at that time it was a little too late. She was in her fifties at that time, sixties.

TRELEVEN: Now, your father did farm?

BYRNE: No, no, no. Not even either [set of] grandparents.

TRELEVEN: It just happened to be a rural area.

BYRNE: It happened to be a large part of his family, from his mother and his father, both of whom settled in the city, but they came from this rural Irish community twenty miles from Grand Rapids.

TRELEVEN: Did you spend your entire youth, then, in Grand Rapids?

BYRNE: Yes. As a matter of fact, in the same house. Our home was on Gladstone Avenue and was right across from the Catholic church, Saint Stephen Catholic Church and School. I went to the school during grade school. It was a fine grammar school. And then I went on to the public high school, East Grand Rapids High School, which was a fine [school], almost like a precollege type of school. It was in a relatively prosperous area, and almost all the students went on to college. It was a very good high school.

TRELEVEN: That was called Grand Rapids High School?

BYRNE: East Grand Rapids. East Grand Rapids was a

BYRNE: separate city. We were on the border of Grand Rapids and East Grand Rapids. So that was this public school that was available, and it was a fine one. We just recently had a fiftieth anniversary of our class. It was 1943 graduation.

And then for college. . . . I came up for the [military] draft. Well, I tried to get into the military service. I graduated in '43 from high school--I was then seventeen--and I tried to get into a couple of different programs, but they were closing out these programs. They involved kind of officer training, the navy program and an army program, but they were closing those down. So then the only way you could get into the service was by being drafted. So I asked the draft board to accelerate it. I turned eighteen in October. All of my friends were going off into the service, but they rejected me. I had a long history of asthma, and unfortunately on the day that I was examined I had some of it. So I followed that by going out to Arizona to get myself cured of asthma. I went to Tucson, Arizona, for six months or so to take the dry

heat cure. It did a lot of good for me, and I came back, and I ended up going to Aquinas College in Grand Rapids, where I. . . . It was a Catholic school started by the Dominican nuns as a coeducational school, which was unique at that time, to start a college, Catholic college, with men and women both. That was a very happy experience. It was a decent education, but it was a very small school without the opportunities that a larger, more prestigious campus would have presented.

TRELEVEN: Aquinas at that time had instructors that were both religious and lay?

BYRNE: Oh, yeah. At that time there were mostly lay instructors. I'm a trustee of the school now. It's grown a good bit over the years, and it's been completely laicized. The order of nuns, I think, have six or seven of the members of the board of trustees, where there are twenty-five others besides them. The last three presidents have been male laymen. They have a lot of non-Catholic students and a lot of non-Catholic professors.

TRELEVEN: Well, back in your time, about how many students

were there?

BYRNE: It was about 150, maybe.

TRELEVEN: Oh, that's very small.

BYRNE: Real small. Maybe 200. It got a little bigger before I graduated, but it was relatively small. Some very good instructors. But again, the opportunities for tangling with one's peers was somewhat limited, although we made the best of it, and we had a good environment.

TRELEVEN: Sure. Must have been a lot of room for interpersonal relationships with the faculty.

BYRNE: Yeah, it was a very closely knit operation and very freewheeling. I enjoyed it. My motive in going there was simply economic. It was very inexpensive to live at home and to be able to work.

I worked every summer from the time I had to lie about my age when I was in high school. I usually had pretty good jobs in the summertime and was quite self-supporting. I know the last year in college I finished all of my program except for one course in the spring semester, and I had two jobs going there. One of them was driving a taxicab three nights a week, and one

was in a traffic department of a company that's still there, American Seating Company. So it was. . . . I had a lot of different work experiences in my years, being a dockhand, working on construction at ninety cents an hour-- imagine that--working in a retail store, working in a manufacturing plant, you name it. It's a shame that that isn't very much available to kids these days. There's a lot of learning experience in those kinds of efforts.

TRELEVEN: Would you say you were in a family where you were expected to work?

BYRNE: No, it was my motivation. I didn't have much direction. My parents were not directors. It was my. . . . I guess, as [David] Riesman would have said, I was an inner-directed person and have been all my life. So at the end of my college, I sort of eliminated, by all these work experiences, a lot of things that I didn't want to do. I eliminated a whole lot. So I decided that I would go for law.

TRELEVEN: Okay. Before you go on, first of all, I take it you were a fairly good student.

BYRNE: Yeah, I did very well. I did well all through

school.

TRELEVEN: Which means you were pulling down A's regularly.

BYRNE: Yeah, regularly. I did very well in grammar school, and we had a very good class of students. I look back and. . . They used to show us off, because we were great for discussing current affairs and things.

TRELEVEN: And I take it you learned the three R's pretty thoroughly.

BYRNE: They don't even teach diagraming sentences much anymore. I remember we were about in the third grade, and we started diagraming sentences and [doing] mental arithmetic. We got baseball cards for proficiency in that and in spelling. It was good three R's.

TRELEVEN: Well, as you're going through the educational process, how were your interests developing in terms of what you might want to do with your life, occupationally?

BYRNE: Well, I also rejected my father's type of small business, which is really a service business. I knew I didn't have the entrée, as I saw some of my wealthier high school friends, into family businesses. I knew that that was not an open

door for me. I had a good mind and could vocalize well. I had an interest in government and politics. To say I had an interest in the law, no, that was no interest whatsoever. I didn't have any peer guidance in that area. I had maybe one friend whose father was a lawyer, one whose older brother was a lawyer, and I wouldn't say that either of them were particularly role models. I knew that I wanted education, because that was my interest, in developing my thinking and so forth. In college I enjoyed almost all of the courses, particularly literature. I enjoyed studying literature and history. The offerings were somewhat limited. They were basic with a small school such as you have. But that wasn't too bad, really. I don't know. . . . I guess law was something that appealed to me as exerting the kind of skills I had shown myself in the early stages that I might have.

TRELEVEN: So this is really against the background of government and political science.

BYRNE: History and literature, verbal and writing, and that kind of thing, although I was always very

good in mathematics. I know I took one profile test. I remember when I went to work at American Seating, when they first hired me. . . . It was in their kind of management training program, because I was just going to graduate a few months later from college. So they gave me a mechanical test and an intelligence test that they routinely gave, and they came back and said, "You have the highest we've ever had on the intelligence test and the lowest we've ever had on the mechanical test." [Laughter] So I wasn't machine or technically oriented, even though my father's business involved that. I used to wash window shades and venetian blinds in the basement of our house for extra money. But those were just hard labor jobs, just as the construction work was a hard labor job. The dockhand work was certainly not a technical job, except to tie up boats. All of those jobs were not technically oriented. So I didn't see my interests there, and I certainly didn't see an interest in medicine, because that's somewhat similar.

TRELEVEN: Yes. Well, you mentioned politics and government, which reminds me that. . . . When I think of

Grand Rapids, I think of it as being quite a Republican area. Did that hold in your family too?

BYRNE: No. My parents were not particularly political. They were Democrats, I have to assume, although they certainly were when [Franklin D.] Roosevelt was running. I remember that, because our street had almost. . . . I remember in '36 a newspaper reporter, a cousin of mine, came from Chicago, and he got the biggest kick out of it, because all along the street there were pictures of [Alfred M.] Alf Landon in the homes. We didn't have one, but he called it "Landon Avenue," because in Chicago they weren't seeing anything like that. It was all for President Roosevelt. I can recall. . . . I joke with people that in 1948, which was the year I started law school--and I did an absentee ballot--I voted for two presidents at one time, Harry [S] Truman and Mr. [Gerald R.] Ford [Jr.]. Ford was then running for congressman from that district on the Republican ticket. He was an idol of ours in my youth. One of his younger brothers was a friend, and we used to

play ball along the street near their house. I can remember one time, he was then the football star at University of Michigan and came home for the holiday, and we were all excited to see him.

TRELEVEN: I'll be darned.

BYRNE: So I voted for Jerry Ford and Harry Truman in 1948, and they both won the presidency, you see. So as far as political background, yeah, it's a pretty conservative community, Grand Rapids. A strongly religious background. Not the Catholic religion in particular, but Dutch Reformed and Christian Reformed, which are two separate branches. Mostly Dutch people, a heavy Dutch population there. The furniture manufacturers got the good Dutch craftsmen to come in and work there, and that established a large Dutch community. There were also, with the Irish, not too many, but German and Polish and Lithuanian, who were largely Catholic groups, and an overlay, of course, of the old Anglo-Saxon groups. And the town today has that kind of mixture. It's a very solid, prosperous city and a very nice city now. When I grew up, it was suffering badly from the Depression, because

furniture was one thing people could avoid to buy, and Grand Rapids had been, in the twenties, heavily dependent on the furniture industry.

TRELEVEN: I'm about thirteen years younger than you. I grew up across the lake [Lake Michigan] in Wisconsin in the kind of atmosphere you're describing. I'm a Protestant, but as I was growing up, there was, it seemed, a great amount of insistence on both the Protestant and Catholic sides that you don't marry across religious lines. Did you have that sort of experience in Grand Rapids?

BYRNE: I didn't. I suppose if I had continued in Catholic education, to go to the Catholic high school, that might have been the case. But I chose to go to the public high school, because it was a darn good high school and a lot of my friends were going there. I never had any ghetto-like feeling. The high school I went to would be. . . . As I said, it was a more prosperous part of the town, quite a few of the Dutch, a lot of what you call Anglo-Saxon, some of us who came over from the Catholic grammar school, and I. . . . There was just no feeling

that way. I guess parents were inclined to encourage people to marry within their religions, but I didn't find that any problem or any concern in social contexts.

TRELEVEN: Okay, one more family question. Brothers and sisters?

BYRNE: No brothers and sisters. I was an only child. I was a late child. I found out later my mother was about thirty-seven or -eight when I was born, and no more children, so I grew up alone.

TRELEVEN: Maybe that's why you're a bit inner-directed.

BYRNE: It could be. I always had lots of good friends I palled around with. It was not an isolated life at all, but I always was jealous of my friends who had brothers and sisters. I always felt that I was deprived. I also had to do all the chores. It was no gravy boat. [Laughter]

TRELEVEN: Right. Okay. You're nearing the end of college, and you end up at Harvard [University]. How did that come about?

BYRNE: Well, when I decided to go on to law school, why not go to the best? So I applied to. . . . I took the law school admissions test, which was relatively new--I think it might well have been

the first time they were using it--and as I recall I did quite well on that. My grades in college had been very good, anyway. I applied to the University of Michigan law school and Harvard. I was accepted at both, and I was awarded a full scholarship at both.

TRELEVEN: Really?

BYRNE: Now, that's not as big a deal as it is now, because they were offering more scholarships. They weren't doing many loans then, and the tuition was only six hundred dollars at Harvard a year.

TRELEVEN: Seems impossible. [Laughter]

BYRNE: But it was important, that amount of money. And you know, I couldn't make up my mind between the two of them. Michigan had a very. . . . And still does. Among public universities, I suspect Michigan continues to rank close to the stars like Harvard, Yale [University], [University of] Chicago, which you always find people talking about, Columbia [University]. Michigan will be right up among them. So my choices were good. At that time, I think Michigan perhaps was rated even higher than it is today. I was just kind of

deliberating for some period of time where I would go. Nowadays, a kid would have to make up his mind way ahead, because it's just very hard to get into these schools. I finally chose Harvard, because I thought it would be good to get away from close to home, to be farther away from home, to go into a different area. And also, doing well there was a challenge to me, to do the best at what was recognized as the best school. So I decided to go to Harvard. It was kind of my own decision making. I didn't have much direction. In fact, the direction I got was negative. I mean, "We've got a good school here, why not go there?" You know, it was. . . . [Laughter] Oh, yeah, "Harvard is a bunch of communists," you know, which I . . .

TRELEVEN: Really?

BYRNE: Anyway, I made my decision . . .

TRELEVEN: Let's see, what's the year? Nineteen forty-eight. Yeah, you would have heard a lot of that, I guess, at that time, sure.

BYRNE: Yeah, yeah. So I chose Harvard, and that's where I went.

TRELEVEN: Any friends or acquaintances of yours that were

at Harvard at that time?

BYRNE: You mean friends that I'd known before that?

TRELEVEN: Yes, yes.

BYRNE: No. No, I was the first to come from that college [Aquinas] to Harvard. I ended up doing well in law school, magna cum laude, and the admissions director always would joke with me years afterwards about how Aquinas College still had the highest average record of any of the colleges they followed. [Laughter] I don't know if they sent anyone since, but . . .

TRELEVEN: Like one out of one. [Laughter]

BYRNE: Yeah, one out of one. And I said, "Well, when you get another one, let him in." My experience at law school was a very good one. I enjoyed that a lot. I was elected to the Harvard Law Review in my second year, and that's based on grades. My grades were in the . . . I think it was the top 25 out of a class of 470 or something like that. So I became editor of the Review in my second year. I dropped it in my third year, which is very unusual, but I'd come out here to work in my present firm in the summer of 1950.

TRELEVEN: Nineteen fifty you came to work for Gibson, Dunn,

and Crutcher.

BYRNE: Gibson, Dunn, and Crutcher. That's the end of my second year. That's when law students normally clerk in law firms, between their second and third years. And I wanted to try California. Again, I wanted to avoid this asthma problem I'd had all my life and thought that I didn't want to go to a small town like Tucson. Los Angeles appeared to me, because it had somewhat similar climatic things and didn't have the same problem of allergens that are present in the East, like the ragweed all over. . . . So I came out here, and I really enjoyed my summer's work. I was just doing a great job, making, I think, the princely sum of two hundred dollars a month. I hate to tell you what we pay our summer associates now, that are just here working now.

And they wanted you back at the Review early. School started in the first part of September then, but they wanted you back in the middle of August, and I decided I'd rather stay and work. So I ended up, instead of coming back two weeks early, coming back two weeks late, because I got involved in a project here which I

enjoyed so much I wanted to finish it. So I started my classes two weeks late in my third year, and, as a result of that, I had to resign from the Review, because I just was missing a whole important month for their work.

TRELEVEN: Would you tell me what kind of a project . . ?

BYRNE: I'm trying to remember. It had something to do with water law.

TRELEVEN: That would be extremely interesting.

BYRNE: It was dealing with water law. And even at that time, a lot of the law in California was quite old. In fact, there was one case of the supreme court of California I should look at again someday--it was decided, I'm going to guess, in the 1880s or something--that covers a whole volume. It was like an attempt of the judges to write an entire history of water law in the West, and it had become sort of a bible. Anyway, it was a matter of a lot of research in the water law to work on the particular problem that related to riparian rights in the harbor area for a client of ours. But anyway, I was offered a job to come back at the end of the third year to be a permanent associate. I had accepted the

job, so my interest was in coming back here. I had made up my mind. My decision in the second year of law school was between New York and Los Angeles. I narrowed it down there. And then I decided I liked New York, but decided against it. And being on the Harvard Law Review, you pretty well could go to almost any firm in the country that you wanted to. But I decided I'd rather come here than New York.

TRELEVEN: So you did the internship, and before you left the internship you were offered a position in the firm?

BYRNE: Yeah, right.

TRELEVEN: Well, you must have wowed somebody.

BYRNE: Well, that wasn't unusual at that time, although there were two others that were doing it at the same time, and they did not offer it to either of them. But I don't think it was that unusual. I think they'd done that before. Nowadays it's more formalized. We have sixty people here for the summer and then go about it. . . . I won't go into all of that. But at least in those times, summer programs were not well organized. They didn't come recruiting you for them. You had to

apply and be accepted, and if you wanted. . . . I decided for the summer here that I really liked Los Angeles, and I wanted to come back. And I liked the firm, so when they offered me the job permanently, I took it.

TRELEVEN: Were you to think about one or two, maybe more, of the most influential law professors that you had at Harvard, who comes to mind?

BYRNE: The most important--and I kind of majored in him whenever I could--was Paul [A.] Freund. I had constitutional law from him and conflicts of laws, and then I took a special seminar in constitutional litigation. He had the most brilliant legal mind. He was constantly mentioned as a possibility for a [United States] Supreme Court appointment but never was given that accolade. But I think among those who revere the top law professors in the nation, he would always be on the very top of the list. He was number one.

The other one was a man who was in his late years named Austin Wakeman Scott. He was professor of trusts. I was in a club that he was monitor of, and I took his course in trusts. He

is a personality in his sense of moral equivalents in law. What was moral? A way of looking at it with a great resource. Also there was a corporation professor by the name of [Edwin M.] Dodd who was rather significant. He had that same kind of feeling about the law, that it had to serve a moral purpose, as did Austin Wakeman Scott. I appreciated him very much. The three of them. Paul Freund would be number one.

TRELEVEN: The suggestions of morality in law, did that come to influence . . . ?

BYRNE: Not just the technical aspects of law, but the idea that we live in a society of laws, and it's important that the laws serve good ends. That kind of approach. Obviously, if you're representing a client and the client does not have the credits in that area, you don't get into the area, but you try to pragmatically treat with it, whichever side your client's actions are, to make sure that you are prepared to give the best argument to the judge or the jury or whoever it might be. So I think it's very important to have not just the purpose of the law but the moral purpose of the law, an added dimension to it in

addition to the technical thing of discovering, quote, "what the law is," end quote. Which is what the method of instruction and the eminence of instruction at Harvard did, that Socratic method where you. . . . Nothing was black and white. Always you had to use judgment, judgment, judgment based on facts. Law, I think someone said, is 90 percent facts and 10 percent law. You get the law, but then you've got to deal with the facts of that situation to make the judgments on it as to where it fits in that legal framework that is present there, in which there may be many different decisions based on many different facts with different nuances. That's the challenge that's presented. And the challenge was presented very well in my education at Harvard, and I appreciated it very much.

TRELEVEN: Well, you mentioned that you had been warned about communists at Harvard. Were there . . . ?

BYRNE: Well, I took that as kind of a . . .

TRELEVEN: I understand, but given the times . . .

BYRNE: I didn't accept it seriously.

TRELEVEN: Given those times, and I think we're talking about . . .

BYRNE: That was my boss, the secretary-treasurer of American Seating Company. I did talk to him about. . . . Because I was leaving the company, and I talked to him about where I was going to go. I remember that to this day. He was a nice man, but he was inhibited by his circumstances.

TRELEVEN: The question that I was going to ask is, once you got there, did in fact . . . ? Between '48 and '51, were there professors at Harvard, maybe specifically in the law school, that HUAC [House Committee on Un-American Activities] was interested in or anything like that?

BYRNE: No, nothing at all. The law school was pretty conservative then compared apparently to now. The professors were from the old school. They certainly looked at everything--they didn't ignore anything--but they were not polemicists at all. They were really looking to teach the perfection and the practice of law and making good judgments in matters. No, I did not find them to be partisan, nor did I find them to be particularly liberal or conservative. I expect you would have to say they were basically conservative in the sense that they were teaching

from the past as to what you had to be aware of for the present. There wasn't visionary stuff as to what we should legislate. We did that on our own, but it wasn't something that came from the classroom. You had to learn the basic tools of your trade, so to speak.

TRELEVEN: Were you trained to be, in those times, a general practitioner? Or did you find yourself developing specialized interest already in law school, or near the end of law school, or by the time, in your case, you came to Gibson, Dunn, and Crutcher?

BYRNE: The training is very much in the general sense. The courses that were mandated and recommended were a large part of the curriculum, and they were to the effect of very general preparation for almost any field of law. I had developed no particular bent for any particular area of law when I was in law school, or for that matter in the first. . . . Certainly not in that summer. When I first came here in the summer of 1951, permanently, I worked on an antitrust case for nine months. When I walked in the door, they were ready for me, waiting for me, and I started

analyzing and briefing every known antitrust case of that time. You couldn't do that now--too many of them--but . . .

TRELEVEN: We have to pause just a minute.

[End Tape 1, Side A]

[Begin Tape 1, Side B]

TRELEVEN: Okay, we're back on tape. You were talking about, I believe, an antitrust case that you first became involved in when you came in 1951.

BYRNE: It was the work that needed to be done at that time. The firm had gotten an antitrust case for a defendant involved in the ice cream business in Los Angeles. It involved a lot of difficult legal problems, and they were looking for someone to really live with the case for several months, because it involved research of many, many areas. I was the one, when I came in the door, that got going on it. The man who was in charge of it generously credits me with coming up with the idea that was the best defense to the charges. That was, professionally, a great pleasure to me, but I didn't want to continue with this antitrust work because it was so heavily research oriented and because it involved such a big commitment of

time to one matter over a long period of time. You become immersed in it. So I was looking for opportunity to do other things. But back to your basic question, no, I did not have any fixed view as to the kind of law I wanted to do.

TRELEVEN: Okay. You sent me a brief résumé before this session today, and I was intrigued that you got involved in labor law. How soon did that happen? And how did that happen to take place?

BYRNE: Oh, that's a good story. It so happened that after this first nine months I started to do a variety of jobs in our corporation department, some in our tax department, and just a whole run of the mill of litigation areas. I did a lot of different things, which is the ideal thing. What the firm then did, and tries to do now, is to give a lot of different areas of experience in the law to the new lawyers.

TRELEVEN: Let me interrupt. I forget. At that time the firm had about how many attorneys?

BYRNE: We then had about forty lawyers.

TRELEVEN: Forty, okay.

BYRNE: Then along came a labor case that was kind of hopeless, and Stuart Neary, the then senior

partner in that field of law, said, "Jerry, do you want to take this case? It's a tough one, and I don't know exactly what you can do, but here's the way I see it. Would you like to . . . ?" Well, I got in and studied it and came up with all sorts of notions that were a little bit wild, but I talked to some of the more senior people in the department, and they all encouraged me to keep on going, because you couldn't do much harm because you had a loser.

So I ended up with a theory that I ended up bringing an action, an injunction, against the National Labor Relations Board, which was kind of unheard of. The courts had always turned down this kind of action against a government agency, because you're supposed to look at their work only after they've made their decisions and done it. Then you appeal to the higher courts. I was trying to stop them from doing something that I considered contrary to law in the midst of their doing it.

TRELEVEN: Okay. This is '52, then?

BYRNE: It's about '53, maybe. I don't know exactly. It might have been '52, late '52, early '53. Well,

BYRNE: it ended up in the United States Court of Appeals for the Ninth Circuit, where I had a scheduled half-hour argument with the three judges--they assigned three judges to each case--in a wonderful old courthouse in San Francisco. It's still there. It was then old and wonderful, and it still is. It's a jewel. We ended up with an argument of four hours in length, and the general counsel of the local office of the labor board was on the other side.

To make a long story short, I got a significant victory in that, so I became a labor lawyer. And I had done something which they considered to be really pulling a victory out of a real loser. I liked it. What I liked about it is you got a more immediate response. You got a decision quickly. You weren't immersed. Your research was paying off right away. It wasn't like these big cases that go on and on. I liked that version of the law. So I quickly became an expert in labor law, which involves not just the law, but negotiating labor agreements, the litigation and arbitration of labor contracts and the negotiation of labor agreements. It became a

very strong item in my agenda.

I can remember the first negotiation I had, and that was Bill Smith, who later became our attorney general, William French Smith. He had this client in Hollywood. What's the name of the company? The name of the company. . . . His name was Hollywood, and the name of the company was Hollywood Manufacturing Company, a small manufacturing business which happened to be based in Hollywood. So I had to negotiate a first contract with the International Association of Machinists. I'll never forget it, because I'd never negotiated the rent payment or the purchase of an automobile. So here I was negotiating a labor agreement.

TRELEVEN: Across the table from some tough machinist.

BYRNE: No, he was not a real pro, either. He'd worked [his way] up in the shop. I remember his name; it was Charles Bogardus. Isn't that funny? I haven't thought of him in years. He was a fine man, an intelligent man, but he did not have that enormous amount of experience with labor agreements, certainly in negotiation of them. So again, it was kind of sink or swim, and I just

swam and learned my trade. Once you did it, then you were an expert. [Laughter]

So I was starting to do a lot of negotiation of labor agreements, and I probably have done two or three hundred negotiations over my career in a variety of industries and dealt with a lot of difficult situations. Again, the results are coming very soon to you, and you're trying to work out something that will be a living document that, in my case, the employer-client will be able to live with and prosper, and trying to sell that to the union folks.

TRELEVEN: So you represent management in all cases?

BYRNE: Yeah, that's usual in the practice of labor law. The firms either represent management or labor. Although, a couple of times I did represent labor unions. One was a very funny case where the labor union's employees were trying to organize a union to represent themselves with their employer, the local union.

TRELEVEN: I've heard of that, yes. [Laughter]

BYRNE: So I represented the local union as employers, so to speak, because his regular counsel couldn't handle it for him. He couldn't go against the

union, so he asked me to do it. It was fun to work with them. Their attitudes as employers are basically the same as others as employers. But that's the usual role. Our firm has represented management for all the years that we've done this kind of work, which goes back to the thirties.

TRELEVEN: Well, it hasn't been a static area. I guess I can say that in general.

BYRNE: Well, it was a booming area when I got into it there in the fifties and through the sixties and into the seventies. The last number of years, the labor unions have been somewhat quiescent. There has not been a great deal of organizing activity. The labor agreements have become more or less routinely handled. You don't need lawyers from the outside, except in unusual cases, to handle negotiations for you. So it's a much quieter arena than it was when I was starting out. But there are a lot of other [things] besides the negotiations: the administration of agreements; counseling as to what the employer can do in dealing with labor board problems; dealing with arbitration, sometimes very critical arbitration matters, not

so much in immediate dollar volume but in the ability of the management to run the enterprise the way they think it should be run. So there were a lot of exciting things through those years. I did a lot of work in the employee benefits areas, pensions, profit-sharing plans, which is a little. . . . You don't think of a labor lawyer as doing that, but that's what. . . . I must have spent, for a number of years, 15 or 20 percent of my time handling pension and profit-sharing plans and counseling employers in those areas.

TRELEVEN: Does that also get you into this contemporary controversial area of workers' comp[ensation]?

BYRNE: We have never done the workers' comp. We've left that to specialists. It's been a mass-volume kind of work, and we, as is true with other major law firms, have not gotten involved in it. It's a very important area, but it does require someone who can handle a multitude of cases at a point in time. It's a very different kind of practice, and mostly it's insurance companies who hire law firms that just specialize in this kind of work.

TRELEVEN: I wanted to talk about some of your other activities, bar association and so on. I'm wondering, though, whether I will leave that for a little later. I'm going to sabotage my own [topic] outline and ask you how on earth you ever became involved as special counsel of the Special Forbes Committee of the Regents of the University of California.

BYRNE: Well, my recollection of it is that when the Forbes Committee was established, I was just busy practicing law here in Los Angeles and was in no way particularly involved in what was going on in [University of California] Berkeley in the fall except to be a reader of the newspapers about it. It was early in '65 that I got a call. I'm trying to remember who it was from, and I have a hard problem remembering that. It was either [William E.] Bill Forbes or it was [William K.] Bill Coblentz, who's a lawyer in San Francisco who was on the committee, asking me if I was interested in doing this. [Charles] Chuck Rickershauser is the person who had recommended me, I believe, to Coblentz, and whether it was Coblentz who called me or whether it was Forbes

who called me, I don't remember. But it came. . . . In other words, Rickershauser had recommended me. Chuck had been with our law firm. He was not then with our law firm. He had gone elsewhere. He was in the [California State] Department of Corporations, I believe, at the time. He was corporations commissioner, as I recall, at that time. So he recommended that I might be a person that would be interested in being counsel to this committee.

TRELEVEN: This was directly to you? It didn't . . .

BYRNE: No, the recommendation came from him to Coblenz, and I can't remember whether it was Coblenz or Forbes who called me.

TRELEVEN: Okay, but the call came directly to you. It was not to one of the senior partners of GDC [Gibson, Dunn, and Crutcher] or anything . . .

BYRNE: No. It was my name, that I'd been recommended. No, it had nothing to do with the firm per se; it was strictly me. My best recollection is one of the two of them called me and I said yes, I would be interested. They told me who was on the committee. We represented the Los Angeles Times at the time, and I spoke to one of my partners

who handled that, [Daniel] Dan Frost. I told him Mrs. [Dorothy Buffum] Chandler was on the committee and that I was interested in this. And I told Forbes, I think, that he might. . . . Because he told me that she was on the committee, maybe it was that I told him that Mrs. Chandler, being on the committee, might talk to my partner Dan Frost to get a recommendation. It worked one way or another; I don't remember that. I don't remember that we had any other contact at that time with anyone else on that committee. But I suggested that if they wanted to know a little bit more about me that they check through her.

TRELEVEN: Through Mrs. Chandler?

BYRNE: Yeah, because of our affiliation. Dan also represented the Chandler family. I don't know if I talked to Dan at that time. I'm sure I probably did, but it was a matter of Forbes getting. . . . He came to see me, and I talked to him after we had the phone conversation, and we talked about it. I did talk to Bill Smith about it within the firm. Stuart Neary was sort of inactive at that time. Bill was next senior to Stuart, and I had asked him about. . . . It was

sometime after it was germinating that they were going to ask me to do it, and I asked him more or less for advice as to how I should go about it. And he gave me very good advice: Make sure you have total independence.

TRELEVEN: From the board.

BYRNE: Yeah. That your charter is such that you have total independence to make your study without any control . . .

TRELEVEN: Without any interference or control.

BYRNE: That was very good advice. Bill obviously had a good political sense. We were always very close and always argued about politics. He was a Republican, I was a Democrat, but I had a lot of respect for him. He guided me in making sure that I laid down conditions before I did this, that I had autonomy, and that was very important.

TRELEVEN: Why were you interested in being special counsel in the first place? I mean, it's kind of a messy situation.

BYRNE: Well, it was a challenge. I was thirty-nine years of age at the time. I had been working in the practice of law for--what?--fourteen, fifteen years. I'd been a partner here for four, five,

six years. It was something challenging and different and something where I could make some mark, make some effect, do some good, so to speak. My interest was to take the job and see what I could do that would help. It was a need perceived by me at the time, that the university was in dire straits as far as internally not having its act together, having bad PR [public relations], so to speak, perhaps being misguided, and that I could do some real good for the institution, which one had to respect as a preeminent university. I saw it as something where I might be able to do something. I did not have any fixed opinions. I thought as I got into it a lot of the criticisms had been overblown in the press.

TRELEVEN: The criticisms of . . . ?

BYRNE: Of the students and the university both. And that it was worthwhile to. . . . That's as I got into it, not at the time I was deciding to do it. You got to look at it differently. But I could see that something was needed, and if I could do it, I'd darn well try to do it. That's all. I

knew I'd need people to help me, because I knew I had to make a study. I helped phrase the charge to make sure that it was as broad as it could be, referring to the basic causes of unrest within the University of California. They wanted it, and I wanted it, with particular reference to the Berkeley situation of the Free Speech Movement. But my desire was to have the charge be broad, so that I could look to solutions not related just to that particular incident, as serious and difficult as it was.

TRELEVEN: Had you had any association with the University of California up to that time?

BYRNE: No. No. Not even as a course taker.

TRELEVEN: Or going to a concert at Royce Hall? [Laughter]

BYRNE: You might have me on that one. I might have done that. [Laughter] And I don't believe I knew very many teachers. Of course, I knew graduates, but I didn't have any real connection.

TRELEVEN: Were you acquainted by then with Franklin [D.] Murphy?

BYRNE: No. I got acquainted later.

TRELEVEN: So you pointed to the charge that is included in

the document.¹ This was, my notes show, in February of '65.

BYRNE: That's right. I think the original call to me had been in January, and then there was some kind of. . . . They checked me out. That's why I gave them the reference of Mrs. Chandler, because of the connection through our firm with the representation of the Chandler family and the Times. I know they were checking me out, and I wanted to make sure that if I were to do it. . . . It had to come down to being sure that I had autonomy and that the charge was broad enough that I wasn't trapped into some narrow funnel where I could not do my thing.

TRELEVEN: William French Smith provided some . . .

BYRNE: He counseled me.

TRELEVEN: In working up the charge, did you meet with the members then of the Special . . . ?

BYRNE: No, I think that was. . . . We didn't have much of a problem on that. The problem was not great at all. It was by telephone, and I think it probably was with Bill Forbes. There was no dispute, nothing of a dispute. I just wanted to

1. The Special Forbes Committee, Regents of the University of California, "Report on the University of California," transmitted under cover of letter from Jerome C. Byrne, Special Counsel, to William E. Forbes, Chairman, dated May 7, 1965. Commonly known as the Byrne Report.

make sure that we covered it adequately. This ended up giving me a general purview of the entire university system. Every door could be open to me. It was a matter of judgment where to put your time and effort. I could have gone off into frolics, you know, looking for problems, but it was basic causes of unrest that I was looking at, not every dispute that did occur. I have an example of that which at some point in this discussion I can give you, but for now I think that doesn't fit in with where you're going.

TRELEVEN: Well, you couldn't do this alone, and so you needed to come up with some staffing. How did that work?

BYRNE: I wanted to get a person who was a lawyer who. . . . Well, before I go into that, I discussed with Mr. Forbes. . . . I knew that I needed staff, because I knew that there was a lot of work to do, and I plainly couldn't do it all myself. We had to have the staff and had to have some sort of a budget. Then, as to approaching who I would need, I felt first of all I needed somebody who was a lawyer who would be identified with law enforcement. I had to have a good

entrée to law enforcement, because there were a lot of accusations floating around about the students being part of some "communist conspiracy" to destroy the university and so on. And I just had to have good entrée in that area.

TRELEVEN: Someone who was trusted within the law enforcement community who could examine certain . . . ?

BYRNE: Could get information.

TRELEVEN: Yeah, okay.

BYRNE: That's where I asked [Stephen R.] Steve Powers [Jr.], who had been an acquaintance, a friend of mine, to. . . . In fact, we'd gone on a couple of ski trips to. . . . He was then working for the city attorney's office in Los Angeles. He, at that particular time, I think. . . . Or he had just done a tour of duty as a city attorney advising the [Los Angeles] Police Department, so I felt that Steve would make a very good person for that area and I had a lot of confidence in him. He accepted it and worked with us.

Then I knew I needed somebody, and I made a decision that I wanted to get everybody on the staff who did not have particular contacts with

BYRNE: the University of California. I wanted to be outsiders. I thought that was a better and more objective way to approach it. I felt that I needed some person who had studied and was knowledgeable of universities as best as I could. I can't remember for the life of me right now how I came upon Christopher Jencks. He was then working with David Riesman at Harvard and went on to become a professor at Harvard. So Christopher. . . . I just can't remember how I got on to him. I asked him to come and be part of the staff. He also is an excellent writer and very thoughtful person, a sociologist, but had a lot of input as to--and a young man at that time--the changing political climate at the time.

Then I had to get some people that would do interviewing, because I thought the best way to go about this was to do a heck of a lot of interviewing. I thought the interviewing should be done of persons in the administration, faculty members, and very importantly, students. So I got four young people--I'll let you see their names here--Bruce [C.] Busching, Stephen Chitwood, Richard Kite, and Myron Rothbart, all

BYRNE: four of whom had graduated or were graduate students recently out of either Stanford [University] or USC [University of Southern California]. I did not, again, want to get people who were involved with the University of California, and yet I wanted people that were based here. I didn't want to have to import people. Christopher Jencks was imported, but I wanted people that would be near their homes and so forth. I interviewed these people, and I don't know how I got in touch with each of them. I can't remember that. I used whatever resources I could at the time. All four of them were designed to do the job of interviewing faculty, participating in all the discussions, of course, of our committee, but largely to interview faculty and students.

As I got into it, I saw the real need of management consultants, because the breakdown in management systems at the University of California and the way they handled this, their reaction to this controversy, was such that it was obvious that there were no clear-cut management directives as to who did what and

BYRNE: under what control and so forth. That came to be a very important part of the work and study and conclusions that we came to.

So I got hold of Bryant Cushing and his wife [Carole Cushing]. They were engaged in the business of management consulting with corporate organizations, and both were trained in this kind of interviewing role as well as looking at the organization of enterprises and how institutionally they best react to do things. I like them both. They both are today, and were then, very bright and very experienced. There is some feeling I have that there's some connection with Norton [W.] Simon. I think that maybe Bryant had done some work for one of his organizations. Now, this is vague, but it might well have been that Norton Simon had recommended that I look at them. I can't remember if that's a fact, but I have a kind of a vague memory that that may have been the case.

The last one we got was John Mechem. John was a lawyer, former, was not then working at ARCO [actually at Getty Oil Company]. He'd worked there for a number of years. John has

since died, probably of smoking too much. John was very bright but rather undisciplined. But I needed somebody to do an exhaustive kind of research of statutes and legislation within the university system, how they govern from that perspective. He had handled legal work for corporations, largely internal legal work, and I thought he'd be a good one to do it. He was an acquaintance of mine, a friend of mine even, and so he was willing to sign up also to do that, and he fulfilled that function very well.

TRELEVEN: So he was going to start with Article IX, Section 9, of the [California] State Constitution and then go into . . . ?

BYRNE: And look on through. . . . Because we were looking for. . . . It became obvious that who had what authority where was mixed up. And as the report indicates, the [University of California] Board of Regents had really never tackled the issue of delegation of responsibility in setting policy at that time. Decisions were made ad hoc,

BYRNE: and they became sort of presidential, except when there was an exception. Quite often these things had to go on up to the regental level rather than

BYRNE: having guidelines for people to work on. So it was important to see what internal legislative rule-making basis there was in the university system, because we were dealing with something that was a little new then, the mega-university, as Clark Kerr called it. It was relatively new then. We had the two established campuses, and then we had three relatively new ones, and then three more that were to be coming. I think that's the right numbers. No one at that time had addressed the problems of governing a multi-university system. No one.

One of the first things I did was to look at the bibliography as to what was available. There was almost nothing available. I got back to reading John Newman's The Idea of a University.¹ The scholars in universities had been wonderful all the years talking about all the elements of society but not about themselves. There was very little written about the governance of universities. There was stuff that obliquely dealt with it, but to have a textbook on how to run a university. . . . Not there. I made up my mind that at some point I had to go find out how

1. John Henry Newman. The Idea of a University. Garden City, New York: Image Books, 1959.

BYRNE: to run a university. So I assigned this task to myself.

We all did interviewing. Everybody did interviewing. I reserved for myself the interviewing of all of the chancellors of the University of California system, and I decided I would try to interview a number of heads of universities throughout the country to fill in that void. Again I chose to go to universities that I had no contact with. I interviewed the president of Yale, Kingman Brewster. I spent three and a half hours in his wonderful New England office talking to him. It was a most rewarding experience for me. I spent almost an equal amount of time with the president of Stanford [J. E. Wallace Sterling], who was most generous. All of them were generous of their time, because they wanted to learn from this. The University of California had flubbed it, as far as they were concerned, in handling this Free Speech Movement. They wanted to be sure that they could do better in their institution. So in a sense they wanted to. . . . They were most willing collaborationists in the effort. I also

wanted to do a couple that were multi-universities. I met with the president of the University of Michigan, the University of Wisconsin, and one other. I'm forgetting. I did five, and I had lengthy interviews with each of them, which gave me a lot of feeling and background to help put the report in perspective.

TRELEVEN: The heads of three public and two private universities.

BYRNE: Yeah.

TRELEVEN: That's a great trip.

BYRNE: And then meeting with the chancellors. . . . Not at Berkeley. Well, we interviewed there, but Berkeley was not the place to interview, because we were interviewing there related to the events that had occurred. Now, I didn't do that. I had others that did that and cross-did it.

We ended up with all the interviews. They were in-depth interviews. I didn't want any checklists or multiple choice answers. We did in-depth interviews of over two hundred people.

TRELEVEN: Recorded how?

BYRNE: Notes. Handwritten notes.

TRELEVEN: Handwritten notes? Wow.

BYRNE: Yeah. And everybody partook of that effort at different levels and different directions. And this is the group that I dealt with.

TRELEVEN: I have a follow-up on staffing. There's been a book published by W. J. Rorabaugh called Berkeley at War: The 1960s, Oxford, 1989.¹ I'll be referring to his little paragraph here in other contexts, but this one is strictly in terms of staffing. This is on page 38, and this is a quote. "To everyone's surprise, they"--meaning the Forbes Committee--"hired an aggressive staff attorney, Jerome C. Byrne, who then hired several young psychologists to interview people throughout the University." Is Rorabaugh accurate, first of all, in calling you aggressive, and secondly, "hired several young psychologists"? I was wondering if you could substantiate this or refute it.

BYRNE: Well, I'll put it this way. Whether I was aggressive or not, I had to be aggressive in this sense: I had autonomy. The buck stopped here, as the word goes. I had to come up with something. It was part of my professional obligation to do the best job I could and come up

1. W. J. Rorabaugh. Berkeley at War: The 1960s. New York: Oxford University Press, 1989.

with conclusions that I thought were justified. I don't think the regents. . . . I know they didn't want me to do a lot of interviewing--many of them, I mean. I'm sure that most of those on the committee understood what we were doing. Most of them, I would say. But I know for a fact that many of them did not like the idea of my interviewing, particularly students, and particularly those that were involved in the Free Speech Movement. But, of course, we had to do that to get the full development of the facts on the Free Speech Movement and to get a comprehensive view of the attitudes of the students throughout this whole thing and their general attitudes. So initially I used the occasion of an interview with the Berkeley newspaper . . .

TRELEVEN: The Daily Californian?

BYRNE: The Daily Californian, to . . .

TRELEVEN: I would hope it wasn't the Berkeley Barb.

[Laughter]

BYRNE: No, no, the Daily Californian. I used that to say that we were going to interview numerous students, so forth and so on. As to

psychologists, there were a couple of them that were majors in psychology, of the four, and a couple were in business management, not just psychology.

TRELEVEN: Okay. I know you've got to run, and we're near the end of the tape, so . . .

[End Tape 1, Side B]

[Session 2, June 8, 1993]

[Begin Tape 2, Side A]

TRELEVEN: When we talked last week, you were describing for me the special counsel staffing, including the consultants, the selection process, and the key individuals. I really don't have any follow-up questions, so I thought today I would just continue maybe by beginning with what kind of a budget you had to work with, as you recall.

BYRNE: My memory is not very good on the amount of the budget. I tried to think of that the other night, but I couldn't remember what it was. I have a rough recollection that it might have been \$250,000, \$300,000, but I just don't remember. We had to pay for the employees for that period of time when we became employees of the university. That was an easier way for them to do that, except that those who were consultants, we handled that a little differently. I don't think we were put on the regular payroll, but

they gave me the equivalent of a chancellor's pay scale.

TRELEVEN: Not bad. [Laughter]

BYRNE: Which was a good deal less than what I was earning at the time. I took a leave of absence from my firm, so I did not receive any income from it during that period of time. We had two or three--at times two, and then sometimes three--clerical people helping us. We rented a facility on Wilshire Boulevard near the Los Angeles County [Museum of Art], a little west of there. We were able to get a short-term rent there. I had gone on the idea that I wanted to do the report in a few months' time. I gave us four months, and we beat that. When we got started, we were, I believe, in the latter part of February, and we finished up, I think, in the latter part of May. What's the date on . . . ?

TRELEVEN: May 5 is when you submitted it to Regent Forbes.

BYRNE: That was May 5? We started earlier than February, then.

TRELEVEN: I have it in my notes here. I think you began in early February, but let us pause for a minute.
[Interruption]

Okay, we're back on.

BYRNE: We started a little earlier in February and ended earlier in May than I said, but we did it in what amounted to three months. I had told people that I thought it would take four, so I was pleased with that.

TRELEVEN: Okay. What particular reasons were there for the tight time frame?

BYRNE: Well, it was to look at the basic causes of unrest, not to look at everything that could be done or corrected in the university system, [but] to put your fingers on just what should be corrected so that the institution could handle crises of a similar nature or of a different kind of nature in the future. There was a certain immediacy to it in that respect. People were very upset with what had gone on in this period of time, from September through December, January.

TRELEVEN: You mean the public at large was upset?

BYRNE: Yes. And the regents. And there was a lot of concern among the administrators, the students, and I guess the faculty of the whole university system. The university had been somewhat up to

ridicule in the press. The students had been treated pretty badly in the press. The regents had been treated badly. I mean, there had been a lot of indecisiveness in the way things were handled, and a lot of people were reading too much into it. There were a lot of rumors as to domination of the disturbances by the Communist party, and there were always those who, particularly at that time in our history, wanted to buy that kind of accusation. It was an unusual event in the history of American education, because educational institutions just had not experienced this type of protest before. So it required some time, and I didn't want to make it a career, nor did I want to get people that would make it a career. The recent Christopher Commission. . . . I know Warren [M.] Christopher did the same thing.¹ He wanted to do it in a short time frame. Get a lot of people together and work and get it done in a short time frame, which he did, and I think that's important to do.

TRELEVEN: This would have been approximately January '65.

1. Independent Commission on the Los Angeles Police Department. Report of the Independent Commission on the Los Angeles Police Department [Los Angeles], 1991. Generally referred to as the Christopher Commission.

I was going to say a month, but perhaps as little as two weeks before the Special Forbes Committee was created, the [University of California] president at the time, Clark Kerr, replaced his chancellor, [Edward W.] Ed Strong, with Martin Meyerson on an interim basis. Did you ever have a sense that that had the effect of there being an immediacy to this committee being formed in the first place and the facts looked into?

BYRNE: No. I think that there were a number of regents who felt rather strongly that not only had Strong mismanaged the thing but that Clark Kerr had done so also, and that, in effect, had made them look bad in the sense that they were subject to the advice of Clark Kerr, and the advice didn't turn out to be that good. In other words, in the progression of events, things got worse, they didn't get better. The action of the administration, which originally was Mr. Strong and then was totally Clark Kerr, was not the kind of management of a crisis that they wanted to see in the future. I think that Chancellor Strong had kind of surrendered his authority at a very early stage.

BYRNE: Interestingly enough, when we did the report, our first thought was to come out with a very detailed history of the sequence of events at Berkeley. We wrote that up at length, I think, about the same length as the report, just a study of the factual history. After completing it. . . . When I say completing it. . . . When you're writing something like this, you're reviewing it constantly and making changes. But when it was nearly completed, we decided to truncate that substantially, as we ended up [doing] in the report, and not to get into what could have been name calling. We didn't want to be pointing fingers at Mr. Strong or Clark Kerr or several of the other actors in the events. We couldn't avoid laying blame on, quote, "the administration," end quote, or, quote, "the regents," end quote. But we didn't see it our role and wanted to avoid completely pointing the finger at anyone. So the catalog of events was left out of the final report, and I think wisely. That, I think, was a wise decision, because I remember I had to be talked into it at first. It was a very detailed, who did what,

BYRNE: what day, and what response there was the next day kind of thing. There was a lot of ineptness in handling it, but we're all human, and people were confronted with a kind of situation that they were totally unprepared for. So you can't be too critical of the individuals. What we wanted to do was to look for the institutional answer, how the institution can react in the future to such crises and to thereby avoid focusing on personalities in the report, although you couldn't entirely achieve this goal because of the dominance of certain ones. But we tried to talk about the institutional response and how the institution was doing with the crisis. With the idea that, yeah, things didn't go very well--to state it mildly--let's see what we could do about future things to which there can be a better reaction. What do we have to do that would enable the institution as such to better handle these situations?

And my attention is called over the weekend to the Chicano Studies [Program] hunger strike at UCLA [University of California, Los Angeles]. As far as I could see in reading the newspapers,

BYRNE: that was handled by the chancellor [Charles E. Young] and others in the administration at UCLA. It did not involve the university as a whole, nor the regents. It was handled as a local matter, with what judgment they could exercise being exercised, what control they needed to exercise being exercised, and it didn't thereby mushroom into a matter of regental action. I'm sure there's some regental concern. I'm sure that they will want to monitor it, will want to look into it, to determine if this is how these things should be handled in the future, but they didn't get on the firing line. And I gather that's true of the office of the president of the university, as far as I could determine. That is one of the things that we strongly recommended: that the essence of the governorship of the institution be in each university, deposited largely in the chancellor of that university and his administrative staff and the other constituents, the faculty and the students. That applied not just to handling crises, but to each developing its own method of looking toward excellence in education, its

unique character that it wanted to develop. Not to be a mirror image of the fine institution that Berkeley is, but to strive to do better in certain things and doing it in different manners. And I think that has been a natural development.

TRELEVEN: I won't try to read something into this, but are you saying that, say there had been a Chicano Studies hunger strike at Berkeley in '65, it would have been handled very differently than what we've just seen at UCLA because of the . . . ?

BYRNE: Yeah, I think that. . . . I don't know if that particular issue would have gunned up the response that we had in the response to the Free Speech Movement, but of course the Free Speech Movement started kind of low-key and built up till they had the people in jail and the police car on the campus and so forth. It made a lot of press. Yet the Chicano thing, and certainly in the Los Angeles area, made a lot of press. I don't watch television much, but I presume it was pretty much on the television news. I would think that if that had happened twenty-eight years ago, twenty-nine years ago, yes, I think

the regents and the president would have gotten involved probably. And it would not have been a good thing for them to be involved. It was best that that kind of thing be handled by that particular university, its chancellor and its other constituents.

TRELEVEN: Don't mix policy making and administration and management.

BYRNE: Yeah, right.

TRELEVEN: I probably have two questions in one here, so forgive me, but they're linked. At the time you agreed to be special counsel, were you aware that there was already a special regents committee, namely the Meyer Committee, that was a special committee to review regents' policies [Special Committee to Review University Policies]? Were you aware of that committee? And secondly, what was your understanding about the relationship between the Meyer Committee and the Forbes Committee?

BYRNE: I can't remember very specifically, no. We were aware of it. I was aware of it, was made aware of it. As I understood it, the charge that we had we should follow, and that, in fact, did not

conflict with that committee, although it certainly did, in our recommendation, amplify the need for that committee to follow through with its function. I would put it that way. I don't know how that committee was staffed. I think it was strictly staffed by regents. Is that correct? I can't remember.

TREVELEN: Correct.

BYRNE: Which means, you know, they're part-time, and they depend then on the staff to provide material for them. It can be a long process for people working part-time to be able to request what they want from the staff of the university, react to it, request again, and then begin to put together something that they would act upon. I did not feel any conflict, no.

TRELEVEN: I mentioned W. J. Rorabaugh last time, and since you were so close to what was going on at the time, I want to read you . . .

BYRNE: Is that the book . . . ?

TRELEVEN: This is a photocopy of a particular page. This is page 38 and . . .

BYRNE: Yeah, I'd love to read the book.

TRELEVEN: I'll get you the information on how to get it.

TRELEVEN: Here's what he writes. I would just like to get your reaction to this, given your sense of the politics going on at the time: "In the aftermath of the FSM [Free Speech Movement], the Regents did not close ranks but pointed accusing fingers at each another. One group of conservatives, clustered around Theodore Meyer, produced a report highly critical of both the FSM and the administration. Much to the Meyer Committee's surprise, the majority of regents, including Governor [Edmund G. "Pat"] Brown [Sr.], as well as the faculty, rejected this line of argument. The Meyer report had to compete with a report from a second committee chaired by Regent William Forbes. The committee was dominated by regents from southern California." Is Rorabaugh on the right track in . . . ? He gives you a sense here there's sort of a north-south conflict, firstly, and secondly, that there's a definable group of liberals versus conservatives, and that there was some sort of competition between the Meyer Committee and the Forbes Committee. What's your recollection of it?

BYRNE: I frankly did not give any consideration to the

Meyer Committee; I went ahead with our charge. In my dealings with the regents on the committee, and I think I mentioned that last session. . . . We did have a couple of very conservative people on the Forbes Committee.

TRELEVEN: Let me pause for a minute.

[Interruption]

Okay, back on.

BYRNE: [Edwin W.] Ed Pauley was very conservative. When I interviewed him in the beginning of the work. . . . This was after I was selected, I believe. It might have been before, but I might have been in the process. I can't recall. I know I did have a meeting in his office with him. His interest was I would say almost entirely in looking to see where the "commies" were and following through with what criminal acts were done and that kind of thing.

TRELEVEN: In other words, he felt that it was inconceivable that there would be this kind of a student uprising at Berkeley unless there was communist influence involved?

BYRNE: Or criminal influences.

TRELEVEN: I see.

BYRNE: Yeah. I don't know if I would go so far as to say that, because he didn't say it, and I can't remember it, and I don't want to do the man an injustice where he, being deceased, can't defend [himself]. But my recollection is he just emphasized the point of law enforcement. Mr. [Philip L.] Phil Boyd from Riverside, vice chairman of the committee, was a conservative gentleman, who at that time was quite elderly, as I recall. I would imagine if you were to call them liberals, Dorothy Chandler and Norton Simon would be a little shocked. [Laughter] I think they were very moderate people who had a great deal of respect for and reverence for the institution and wanted to see that things were done right by it. Bill Coblentz I didn't talk to much at all. And Jesse Tapp, I believe, was a retired chairman of the Bank of America. I'm not. . . . Well, that's my memory. He was not particularly active and didn't indicate any desire to be active. Bill Forbes was a real strong individual in this effort, and as far as I was concerned, he was only wanting one thing, and that is the best for the university. I never got

any kind of sense of directing attack at anyone. Totally nonpolitical in any sense. And I didn't get any of that within the regents. I did not get any feeling from any of these people I've mentioned that I was to take any sides in one group of regents as against another. I didn't get that feeling at all.

TRELEVEN: Were there groups?

BYRNE: I didn't even know that there were groups, really. Yeah, I knew Mr. Pauley's interests. I knew the others did not seem to have any kind of overriding interest but to find out what went wrong [and] how we can avoid this repetition in the future. I really got a sense of real devotion from these people with no real axes to grind. And that applies to their feelings respecting Clark Kerr. I did not get any feeling that these people wanted to get rid of him. I heard later that he felt that the report was directed right at him. The report was not; it was directed at what changes we thought should be done. If he had been willing to get behind it. . . . I know his termination came somewhat later, and I don't know if it related solely to

this. I wasn't privy to the discussions or the reason for that.

TRELEVEN: That's another chapter. Everything's related to everything else but a little bit beyond what we're talking about right now. So if you would, just describe for me how you got started. I mean, do these regents get together and broadly define goals and objectives? Or do you get together with the staff people that you named? Or just how did you really go about getting the wheels going?

BYRNE: I don't recall any meeting with the committee as a whole. I recall having frequent meetings with Bill Forbes, and I did meet with "Buff" Chandler and Norton Simon at least a couple of times, probably a couple of times each. I met with Mr. Boyd at some length at the beginning. I met with Pauley, as I said. They left it to me as to how to go after the problem. My decision was to do a lot of interviewing, first of all to get the facts as to what happened in the fall of '64 very clear, secondly to check out the student groups, and thirdly to really get whatever sense there was within the university community--not just at

BYRNE: Berkeley, but at others--of what they saw as problems in the system. And by that, I meant we would. . . . As I pointed out before, we would interview--in-depth interviews--key administrators and chancellors, some faculty members, some students at most campuses, but mostly the student interviews concentrated at the Berkeley campus. We did do a few student interviews at each of the other campuses and a few faculty interviews at each of the other campuses. We had to find out what exactly happened, which then would lead to what went wrong, because things didn't work out very well at all. Within our staff. . . . I had the idea of these interviews as being a part of what we were doing. We did quite a lot of checking of things in writing, of bibliographies, to see what we could find that would be of some help to us as to how a big university with a whole number of separate universities should be operating and found, as I said, very little at that time. So it was. . . . I think it was my choice to do it through a lot of interviewing, and I think I just went ahead to do it that way. I don't think I

sat down with the staff and said, "Now, is this a good idea?" I think that it seemed to me an obvious way to go.

TRELEVEN: With the regents, did you ask if this was a good idea? Or had they given you the . . . ?

BYRNE: No, I did not. And I indicated at the beginning I was subject to some criticism, because I dealt directly with the people that were involved and did it in a way that I would welcome their response to interviews and using the Daily Californian as a vehicle, because they interviewed me, and I said, "Our plan is to interview many of the students involved and others." That got some bad reaction from some of the regents I heard later, which. . . . Not on the committee necessarily, but others. Maybe some on the committee did too, but they didn't say it to me.

TRELEVEN: They didn't like your methodology?

BYRNE: Right. They didn't want me talking to those people, I guess.

TRELEVEN: I take it, though--correct me if I'm wrong--that you were in rather constant communication with Forbes, and Forbes felt that this was an okay way

to go.

BYRNE: He never indicated. . . . When I say constant, maybe it would be every week or two. My recollection is that he made it a point of not interfering. I think he may have made a couple, three suggestions, but I cannot remember the force of those suggestions at this time. He was, on the whole, pretty nondirective. I think that's the best way to put it. Yes, I did keep him abreast of what we were doing and the timing on it and so forth.

TRELEVEN: I often get asked in directing an oral history program how we select people to be interviewed, because obviously there's a huge universe of individuals in a community. I assume that, let's say in terms of students who responded to the Daily Californian, you had many more responses than you could possibly interview.

BYRNE: No, no. We went out and found them. We didn't have people . . .

TRELEVEN: Oh, okay.

BYRNE: I just used that to create the atmosphere. We went out looking for them. Our interviewers. . . . First of all, those who were prominent in the

BYRNE: Free Speech Movement, they went after them. Then they sought to get students with other viewpoints, other parts. . . . They found out who were different segments in the student body, and then they would get names, and then they would follow through and use a kind of from-name-to-name, from-interview-to-interview technique, whereby they got people who were on the, quote, "other side," end quote. And then we would pick out people who were just random to get a view of what they considered about the university.

There was a lot of talk, for instance, that one of the main causes of unrest within the university was the imposition of large classes, and that in particular we did not find to be a problem at Berkeley, for example. I think that was a similar thing that was looked into at UCLA. And there were other things that. . . . I'm trying to remember. But we negated those as basic causes of unrest. Oh, I think it was the use of teaching assistants. Was that a problem? We didn't find that to be a problem. We didn't find that the internal procedures of getting class assignments and getting the

BYRNE: administrative work done was a particular problem as far as the students were concerned. They might have been nuisance things. But we didn't try to say, "Is this a problem? Is this a problem? Is this a problem?" We just talked to them about how. . . . The idea was to use a form of interviewing that is nondirective, to get their feeling about how they are in the whole university operation and to get them talking and to take extensive notes. So in our over two hundred, we had a pretty good view, and we could negate looking into a lot of areas that aren't major causes of unrest but are things that the administrative staff and the faculty should be able to take care of.

I remember one particular item, and this was at, of all places, the San Francisco medical college [University of California, San Francisco]. Norton Simon wanted me particularly, I remember that, to check into it. There was some dispute within the faculty, and it was apparently a pretty bitter one--a group of the doctors that wanted to go one way and another group another way. Well, I went over there at

his behest and met with the people that were on the outs, I guess. And I spent some time--I don't know, two or three hours--talking with them and decided immediately that I wasn't going to pursue it, because it was a problem that was not a basic cause of unrest within the University of California. So I just told Norton that I did do that but that I decided not to pursue it any further for that reason. And he accepted that. He felt very close to the situation and I think was a little disappointed, but I had to make it clear to him that it was just not a basic cause of unrest within the university--a problem, a real problem. So we were able to negate a lot of that stuff.

TRELEVEN: In terms of the data gatherers--and you're one of them, as you described last time--are you in relatively constant communication? Or are you having regular meetings and discussing your findings preliminarily? How does that work?

BYRNE: We had our little headquarters on Wilshire Boulevard here. I wasn't there all the time because I was traveling around part of the time doing interviews both at the University of

BYRNE: California system and with the university presidents that I met with. My goal was, in about six to eight weeks of interviewing and so forth, to be in a position to start writing a report. And as a matter of fact, I had a couple of people working on starting that. Christopher Jencks, for one, and John Mechem, for another, started doing some work for the report before we concluded our interviews. Then I would read. . . . Some of the interviews I could read in handwritten form, some had to be typed up, some were. . . . The interviewer said don't bother with this one or that one, but I read most of them, and the others read most of them. We shared them. These were interviews that we'd taken from all of the people involved unless there was something particularly confidential. If it was particularly confidential when I took it, I didn't write it down, because I figured I could remember it. We had discussions then of where it led us. As I remember, Steve Powers took charge of the sequence of events at Berkeley pretty much--I figured he would be just excellent at that, and he was--as to each document and

checking against statements in the press and statements that individuals made. So that our sequence of events was a really good history. We all added to that, but he took them, laboring more in that area.

We had to negate this communist business. We were able to get contacts both in the FBI [Federal Bureau of Investigation] and in the Communist party. If you were looking at it from the world Comintern point of view, the California or U.S. party of the Communist party was pretty much a joke. It really wasn't much at all. The lady that was director in California said, "No, we didn't have anything to do with it, but we damn well wish we had." [Laughter]

TRELEVEN: Dorothy [Ray] Healey?

BYRNE: Yeah. A very outspoken person. I didn't talk to her, but one of the others did. We also had good contacts with the FBI, and they said they had nothing. So we could put in the report that our finding was that there was no nefarious outside influence. In fact, no outside influence at all, which was exactly the fact.

We might forget that these people were

BYRNE: imbued with the spirit of the Civil Rights Movement in the South and Martin Luther King [Jr.], who really carried on from where [Mohandas K.] Gandhi was a few decades before. They were absolutely taken with that kind of peaceful approach to correct what they considered the evils of society. It was spontaneous among them. It was by accident. It mushroomed, but it was an interest on their part to have the university stop keeping them away from trying to influence society. This university, as well as others, had had a kind of a rule: We can discuss the hell out of it, but don't take action as University of California or as Oberlin University or whatever you want to name. And that was where Mr. Kerr made the jump in his standing order. He made any student group or any student using the name of the university as though they were the university, and the university was in jeopardy if their views were not popular. That was an attempt to squelch that kind of thing, and that's impossible. In other words, to seek the university as a cloister but not let the ideas go outside where the students could be promulgators

of those ideas. That proved to be a false assumption, and it's gone. That was, I think, the long rewarding effort that these students achieved. One could question. . . . One of the decisions Mr. Kerr made was to allow them ultimately access--that was in December, I believe, later on--to these damn loudspeakers in the square. To me that's awful, because there you're commanding the attention of those who don't want to listen, and I believe that persists to this day. But the right to organize, to take action, peace marches, raise money, whatever it was, was important to a lot of those active kids, the kids that had been nurtured on the Civil Rights movement.

TRELEVEN: As I recall, there was some argument made too, going back to Article IX, Section 9, of the constitution about the political independence of the university, and the leap there was that if there are tables set up in this thirty-nine by forty-five [foot] area that that would risk jeopardizing the political independence of the university. What did you think of that argument?

BYRNE: We just disregarded it as not valid. If the university had taken an action to prevent a multiplicity of views or to restrict it to certain views, that certainly would be a problem. And there's always the question, which I think is where the emphasis should have been, on where, when, and how--the right to exercise these rights but to limit them so that they don't interfere with the overall educational operation. That's why the loudspeakers bother me. And to make sure that there's a certain licensing like you have with parades. You know, people can put on parades, but you have to get a permit from the police, because you have to block the streets and so forth. Similarly, yes, there should be areas where students should be free to raise money for [Barry M.] Goldwater if they want to or for the Free Speech Movement or recruit people to go and picket someplace for something they want to achieve, but they have to be regulated on time and place.

TRELEVEN: Okay. Let me turn the tape over.

[End Tape 2, Side A]

[Begin Tape 2, Side B]

TRELEVEN: Before your committee was formed, there's the famous Sproul Hall sit-in and incident. That was in December of '64, and that involved large numbers of police being brought in and carrying the demonstrators out or the sit-in people out of Sproul Hall. Amongst the universe of law enforcement people that you interviewed and Mr. Powers interviewed, would that have included people like [Edwin] Ed Meese [III], who I think was in charge of the Alameda County police at that time?

BYRNE: He was Alameda County . . .

TRELEVEN: D.A.?

BYRNE: District attorney, wasn't he?

TRELEVEN: District attorney, that's right.

BYRNE: I don't remember whether we interviewed Ed Meese, who had been very vocal prior to this on the students, or not. I did not. I know that we did contact the [Alameda County] Sheriff's Department, and I don't know to what extent we went. . . . I just can't remember whether we went to Meese directly, but we did contact the

sheriff's department.

TRELEVEN: Now, correct me if I'm wrong, but you yourself interviewed all of the chancellors except the chancellor at Berkeley, I think. Is that what you told me last week? That you personally did that?

BYRNE: I can't. . . . I may well have interviewed the chancellor at Berkeley, also. I'm not sure, now that you've mentioned it. No, I don't think so, I did not, because I was not going into the sequence of events that occurred and the actions and reactions. Others were doing that. I don't know whether that included Chancellor Strong. I just can't . . .

TRELEVEN: Well, he would have been dismissed by then. I guess Martin Meyerson would have been the acting chancellor.

BYRNE: Yeah, but, no, we still may well . . .

TRELEVEN: Oh, I see. After Strong had. . . . Yeah, okay. Yes, I see.

BYRNE: Yeah. We may well have. . . . Boy, hard to remember. I still don't know whether we did or not. I can't remember.

TRELEVEN: Do I recall correctly from last week that you

interviewed the chancellors?

BYRNE: Yes.

TRELEVEN: You personally interviewed them. Amongst one or another of the chancellors, did you discern a certain amount of discomfort with President Kerr?

BYRNE: Let me take a minute.

[Interruption]

TRELEVEN: Okay, we paused for a minute. We're back on.

BYRNE: I don't recall anybody making any comments about Clark Kerr personally. I did get a feeling, particularly at the older campuses, that they would much prefer a more decentralized administration, more autonomy, which of course ended up to be a major recommendation of ours. I don't recall that I made any particular effort to discuss Mr. Kerr. Again, it was not my role to point fingers at people, to point at them. I attempted to make any discussions be general, and I don't think I got any comments as to difficulties with him. I did get comments as to some dissatisfaction with controls exercised through the university that made it difficult for them to do their jobs, that the university setup was so closely intertwined with Berkeley. Some

of them were quite sympathetic to the Berkeley campus in the sense that they just couldn't be separated from, quote, "the university office," end quote. This came to be, as you know from the recommendations, an important part of our report, even to the extent of recommending the administrative staff of the university, the president, move across the Bay to San Francisco. I didn't dare recommend that it move anyplace else in California but the Bay Area, but I felt that it should be away from the Berkeley campus so that the chancellor at Berkeley could develop his or her administration. I notice, this report that we gave, how outdated, in a way, it is. I always refer to "he" instead of "his or her." We certainly have learned a lot since that time, twenty . . .

TRELEVEN: It predated the advent of the modern women's movement by about five years.

BYRNE: Yeah. But so that the Berkeley chancellor would have that same freedom of action, it seemed to me it was very important to do something visible to move the university. . . . Something symbolic to move it away from the Berkeley campus so that the

BYRNE: president would give up his administration of the Berkeley campus in reality and not just on paper, because there was a strong problem--and I think Clark Kerr was part of this, although it's somewhat historical--that the president of the university ran the Berkeley campus even though there was a chancellor there. As a result, the chancellor that you might get would be somebody who would be a very fine professor and very much respected by his colleagues but not necessarily someone who was trained as an administrator. I think that that was. . . . I got a good feeling of that in my discussions. That's where the Cushings, husband and wife, were very important to me in the report, looking at basic problems and how the reactions occurred during the course of this Free Speech Movement that went on for dispute for over three months. The chancellorship of the Berkeley campus just was lost. It became totally a function of the regents and the president of the university, which was not a good way to do it, and particularly when you have nine campuses that are pretty major institutions looking to the future,

that is, as we tried to do. At the time we wrote the report, UCLA was almost the size of Berkeley, but most of the others were quite. . . .

[University of California] Santa Barbara was a pretty good size then, almost up to where it was planned to go. But the others were relatively young, and some were just beginning.

TRELEVEN: As the years have passed, through various kinds of evidence, it's become clear that at UCLA Dr. Murphy was in a great hurry to build a great campus and did have conflicts with Kerr. But during your discussion with him, you didn't pick up on that.

BYRNE: I don't recall his ever talking about Kerr personally or mentioning him, and I can't remember that about the others. But there was a common refrain that they felt that they had the responsibility for their campus and they darn well should have the authority to deal with it. I got that not just from Franklin Murphy but from others.

TRELEVEN: How about the politicians? Did they steer clear? I guess Jesse Unruh would have been on the board of regents, ex officio at that time as

Speaker of the Assembly; Pat Brown as the governor, lieutenant governor, would have been an ex officio member of the regents. Did you encounter any, what I'd call, attempted political interference?

BYRNE: No. I met with the governor in Sacramento in his office to introduce myself and to ask him if he saw any particular area that I should delve into. He's a sweet man, as you know. He has his office here in our complex.

TRELEVEN: Oh, really? Right here in Century City?

BYRNE: I see him occasionally at the restaurant I go to. He was in no way directive. He just wished that we could do a very good job and said, "If you need some help, let me know," but no attempt to direct, no attempt to interfere whatsoever. I had a contact with Jesse Unruh, and I think it was the same day I also called on him. He was Speaker of the Assembly at the time. I think I did, but my memory again is a little hazy. I don't recall that I met with him. I don't think I did. I could have. I've seen him from time to time and knew him, but I don't recall any conversation of that kind. There was a kind of

suggestion that came from him as to somebody whom we might put on our study group, and I chose not to follow through with that, because I didn't want to have. . . . I tried to make the people all independent of everything, and I didn't follow through with that. As far as any other political pressure, I had none, none at all. I was known to be a Democrat. I had been active in [John F.] Jack Kennedy's campaign.

TRELEVEN: By active you mean, well, contributing money, but beyond that?

BYRNE: I headed up an organization for him here, and there were three of us who filed for him in the California primary.

TRELEVEN: So you were heavily involved.

BYRNE: [Edgar A.] Ted Jones [Jr.], a professor at UCLA, was one of them.

TRELEVEN: Oh, sure. I know him well.

BYRNE: Ted Jones, [Richard] Dick Hoegh, and I were the three. Dick is a lawyer here. We filed for Kennedy, and I set up an organization of Citizens for Kennedy and entertained him here in late '59, early '60. I was in a conservative law firm, largely Republican, so I guess that made me

somewhat acceptable from a, quote, "Political," with a capital "P" on it. . . . But I didn't have any attempt from anyone to influence this.

TRELEVEN: Now, you mentioned Pauley before. I mean, he obviously was a Democrat too, but he was--what?-- a little different stripe of Democrat from you?

BYRNE: Oh, my, yes. He was quite different, yeah.

TRELEVEN: He was buddies with President [Lyndon B.] Johnson, wasn't he?

BYRNE: President [Harry S] Truman. He was very close to President Truman.

TRELEVEN: Sure, that's right, going way back.

BYRNE: Yeah, and I don't know if he was close to President Johnson or not, but he was in a little bit of a retirement mode at that time. I don't think he was then as active as he had been a few years before. I think he was for President Johnson. But I didn't feel any identity with him at all. Although I do remember I was in a Democratic club--it was shortly after President Truman was out of office--and he gave a reception, a luncheon, for President Truman, and I was there, and I happened to sit next to the president. I just had a wonderful time talking

with the man. I'll always remember that. So I owe a debt of gratitude to Ed Pauley for that.

TRELEVEN: Oh, that's great.

BYRNE: It was a large group, and I was just lucky to be sitting next to him. It was not planned that way.

TRELEVEN: Here you are only in your twenties at that time, I guess.

BYRNE: No, I would have been . . .

TRELEVEN: Somewhere around there. Late twenties maybe?

BYRNE: Late twenties, early thirties, yeah.

TRELEVEN: Well, that's great. Okay. The data is being collected, assembled. You've described how the historical part at least was being drafted fairly quickly. Finally, I take it, you get together a good, solid working draft of the document perhaps. How does that process work both within your group of researchers as well as the association with the regents who are on the committee?

BYRNE: We kept it pretty much within our group. It went on over a three- or four-week period, and I think with final changes, right before. . . . We didn't have word processors then, so we couldn't change

errors without going through a lot of conniptions. We were rushing to get it out at the last. We had so much that was written that was rejected. We got to recommendations, debated a lot of those, came up eventually with what we see there.

TRELEVEN: You debated within the group?

BYRNE: Within the group. We did not talk with the regents about the final report. I thought that again was a matter that we ought to be independent on, and I didn't want them participating in any way. That was a rule we followed.

TRELEVEN: Really?

BYRNE: Yeah.

TRELEVEN: I'm going to come back to that, but. . . . So you threshed through various issues within the . . .

BYRNE: It may be that Bill Forbes was around when we were doing it at times, and I would discuss things with him, but there was no great amount of time that he was there to pore over things. And there were no drafts sent out to him or anybody else.

TRELEVEN: So this is actually something that you are going

to assemble and send to Forbes under your transmittal letter and say, "Here it is."

BYRNE: Oh, yeah. We got copies to all of them. I had hired someone to handle press relations for the announcement of this thing because I didn't know how to do that myself, and I felt it was very important that it go out under the right auspices. No, I didn't. . . . There were no advance copies to any of the regents on the committee.

TRELEVEN: So there was no opportunity for an almost final draft to go to a Pauley, to a Simon, and a Coblentz, where they could hash this over amongst them and disagree. Nothing like that?

BYRNE: No, sir.

TRELEVEN: Well, it's good to get that clarified.

BYRNE: We just had these preliminary interviews with regents that wanted to talk to me, and I made myself available to any of them that wanted to. But I did not, after I got into it, then consult with them.

TRELEVEN: In these deliberations within your staff, do you recall at this point maybe several areas that were particular . . . ?

BYRNE: Well, one area, yeah. I was the devil's advocate with the group, saying, "What about the faculty? They certainly could have done something. Why didn't they? Why did they do it? Shouldn't we level some criticism at them?" And I kept nagging on the issue, and it came to the point that there really wasn't any established vehicle for them to exert themselves, and they would have been. . . . To try to do something independent of the administration without that established vehicle would have made themselves just troublemakers. So I backed off.

TRELEVEN: Okay, because their role is pretty well defined as curriculum. Right?

BYRNE: Yeah, yeah. We treated in our recommendations the importance of having faculty have a major say in university matters, but we did not point out any area where they had been at fault. But I kept saying, "We've got to find something on them." [Laughter] I didn't want to. . . . I wanted to share blame, not point the finger, as I've said many times before, but to see what kind of a system would be better to handle it in the future.

TRELEVEN: I suppose one more logistical question that. . . .
You'd been working for about a month, and I'm going to again turn to Rorabaugh, page 38: "In early 1965 the campus was quiet, and the FSM seemed to have disappeared, but trouble came in the spring. On March 3"--this is like a month after you have gotten started--"John Thomson, a radical who had been attracted from New York to Berkeley by publicity about the FSM, sat down on the steps of the Student Union and held a piece of paper across his chest that read 'Fuck.'" And the university police arrested him for public obscenity, and that was the beginning of the so-called "Filthy Speech Movement." What impact did that have on the work the committee was doing?
[Laughter]

BYRNE: I remember now, but vaguely. We didn't pay much attention to it. I don't recall if we did anything about that. I now remember that. I don't think we got involved at all. It didn't last very long, did it?

TRELEVEN: Well, yeah. One thing led to another. [Arthur L.] Art Goldberg immediately got in the middle of it. Again, I'm reading from Rorabaugh. It says:

"He [Goldberg] saw a double standard, because Thomson had been arrested, while a fraternity had just won the Ugly Man Contest with an entrant named 'Miss Pussy Galore.'" And Goldberg had a noon rally on the student union steps, 150 people, and 9 people ended up being arrested. But all of this is taking place before your committee. . . .

BYRNE: Before we really got into action.

TRELEVEN: Yeah.

BYRNE: We probably hadn't done that much interviewing by that time. Maybe we had, I don't know, but I do remember it. I know I wasn't around at the time, but then I was. . . . I used my headquarters here, although, gosh, I spent the first two or three weeks in a funny hotel just up from the plaza there in Berkeley. What's the name of it? Well, we made our Berkeley headquarters in a rather inexpensive hotel. But it was very easy to get to places from there.

TRELEVEN: Yeah, yeah. Well, I'm just wondering if your committee had gotten any pressure as a result of this, because, again, to go on with Rorabaugh here on page 40: "Certain regents, including the

governor, were personally offended, and Regent Edward [W.] Carter demanded that Kerr and Meyerson immediately dismiss the students involved in these incidents," the incidents referring to . . .

BYRNE: I remember that now, yeah. And I thought, "Oh, God, that's. . . ." Yes, I remember that now. We didn't recite that in anything in here, but that was just an example of what they shouldn't be doing. They shouldn't be involved in that. That should be left to the . . .

TRELEVEN: Okay, okay. So it really supported the kind of . . . ?

BYRNE: Yeah, yeah, I remember now. There were. . . . They ought to fire him, yeah. Discharge. . . . What do you call it? Dismiss him.

TRELEVEN: Okay, in terms of the recommendations, and you've alluded to some of these already.

[Interruption]

Okay, we're back on. Before I look at the four major recommendations of the Byrne Report, I wanted to ask, within your group, in terms of shaping these recommendations, was there anyone or any individuals who were more influential than

others? How about your own influence in terms of shaping these four major recommendations?

BYRNE: Well, my own influence was paramount. I mean, I had to be convinced thoroughly on anything I came up with. I think that when it got down to the final analysis, Christopher Jencks, Bryant Cushing, and myself were the major parties. John Mechem in a way had quite a bit to do, but his points were. . . . He had done the research on all of the so-called statutes of the university and found a lot of. . . . He was ideal for that task because he'd worked for Getty [Oil Company]. I said ARCO before, but it was Getty that he worked for. And he was used to pawing through. . . . You know, when they would make a purchase or something, he'd had to examine corporate records, so he was used to this kind of work, and the paucity and conflict between their materials was very apparent to him, and the memos or conversations we had with him were very much. . . . We agreed to incorporate those parts. But I think the. . . . Perhaps Christopher Jencks and Bryant Cushing and his wife Carole. . . . Carole was good at the words,

also. . . . And Steve Powers had a good bit of influence, a continuing influence. We would draft portions and pass them around, and each would criticize and re-edit. We moved sections around. It was a lot of work to fashion the report the way we ended it up. As I said, the major decision was to avoid getting into the details of the history of the Free Speech Movement and to summarize that only, which I think ended up to be a very good decision. I don't remember any dissent on the recommendations that we finally ended up with within our group. No, I don't.

TRELEVEN: Okay. The first of four major recommendations is. . . . [There is] a little précis leading into the recommendations, but at the bottom of page 74: "Accordingly. . . .We recommend that the Regents separately charter each campus as an autonomous University. . . ." And further on: "We urge that charters be drawn for each University of the commonwealth. . . ." Where did this notion of . . . ?

BYRNE: Oh, we were using an analogy of a commonwealth, a loosely organized system, to emphasize the

greater autonomy that we felt each university should be given under the whole University of California system subject to the regents. In other words, a commonwealth may be an analogy that goes too far, but we wanted to emphasize the autonomy.

TRELEVEN: Something like a confederation where there would be redistribution of power in the parts, whereas the central authority would have less authority?

BYRNE: It would have ultimate authority, but it would choose to delegate. Always there's ultimate authority, and there was no attempt to remove or weaken the ultimate authority of the regents. But we did conceive of the president as strictly related to the regents and their administration of the whole system, and we recommended, I believe, that the president--I remember we did--would be the chairman of the regents, to emphasize his connections with the regental authority, and that he would not have operating authority over any of the universities. That would be delegated to the chancellor of each one of them. I think that's been somewhat achieved. I don't follow the university as much as I would like to, but my impression is that

it's quite different now than it was twenty-eight, -nine years ago.

TRELEVEN: In terms of a formal document or a scroll with a separate charter, I don't recall that ever happening.

BYRNE: No, I don't suppose it did, but in a charter you are. . . . It was a way of using language symbolically to emphasize the points that you're drawing, just as the recommendation to move [the central administration] to San Francisco was symbolic. It is absolutely unessential to move to San Francisco or to anyplace. It could be right there at Berkeley, just so that there's a cut in the umbilical cord there. That was the key thing: let Berkeley be independent totally of that regental, university-president system.

TRELEVEN: Someone has been interviewed, and they said that this recommendation had Franklin Murphy written all over it.

BYRNE: I don't recall Franklin Murphy as being . . .

TRELEVEN: That Franklin liked to kick around the word "commonwealth". . . .

BYRNE: Oh, he did?

TRELEVEN: According to the individual who was interviewed.

Of course, everyone has a little different recollection.

BYRNE: Well, he may have said that to me and I don't remember it, but I got it in my craw that that was a nice term to use. It could be. I can't deny it.

TRELEVEN: But the fact that you used it had nothing to do with Franklin Murphy?

BYRNE: Not that I know of. It might have been that I got it in conversation with him and. . . . It's interesting that you ask. Yeah, I would imagine, as far as most chancellors were concerned, these recommendations were very much what they wanted. But that was not just Franklin Murphy, not at all. And of course there wasn't anyone at that time to speak to at Berkeley.

TRELEVEN: Right. Which reminds me--I'll have to deviate here a second--was Kerr interviewed at all?

BYRNE: I can't remember. I don't think so. I didn't interview him, and I don't think anybody else did.

TRELEVEN: Did you ever get a sense that this committee was okay with him or whether he was a little bit touchy about it? Or did you get a sense of

how . . ?

BYRNE: Oh, I have the feeling--I don't know when I got it--that he didn't quite like the idea of the committee, because the committee had general And I as special counsel was given general purview of the University of California. I could call out anything I wanted to and had the power to, independent of him, look into anything I wanted to. I tried to use that most judiciously, to narrow it to those things which were a cause of major problems and narrowed it more and more as I got into it, so that I didn't in any way get myself involved in decisions or recommendations that this kind of a committee wouldn't be in a position to undertake. I considered him as not being friendly to the whole idea. It's not that I ever heard that from him. I must have gotten it from others. I don't know from whom I got it. I think he considered it in some ways an investigation of his tenure. It wasn't intended by me to be so, and that's one reason I avoided putting in the whole history of the fall of 1964. But I think he felt threatened by it, because the committee was not controlled. I was

not controlled.

TRELEVEN: Right, which you explained last time. Within that recommendation is a sort of a sub-recommendation encouraging the establishment of broadly based student governments, which I found interesting. I take it what's being suggested here is something that is rather different from what you found in terms of the existing form of student government on the campuses.

BYRNE: Yeah, the concept of student, quote, "government," unquote, is certain delegated functions, running various social affairs or running the newspaper or something like that, but with kind of controls. And there have to be some kind of controls, because there are student fees that are apportioned to these organizations. But some place, some organization, where the students would have an opportunity to express their concerns about things affecting them in the university system. And if they want to, to make that a voice for what they want to do in outside society, with certain protections. But primarily that they could have an independent voice to be considered by the faculty and primarily the

administration in each of the universities. Now, you've got to accept the fact that students are only going to be there for four years or so, so to have a continuity of any persons is unlikely, but you have to have a vehicle whereby they can make meaningful expressions as to their interests. The Free Speech Movement was totally outside of any established student government in Berkeley, and it never occurred to them, I'm sure--maybe we have that in the evidence, I don't remember--to go to whatever the student government was at that time. There was a . . .

TRELEVEN: Associated Students.

BYRNE: Associated Students. It probably never occurred to them to do that, because it was performing certain ministerial functions for the administration that were closely student related, but wasn't really involved in the important matters affecting their education, let alone what's going on in the outside world. I still think that strong student organizations are of value in an institution, because they have to be the most important part of an institution. The faculty is there largely, and the administration

BYRNE: certainly, to serve the students and to bring them along. And to the extent that they can exercise preferences in the system, they ought to be permitted to do so. Obviously, one of their preferences is going to be no increase in fees. Well, let them be heard. I mean, that's not going to wreck the university system if the students vote that they don't want an increase of 40 percent in the fees. I think that we can pretty well figure out that that would be their point of view. Or that perhaps they want the tenured faculty to spend more time in the classroom. Let them be heard. In other words, that they want a higher percentage of their teaching to be done by the full professors instead of the underlings. That might well be part of their function, but not looking at them as just running the dance or the newspaper, but being quite thoroughly involved in decisions that affect them. And also giving them the right, if that's what they want to do. . . . They probably don't have the time to do it, but to, on occasion, stand up for certain things and vote on them where they want to impact society, even

though the overwhelming majority of the regents may not agree with the position that they're taking.

TRELEVEN: Which gets back to this fear of a political. . . . that something will connote political partisanship of some kind.

BYRNE: Well, as [Winston] Churchill once said, "Beware of the conservative young man." [Laughter] I think most people who assume the regency recognize that the student body is going to be a good bit more, quote, "liberal," unquote, than they are. I'm sure that would be true if I were a regent today. I would not espouse some of the points of view that the students do today. But they'll have a chance to put those forth in as sensible a manner as they can.

TRELEVEN: Okay. I think I'm going to put on a new tape.

[End Tape 2, Side B]

[Begin Tape 3, Side A]

TRELEVEN: In terms of students at that time, how about issues that one might call issues of morality? I'm not talking about civil rights, I'm not talking about napalm and Vietnam, but I'm talking about the ability to get birth control devices at

the university hospitals, which I think was a bit of an issue.

BYRNE: Christ, they're giving [them] in the high schools now.

TRELEVEN: Right, but at that time maybe this gets into this issue of loco parentis.

BYRNE: Well, yeah, I guess so, but the students are pretty much over eighteen when they get to college--there might be a few that are under eighteen--and aren't they sort of emancipated somewhat at eighteen?

TRELEVEN: At that time it was twenty-one. I mean, it was much more so that they had to be. . . . Well, the vote was twenty-one at that time.

BYRNE: Yeah, I. . . . With respect to such issues as that, I think you could have students who are on all sides of that kind of spectrum. If they want to advocate having the availability of these devices, I think they should be able to advocate it. I'm not saying that they should be able to control that it be done. I think there are other aspects that would have to be looked into as to doing it. Because they are students, should they be treated differently as far as having an

BYRNE: abortion than any other person, woman, of the same age? I doubt it. I think that should be looked at from an overall societal point of view. I guess, yeah, the students are going to, by their nature, embarrass older people, particularly when there are people that will look upon them as eating at the public trough, so to speak, because they're in a public institution, as though they should have more rights because they're at Harvard or Yale, because they're at a private institution. I don't think so. I think they should have the right to complain and the right to seek what changes they want in their life.

It was interesting in the interviews that we took. . . . It just came to my mind, and this was at Berkeley primarily. The fraternities and sororities were considered to be pretty much a conservative bulwark of the students. We did some interviewing among both the fraternity and the sorority members, because we wanted to get reflections from students that may not have been involved in the Free Speech Movement. It was a pretty interesting demarcation. It was pretty

much the men were actually the conservatives and stayed away from the movement. The women, on the other hand, just the opposite. They were more inclined to be in the movement. It was just an interesting wrinkle. Now, this was not a scientific Gallup poll, but it was in sufficient interviews that it became very clear that the men and the women in the fraternity/sorority group had quite different views on the whole Free Speech Movement and what went on, with the women being the more accommodating and more liberal group. I say men and women because I think you should use those terms rather than boys and girls. I think you've got to get away from that in loco parentis.

TRELEVEN: Another sub-recommendation: "Charters provide for direct communication and appeal to the Regents from any component of the University system." I take it this recommendation is based on a finding that the communication was . . .

BYRNE: The regents were considered very much a part of the loop. It seemed to us--and we debated this quite a bit--that having a vehicle whereby any group can correspond with the regents and get

back some response was desirable, that getting something back might be that "This is a matter that's committed to the local university. Then you should deal with the chancellor's office on it." Or "This is a matter that we are considering." Something that would give those organizations within the whole system the idea that somebody up there is listening to them. I think it's a very worthwhile suggestion that we made. I don't suppose it's been adopted in any formal sense, but . . .

TRELEVEN: Actually, it was.

BYRNE: Was it?

TRELEVEN: Actually, later regents' minutes would regularly include a listing of every communication received in an appendix to the minutes that were passed on. I don't recall that starting immediately after this, but eventually it was, for whatever reason. So that's taken place. It's still sticky trying to get permission to speak at a regents meeting.

BYRNE: Well, that's a little different. We avoided that, because they've got, at that time, two days, eleven times a year, twenty-two days a

year, and you've got a group of twenty-four of them. It's pretty darn. . . . And they've got all these committees that come back on various matters. It would be pretty difficult to allow anybody to come into the regent meetings to present something. It should be something that they would be open to on a given issue of importance. But we didn't want to suggest that they burden themselves with that kind of thing.

TRELEVEN: Visiting committees is something that was adopted for a while, a sub-recommendation here being visiting committees of three regents to learn about individual universities, with efforts made later on to hold regents meetings on all of the campuses.

BYRNE: Yeah, they're rotating.

TRELEVEN: Yes, rotating through the campuses. Something they had to end for a while, outside of the convention center in Los Angeles and the extension center in Berkeley. Those were the locations for a period. But the visiting committees were instituted later. So, again, the idea here being that . . .

BYRNE: Monitoring. The regents have the duty, as I see

it, of monitoring constantly what's going on in the university system and, in those rare instances, have some policy change that should be made, but only after thorough discussions and looking at the ramifications. But always be aware of what's going on, it seems to me. They are appointing a bunch of chancellors. They should make sure that those chancellors are doing their jobs. The responsibility goes along with the authority. If you're going to delegate them a lot of authority and responsibility, by gosh, you've got to check to make sure they're exercising it well.

TRELEVEN: Okay, that the regents should not just leave it in the hands of the president?

BYRNE: No. That's why we suggested the visiting committees of about three do it. They would have that responsibility, which would be an addition to the president and his staff but which would be things that they should look into. That's getting them a little bit away from being a passive board of directors.

TRELEVEN: And a little more comingling at the campus level?

BYRNE: A little bit more, yeah.

TRELEVEN: The second major recommendation had to do with the regents and president "undertaking complete revision of the form and substance of all existing documents of governance of the university," and I guess this gets into the bylaws and standing orders, which are pretty substantial.

BYRNE: Well, we thought the term "standing order" should be abolished.

TRELEVEN: It wasn't. It still hasn't been.

BYRNE: We recommended that maybe it could be referred to as "the policies of the university." That seems such an archaic term and so apart from an academic community and the way people think in an academic community.

TRELEVEN: I take it, though, in back of this, there were lots of problems found with the whole codification of . . .

BYRNE: Yeah. I can't remember the details, but there were policies that were hidden someplace. They weren't always promulgated; they weren't easy to find. All of a sudden somebody would remember, "Oh, yeah, we dealt with that." And that was a policy then. It became a kind of a hide-and-seek

kind of operation. We witnessed some of that during the fall of '64. There just wasn't a bound little book of the rules, you know. We called it statutes, and. . . . It's a governmental body with. . . . What's the budget now? It's a couple of billion, isn't it?

TRELEVEN: I'm not going to be able to answer that. But yes, somewhere in that . . .

BYRNE: And a hundred thousand students and almost that many employees. They should have an easily discoverable sense of statutes or rules, or call them orders if you want to. It just wasn't available at that time. I hope they've done something about it.

TRELEVEN: Well, that was '65, and less than a decade before that, we're talking about a president, namely [Robert Gordon] Sproul, who is a legendary figure for handling every little detail himself and having a desk piled with material and working all the time at it.

BYRNE: Well, there, it was one campus pretty much except for UCLA when it started, and he was a legend, as you point out. I guess the best government is a benevolent monarch, but there aren't very many

benevolent monarchs, and how could you choose them? I think when you're dealing with a regental body, they've got to have something that they can have security on, that they've dealt with it, that it is done, that it is there for the delegated officers at the university to adhere to. It should give the regents a good bit of comfort to know that there is such a compendium, because there wasn't at the time.

TRELEVEN: It's my impression that it is very well organized right now. I mean, it's in a folder about an inch thick. They still do use "standing orders" as a term. [Laughter]

Number three: "We recommend the Office of President be constituted to give leadership to the entire University system." This gets to something you were mentioning a few minutes ago, that the presidency and the chairmanship of the regents be merged into one and the president be ex officio chairman of the regents.

BYRNE: I don't think that's been done. I think they still have a chairman . . .

TRELEVEN: That would almost take a constitutional amendment, if that means the governor would no

longer be the chair of the board, because technically the governor presides when he's at a meeting and typically will come to a meeting and not chair. And the chairman, the elected chairman of the board of regents . . .

BYRNE: Yeah, the governor would cede to the president as the chair of the meeting.

TRELEVEN: Yeah. The president of the board is the governor. Seldom attends. When he does, the regent-elected chairman of the board is the one who presides.

BYRNE: I think some of the governors in the past were inclined to attend more than they have recently.

TRELEVEN: Kind of uneven.

BYRNE: Yeah. Pat Brown was pretty good in attending.

TRELEVEN: That's what others have told me, that he was quite good. [Ronald W.] Reagan tended to be very good about attending. [Edmund G. Brown Jr.] "Jerry" kind of so-so. I guess [George] Deukmejian I don't know about.

BYRNE: He was a great delegator; he might not have attended much.

TRELEVEN: Anyway, you felt that this would strengthen the university to have the president of the

university . . ?

BYRNE: I felt that the president should get away from taking the place of chancellors and running individual campuses, including Berkeley, and that he should be a part then of the . . . The regents and the president should be linked together, that the president is almost a regental officer, is a part of the regency. He's going to be the executive of that and should make sure that all of the information is available to the regents. He must have the authority to take action in emergencies as needed. I think, for instance, we have in there that he could suspend a chancellor if something got out of hand and he had to. He could suspend the chancellor, subject to the regents' final approval, but he could do it in an emergency. He would have a lot of authority within the system, but that authority would not be exercised on a continuing basis affecting any one particular university, as it was when Kerr was doing it. He would leave them alone except, again, to monitor those things that are of systemwide importance. For instance, now we're in a terrible budget-crunch time. There

may come a time when it will be a painful duty of the president to say to the regents, "We can't teach everything at every university. We have to make selections between them, so that a student can't go to Berkeley for this, he'll have to go to UCLA or [University of California] Davis or someplace, because we can't afford repeated programs. It's become inefficient." That's a universitywide decision, it seems to me. That's an example of what I would use as things that the president should be intimately involved with with the regents, because you can't expect the chancellor to say, "Well, I'm going to give up my department of Far Eastern studies just because they've got a bigger department at another place." That's an example. That's a painful example, but that's what government is sometimes, making painful decisions.

TRELEVEN: And it's a sub within that, that you recommended that the president's office be relocated away from Berkeley.

BYRNE: Yeah, that was the symbolic nature of the thing because of the history at Berkeley.

TRELEVEN: Fourth major recommendation: "We recommend that

the Regents re-formulate their role in the government of the University."

BYRNE: I think we're used to making provision for the government of the university rather than attempting on a part-time basis sporadically to govern.

TRELEVEN: Yeah, well, the idea being that . . .

BYRNE: Except when Angela [Y.] Davis was nominated for the faculty.

TRELEVEN: That came a little after this.

BYRNE: That came a little after, but they got very much involved with that, as you remember.

TRELEVEN: That's correct. It's interesting you mention that because . . .

BYRNE: I was being facetious in the way I made the comment.

TRELEVEN: No, because the line I was next going to read here, the sub, "We recommend that the regents concentrate on their legislative function and fully delegate the executive and judicial functions of government." And the Davis case, in a sense, was a mishmashing, again, of those functions.

BYRNE: Yeah, right. I remember going through that at

the time. I thought, "Oh, oh." [Laughter]
"They're at it."

TRELEVEN: There's nothing here really about Article IX,
Section 9, in and of itself.

BYRNE: You mentioned that a little earlier.

TRELEVEN: Did you choose to remain silent on that? Did you
not want to open a possible can of worms? Did
you feel in terms of the selection process that
it was okay as it was?

BYRNE: We felt that we were safe within the confines of
that and that we didn't want to get into legal
discussion. I don't remember the details of our
discussions at all. Maybe we missed a point in
not discussing it, but we didn't consider it was
a barrier to what we wanted to suggest here.

TRELEVEN: So the current structure of the board, which was
changed later on, mid-seventies, you might
recall, the terms were shortened by four years
and . . .

BYRNE: From sixteen down to twelve.

TRELEVEN: Sixteen to twelve, and the Mechanics Institute
[of San Francisco] and the [California State]
Board of Agriculture ex-officios were eliminated
. . .

BYRNE: I remember all that. Yeah. The alumni were. . . .
They had always been appointed.

TRELEVEN: Alumni reps . . .

BYRNE: Oh, I see, it was Berkeley alumni . . .

TRELEVEN: And UCLA, it got spread more widely. Oh, wait a
minute. That's not '70. . . . It was spread more
widely before then. But it formalized it in a
little better. . . . But here in '65 . . .

BYRNE: There were alumni represented. Maybe there were
two, I don't remember.

TRELEVEN: Yes, there was always one who had the vote and
one who would have the vote the following year
who was recorded in attendance but did not
vote. Those tended to alternate for years
between Berkeley and UCLA.

BYRNE: Oh, it was sort of a practice.

TRELEVEN: Yeah. But here in 1993 there are some student
groups making noises again about how the
composition of the board should be changed, that
it's made up basically of a board of rich white
guys. That kind of argument. That was kind of
outside your purview, though, at that time in
terms of what you were looking at.

BYRNE: I think it's important to have leaders in the

community there, and I certainly don't think that any ethnic seats should be supported on the board or women's seats or whatever. I think that the appointed ones leave it to the governors to choose, and it is subject to [California State] Senate approval. Leave for them to choose who they think would be appropriate. I think on the whole they've made good appointments, but they sure are political appointments in most cases. They're really the friends of the current governor, supporters.

TRELEVEN: Right.

BYRNE: But we change our governors, so that doesn't seem to matter too much. [Laughter] They're conscious of their political appointments, and I think that's why this whole idea of maintaining the university as nonpolitical. . . . It should be, but that shouldn't prevent anybody within the university from being active politically. The chancellor at UCLA might decide he wants to be the mayor of Los Angeles. He should be free to do that. Now, whether he could run a campaign and still fulfill his duties is another issue. But the university should--well, we've said this--

not try to restrict political activity of individuals, who, although they may be employed by the universities, are still not speaking for the university, and make it clear. Or any groups that want to. . . . "Professor Schaltz's Sociology 101 class has passed a resolution that we ought to cease recognition of Great Britain because of the Northern Ireland situation." Fine, let them pass the resolution; let them put it in the newspaper.

TRELEVEN: I sort of skipped across these recommendations. I guess I'm choosing not to belabor each one. At the same time, I hope I didn't skip across too fast to really ignore something that you've thought about after you reread the report and feel that I'm not giving enough attention to.

BYRNE: No, no. I won't fault you on any lack of comprehension. I can't add any other questions to ask myself.

TRELEVEN: Okay. Was there any sense that this report was going to be a bombshell at the time that you were preparing to make it public?

BYRNE: No. But you may remember, it got an enormous amount of publicity when it came out. The Los

Angeles Times did a front-page story and had the whole text of it in print. The San Francisco Chronicle, which was then a pretty stalwart newspaper, I think printed a full page of excerpts of the report along with the story. The editorials that I read were generally very favorable to the report's conclusions. Maybe I just didn't read the unfavorable, but it was pretty generally favorable. It was generally very favorable. I decided shortly after the initial flurry. . . . I went on one TV program, and then I decided, no, it wasn't good to keep at it, and I backed off. That was about two or three days after this was out to the press.

TRELEVEN: Right. Now, why . . . ? A report's prepared, it's transmitted to the chair and the other regents on the committee. I'm probably being naive here, but I should think then the committee would present it to the full board, and there would be sort of a formal presentation and discussion of the report before it was made public. But am I being wrongheaded . . . ?

BYRNE: Maybe I short-circuited it.

TRELEVEN: Oh. Did you?

BYRNE: I came to the conclusion that it had to be made public quickly.

TRELEVEN: Why?

BYRNE: I don't know if I discussed that with Mr. Forbes or not, but if I did, I took it upon my own authority to do it. I don't think that he and some others were aware that it was going to be made public. There was an advance announcement of the press conference to announce the report.

TRELEVEN: Why did you feel that was necessary to get it to the public quite quickly?

BYRNE: I felt that to kind of put a seal on all of the controversy it would be best to air the thing with the public, which really means the media, although a lot of the public, I think, read the whole thing. It probably was not what some regents would have had, but I'm sure that other regents were happy to have it done that way. Some might have preferred that it go to them and then they bury it, you know.

TRELEVEN: Sure.

BYRNE: But I wasn't about to let anything be buried.

TRELEVEN: Not after all that work.

BYRNE: I felt it very important to do that and to get it

out simultaneously. I think I'd made a comment respecting that right at the beginning when I was interviewed by someone before we started working on the report.

TRELEVEN: This would be part of your autonomy that . . . ?

BYRNE: Yeah, I think I may have, I'm not sure of that. I don't think I surprised any regents. Maybe you know better.

TRELEVEN: Not that I recall.

BYRNE: They might have been surprised that I didn't find the students primarily at fault but saw that the regency needed changes, but I don't think that having it out to the press was anything that they didn't anticipate.

TRELEVEN: You mentioned earlier today that you made a decision that you were going to, was it associate with a public relations firm in terms of how to handle this?

BYRNE: Yeah. Well, no, because when we were going to put this out to the press, I wanted to have a public relations firm handle distribution of it and so forth. It was to be done with a Did we have a conference? Yeah, it was a press conference. And the reports were available to

them.

TRELEVEN: So in my outline here, when I say "leaked," it really wasn't a leak. I mean, did the Times get it first? Or were these made concurrently available to all newspapers? I put the word "leak" here, and I wasn't sure. That's why I put it in quotes in my outline, because I'm not sure it was a leak or not . . .

BYRNE: We did it in the afternoon, I think, through [William] Trombley. The Times had been most interested in following this and what we were doing. He got the copy the same as the others, but the timing of it was afternoon so that it was for the evening TV and the morning papers. That was the advice of the PR specialist. I don't think Trombley got it any earlier, but he was prepared to do a lot of writing on it. He had done a personal profile on me sometime earlier, I believe. Or did it come later? I don't know when it was. It was either before or after. I think it was after, a few days after. Or before. I can't remember now. He was the most prominent that I remember, although there was another reporter from the Chronicle who was very

interested. Anyone that called, we gave them information on what we were doing. We didn't tell them where we were at, our recommendations. Part of the thing was to treat the press very professionally. That was why I wanted to get the PR firm; I wanted it to look good, that it wasn't an amateurish look to it. For obvious reasons, I couldn't depend on the administrative staff of the university to do this. [Laughter] Clark Kerr wasn't about to. . . . Nor did the university print the darn thing up.

TRELEVEN: Right. Did he see it before the press printed it?

BYRNE: Well, I distributed copies to all the important people, but I don't know how quickly they got them. He probably, being up in Berkeley, didn't get it right away. I know we sent up a bunch to Berkeley, but they wouldn't have gotten it much before the press got it, I'm pretty sure. Because I can remember being up till late the night before to make some changes. We ran them. . . . Our office was then in Los Angeles. We ran these on our office. . . . Because we didn't have a Xerox machine there. We had a

Xerox machine in our office, so these copies were run there. They were run over the evening, and then the next day I remember we had to make, I think, a couple of written changes.

TRELEVEN: Yeah, I noticed a few written annotations on the copies that I have.

BYRNE: Yeah. You know how deadlines are.

TRELEVEN: Right, right. Let me pause for a minute here.

[End Tape 3, Side A]

[Session 3, June 15, 1993]

[Begin Tape 4, Side A]

TRELEVEN: I had a couple of follow-up questions after listening to our tapes from last time. One of them is that you mentioned that you had a press relations firm to help you with dissemination of the report, that kind of thing. Is it important to get the name of the firm in the record?

BYRNE: I don't remember it. It was an older gentleman who had some experience, and he did it at, I think, a very modest sum. I can't remember what it was at the time, but it was really handling a press conference and making sure that various media sources were informed and making sure that copies were provided them and that we would answer any questions that they had. So it was a very limited work, just to have the report go out to the public under the best of circumstances.

TRELEVEN: Okay. You mentioned you had appeared, I believe, on one television program. I guess the question

there is, why didn't you do more along those lines?

BYRNE: I came to the view that the report definitely should speak for itself, that we had done our best by doing it and then having it disseminated. I had been up front as the person who was responsible by virtue of a press conference, which involved questions from the press, and also made myself available. It was on one of the major channels, a television newscast. I felt that was really adequate and I should not be promoting the report. The newspaper coverage and, I understand, the television coverage of the report and its basic findings was very good. I thought that that was sufficient to be done and I should just get back to practicing law, rather than having any continuing responsibility, which went beyond, really, what I was chartered to do.

TRELEVEN: You didn't go on any talk radio programs or anything like that, I take it.

BYRNE: No. Those are so popular now, I suppose that that would have been one source that would have been immediately on me to be involved in. But no. I was asked on a couple of other television

programs. I was asked to give a talk at some group, and I can't remember what it was. I just decided I really couldn't, number one, take the time. Number two, I felt that my job was over with and I should let it stand as it was. I'd become too much of a protagonist, as though I was defending the report, and I didn't feel the report needed any defending.

TRELEVEN: What's your recollection of the public feedback that did occur in response to the report? By public feedback, I guess we could define that as virtually any group or constituency or the public at large, and perhaps I'm thinking of communications to you directly or maybe Mr. Forbes directly.

BYRNE: Well, when I got. . . . In addition, I think I mentioned very favorable editorials in some of our newspapers. There were some good comments in the national press, also. In addition to that, I must have gotten--I'm going to say a hundred, could have been more, might have been sixty--calls from responsible people, universally in praise. I received a couple of notes that were accusatory. I imagine that's just because the

people that were pleased with the report are the ones who are going to write. Those who didn't like it, why should they write me? There was a lot of very good. . . . And I wish I'd saved those. I don't know if I have or not. But there were a lot of really nice letters from responsible people, people who had a lot of experience with the university, that had been in important positions and so forth.

TRELEVEN: What kind of a response was there, if you can remember, from what I might call the "fringe right": the [John] Birch Society, maybe legislators who were pretty far on the right, those who had been really critical of student activism as possibly "communist inspired" and so on. How did . . . ?

BYRNE: I did not read at that time of any comments from that arena. We had definitely found, and so cited in the report, that there was no communist or outside influence, that the students were seeking to engage in political activism. In other words, we found exactly against those who assumed that there had to be some pernicious influences behind the scenes. But I didn't, at

the time, see any comments or hear any comments espousing that view. I guess it might be due to the fact that I didn't have a subscription to all the newspapers and check all the newspapers and letters to the editor that followed, I didn't do that. The newspapers that I did read at that time were overwhelmingly favorable. So I did not find that to be existent. It may have been, but if it was, I'm not aware of it.

TRELEVEN: Okay. Well, no recollection of getting a letter or two accusing you of being a communist dupe because you couldn't see through what was happening, that sort of thing?

BYRNE: No. I got one or two. . . . I remember one letter accusing me of being too stupid to figure out what was really behind it all. That was it.

TRELEVEN: I think in preparation for us getting together, you reviewed your copy of the Byrne Report. As you were looking back through it, what struck you as being the strengths of the report, that you considered to have been the strengths of the report?

BYRNE: Well, we clearly came down on the side of the students, not as respects all of the means that

BYRNE: they used, but from the point of view of their right to and maybe even the educational desirability of their engaging in student activism for causes that they espoused. But that was really a recording of the victories they had won on the battlefield, so to speak. We confirmed that there was respectability to what they did, as a follow-on of the Martin Luther King marches and the Civil Rights Movement. In other words, looking at what the students were doing in the historical perspective of the time. In other words, we accepted that the students could be the instigators and moderators of change in society and that just because they're young people in an institution which is supported by the state they should not be handicapped from doing legal things and doing things giving full respect to the rights of others to achieve results of change in society.

The second thing was, this great university was coming upon a stage in its development where it would be nine universities, and the running of the university by one president over nine separate campuses, as they were called--which are

BYRNE: really nine different universities--just would not work anymore. The response and reaction to the Free Speech Movement controversy showed proof positive that it didn't work, that there had to be strong local administration. By that I mean administration of each separate university that would keep its hands on things, would legislate in such a manner that students have rights to engage in certain activities, and then controlling for the good of the whole the means, the time, place, and circumstances under which they can react. That had to be related to each separate university because of its special geographic situation and however else it organizes itself internally with student organizations. So we made a major thrust of our proposal the fact that the regents, with the guidance of the president, should reorganize how they approach the universities as a whole. And when subsequent problems erupt in the university, one or another, they can be handled at that local university without being regental problems, except that the regents should always hold the ultimate power of legislation for the good of the

BYRNE: institution in that the president should not deem himself or herself the chief of any of the universities but strictly a part of the regents to govern the whole system. That was a change from what had been going on, where the president would take over, did take over, authority in Berkeley from the chancellor, from the other aspects of that university to, quote, "handle," unquote, this crisis, and handled it not too well. The regents were brought into that by the president, and they didn't handle it too well. Those are the things we pointed out, not bearing heavily on them, but trying to look to the future and trying to give the feeling of what constructively should be done so that this great institution could better cope internally with problems it would have in the future.

And I think. . . . I don't know if I mentioned it on the previous tapes, but I think the recent incident of the Chicano Studies [Program] at UCLA is. . . . Here the chancellor at UCLA and the faculty at UCLA dealt intimately and closely with this very serious problem, this hunger strike. Whether ultimately they made the

right decision or did not, I'll leave that to others to judge. But what they did do is not make it mushroom into a problem that affected the entire nine-[campus] university system. And the president and the regents, as far as I can determine from what I've read in the newspapers, did not intrude with the local campus handling this particular crisis. And it was a difficult one. It was somewhat new to the university system. A hunger strike is a very specific and difficult thing to deal with. It's designed for that reason. And I think there have been other incidences where that has been shown, that the delegation of authority commensurate with responsibility to the individual institutions has been a good idea. Perhaps if you remember the Angela Davis appointment issue. . . . That's not a case where the regents and the president allowed the local university to make its appropriate decisions.

TRELEVEN: That's correct. The chancellor was overridden.

BYRNE: Right. What any kind of delegation of authority involves is that those to whom authority is delegated are from time to time going to make

mistakes. And quite frequently they're going to do things differently from what you do. But we live pretty much in a participatory democracy, and I think the educational institution, particularly, should bring down its decision making to the level that most deals with the immediate problems. I think that was secondly the other side of the coin, asking the regents to relook at the whole way they provided for government of the institution, to get themselves away from being the government, but to make provision for the government. That was the philosophy we tried to inculcate in the report. And hopefully things have improved a good bit, although I have not been in the position to and have not followed in detail anything that's been particularly done. But what I see is that, in effect, that's been fairly well accomplished. Those are the major focuses.

TRELEVEN: As you reread the report recently, did anything strike you particularly as being weaknesses?

BYRNE: [Laughter] One very important one. Well, it is important, but it's stylistic in a way. This dates back to 1965, and I noticed we used the

BYRNE: male pronoun constantly. "He" always. We never used the "he or she" or "person," and I think I would do a good bit of editorializing in the report to make sure that we accepted the fact that women were very much equal with men in all respects. I guess that's because it was written somewhat before the major emphasis of the women's movement, which made us all conscious of the importance of those things.

As to substance, I don't find in reading it again anywhere I would make any particular substantive changes in the recommendations. I suggested that the university office be moved across the Bay to San Francisco. That was to demonstrate the need to remove the interference of the statewide administration with the Berkeley university administration. They were very much intertwined, and that was unfortunate in trying to handle this particular controversy. I thought that was a good way of demonstrating that the chancellor and faculty at Berkeley would be in charge, and the students to a small extent, of their own affairs at Berkeley, as distinguished from the university administration. So the idea

of moving it to San Francisco was symbolic. Obviously I wasn't going to say move it to Los Angeles or Fresno. [Laughter] People lived in the Bay Area. I just thought that it was so intertwined at that time, some dramatic severance would be very healthy for increasing the credibility of the local chancellor and local university administration at Berkeley. What else? Let me see. I don't really. . . . And I don't think I'd change that, given the situation then, but all I could say is it was a symbolic recommendation. It would have been a good thing to do then, but the essence was decentralization, establishing the regency as making provision for government, but not governing. And to the extent that that's been accomplished, that kind of symbolic thing is not necessary.

TRELEVEN: There's been a raft of more recent writers who would argue that many student activists at that time were spoiled and self-indulgent. Spoiled in the sense that they reaped the material benefits as children that perhaps the previous generation had not had, been given everything on a silver platter, and despite all of that, given the

opportunity, they sort of ran amok when they got to places like Berkeley. Any comment on that genre of writing?

BYRNE: Well, I think it's a perception. I'm an older man now. I hate rock music, acid rock, whatever you call it, but I find out I have to be tolerant of its existence. Why should I think I can control the type of music that the younger people have? The same thing as to ideas they might have about society. I think it's a generational problem, and we have it all the time. As a matter of fact, we might be seeing the reverse of it now, where the young people going to colleges and universities in the state system are not treated as well as their parents were. The fees are increased; the board and room has substantially increased; the costs are up a good bit. The golden future of a degree from a wonderful institution like Berkeley isn't as easily obtained as it was twenty years ago. But at that time, yes, it was in a period when great advances had been made. We were in the midst of a period of fairly long prosperity, and things were better for the younger people than they had

been for their parents when they were younger people, and they should be more appreciative of it. I think it's just the opposite of that. We invest in those people that are coming along, those young people, and we want to invest in such a way that they develop as best they can. If that involves trying things in their youth that we wouldn't try, so be it. The maturation process sometimes takes a long time. How we should look upon it is that we as a society are continually reinvesting in those who are coming along. I think we want to treat them as very special people, because we're entrusting a lot of society that we have tended to build up to them to care for in the future. The fact that they're going to do it differently should be something that we would expect, not that we reject.

TRELEVEN: Even if they use the "seven forbidden words"?

BYRNE: Yeah. [Laughter] Yeah. In fact, sometimes I think the use of words for shock is of value. I guess if you use some words constantly it gets to be a bore and they don't mean anything, but once in a while if you use a word that is offensive, you get across a message that otherwise you

really can't get across. So, yes, using "bad" words comes within the purview . . . [Laughter]

TRELEVEN: Put the bad in quotes?

BYRNE: Yeah. Yeah. Sticks and stones may hurt my bones, but words may never harm me. Isn't that the old . . .

TRELEVEN: Yeah, the old adage. Okay. You finished the report, you went back to your law practice here at Gibson, Dunn, and Crutcher. How closely did you pay attention to what short-run impact there was on UC [University of California] policy, the way the university was administered? By short-run I suppose I'm talking about within, let's say, a year after the report was issued.

BYRNE: Give me a year or two after the report was issued. I was not, at that time, aware of the regents implementing the organizational recommendations that we made. In a sense, we had confirmed the rights of the students that they had won for themselves. And I don't think that they were interfering with those rights; that was over with. As far as how they redesigned their thinking and their actions as to delegating responsibility and retaining the monitoring

BYRNE: aspect and retaining overall legislative aspect, I don't think there was any surge of effort in that respect. I think that was unfortunate, that this was a good opportunity to undertake such a reform, but my understanding is that after that year or two period there were a lot of changes made that would relate very much to the recommendations that we made. Whether they were responsive to those recommendations or responsive to other necessities that the regents and the president saw in the governmental area without looking at the report, I don't know. I trust that the report was of some value to concentrating their thinking as to what should be their goal as far as a regental governmental setup. I think when we look now, it's pretty much. . . . That's been achieved. Whether it was the report that had a lot to do with it or whether it was other things that had more to do with it, at least the report may well have put the body in the right direction. It's the best way I can answer it. I have not made an effort, except as I read the papers, to check on the handling of internal university matters. I have

observed, as I just mentioned, that it seems the regents and the president have delegated to the individual universities and are not involved in decision making that should be that local university's decision.

TRELEVEN: Right. Except, as you've also pointed out, situations like the Angela Davis case, where . . .

BYRNE: Wasn't that in the late sixties?

TRELEVEN: That's right. It came . . .

BYRNE: It was a few years after.

TRELEVEN: Not long after Chancellor Young had taken the reins at UCLA. So within that early period after you came back to the law firm, you weren't in touch with Forbes very much . . .

BYRNE: No, I wasn't. I felt, in a sense, that my job was done and that I should not interfere. I also had to work full-time in a very demanding profession, and my obligations to my clients and to the firm were pretty heavy. I'd taken four or five months off for this job and was very appreciative to be able to do that. But then I had to get back in and pull my oar, you know. As I recall, in that period of time I was extremely busy with work, not just here in Los Angeles, but

with clients in other parts of the country. So I was traveling a lot during that period. I remember that.

TRELEVEN: Well, I ask because it seems like it was a rather great investment not only in terms of money but in terms of your own effort to develop this document which hopefully would be, if not a blueprint, at least half a blueprint to improving things.

BYRNE: Well, I got very favorable comments at the conclusion of it from "Buff" Chandler and Norton Simon and Bill Forbes, a couple of others--and I can't remember their names. So I knew that what I had said in the report was something that those people who were regents and had the power of the regency were interested in pursuing. So in a way, these were my recommendations to the regents and the regents [had the responsibility] to accomplish them.

TRELEVEN: And maybe a final question, which has to do with something I think you've mentioned off tape, and that is that you retained the records of the Special Forbes Committee.

BYRNE: That's a fancy name, records. Boxes of notes and

drafts. I haven't looked at them for twenty-eight years.

TRELEVEN: The question is, why did you end up with them and why did they not become part of the official regents' historical record?

BYRNE: Well, first of all, I wasn't asked.

TRELEVEN: Really?

BYRNE: No. No one asked me about it. Second, the regents didn't really operate independently as far as the administrative aspects of regental meetings and so forth. That was all handled by the administrative staff which reported to the president of the university. I got the impression, although I had no direct communication, that Dr. Kerr wasn't very happy at this whole operation and--I don't know, but I presume--wasn't happy with the thrust of the report, because it did suggest ways of governance that were not the ways that he chose to govern or that he was in the habit of governing. So I did not anticipate that there would be any friendly reception from those who might have felt criticized by the report. We tried to make the report as impersonal as we could, but the fact

was that the, quote, "university," unquote, had badly handled this crisis from the beginning, and it was one mistake after another. That was in the daily press, and people knew that. So I didn't volunteer, because I didn't want to have these notes and stuff, which were all confidential conversations, being available to others. I haven't told anybody particularly that I have some boxes. When I put the boxes away, I must say I didn't. . . . It isn't my bent to be very good at organizing things for posterity, and I've never looked at them since. I hope they haven't all melted. [Laughter]

TRELEVEN: Well, I hope maybe as a follow-up to this interview we're able to look into those a little closer.

BYRNE: Yeah. I would only have one caveat, and that is I did. . . . Any people we interviewed, you see, we told them that their comments would not be attributed to them, and some of us took notes in different manners, and I would not for at least another number of years [want] to have any notes pinned down to any particular person.

TRELEVEN: Well, maybe there's the idea of divesting

yourself of them and placed under seal for a period of years.

BYRNE: Something like that. I would want to go through it and sort it out so that there aren't a lot of excess draft copies and stuff like that that just would weigh it down. I don't imagine that I made a very careful selection of what I would put in the boxes and what I would not at the time.

TRELEVEN: Right. Well, what's intriguing is that what's represented there is kind of a unique look cutting across a number of individuals and groups at a very unique period in time in higher education, and for crazy people like historians, it could be very valuable, if not immediately, at least in the future. So I'm personally glad that you decided to be a pack rat when it came to those materials.

BYRNE: What you're saying here was particularly noted when I got into this thing and found out there was very little written about how to run universities, almost none at that time. And then I decided to interview half a dozen heads of institutions. They were all terribly interested in what I was doing, because they knew that they

administered their universities pretty much on the basis of tradition. It was an interesting thing for them to participate in, and they were all so generous in their time. They also had enormous respect for the University of California and particularly for Berkeley, which was the jewel, you know, the jewel of public education in the United States. It was an important time in university education, certainly in this country.

TRELEVEN: Yeah, and in others, as it turned out. France, Germany, Great Britain all had problems to deal with as the times were changing.

BYRNE: Interestingly, in early history, at the great universities in Firenze [Florence], Italy, in Bologna--Bologna more than Firenze--the students pretty well ran things. And if the professors weren't giving them what they wanted, they had ripe vegetables that they got, and the poor man had to leave. But the students, of course, were picked from the aristocracy. The few people that had money would send the students to the universities, except when they were directly under the church. And even there, they were very democratic as far as the students running

things. I don't recommend that. [Laughter]

TRELEVEN: I guess one final question in this area, and that is, since you were discharged from your responsibilities after the report was published, have you had any association with the University of California regents since then?

BYRNE: No. I would have liked some governor to appoint me to the regents, but I never asked any governor to do so. I didn't think that Mr. Reagan would do it. He did appoint my partner Bill Smith as a regent, but I didn't make any request to be so appointed. But I would have liked that.

TRELEVEN: Did Pat Brown know that?

BYRNE: Well, Pat didn't have much more time.

TRELEVEN: No, he didn't have much more time.

BYRNE: In '65, when the report came out. . . . Well, he was governor for another year and a half.

TRELEVEN: But had you been asked, you would have been delighted, I take it.

BYRNE: Yes, I would have found it a very good thing to devote my time and efforts and whatever wisdom I could to it. I would have found it somewhat productive, I hope, for the institution.

TRELEVEN: Well, that leads me into maybe the concluding

portion of this interview, and I think it does relate, because I noted in your résumé that you have been, or you're currently, a member of the board of trustees of Aquinas College and that you've been a member of the board of regents of Mount Saint Mary's College here in Los Angeles and also involved with a scholarship program at the University of Pennsylvania. Does this activity predate your association with the Forbes Committee? Or did all of this come after?

BYRNE: It all came after. Aquinas College is where I went to college, and they invited me--gosh, I imagine it's twelve, fifteen years ago--to be on their board. The board of regents is not the actual running body of the Mount Saint Mary's College. They have a board of trustees. The regents is more like a fund-raising group. The Kolb Foundation is a result of a friend of mine whose family money is supporting the scholarship program, and it's a joy to be involved. These are scholarships in the fields of archaeology and anthropology and similar areas that don't get a lot of scholarship attention.

TRELEVEN: That's right, that's right.

BYRNE: We define them as areas that are involved with the University of Pennsylvania museum of anthropology and archaeology, which is a very fine museum. And to the extent that there are student programs that deal with the work that the museum does, then those are the students that are eligible. We have eight, at this time, of our fellows there, and we have some graduate fellows. It's a very interesting program to be involved in.

TRELEVEN: Well, it's certainly true about the paucity of support for areas like archaeology, anthropology, and so on.

BYRNE: Most of these areas have no immediate pragmatic value.

TRELEVEN: That's right.

BYRNE: I think that's totally so, from the projects that these students go on. Ours is like a "rich uncle fellowship." We take care of them all year round. If they want to do a summer project, as quite often they want to do. . . . I know one young lady wanted to study all of the cathedrals in Europe or old churches. One Yugoslav--from Serbia--gentleman wanted to do something on all

of the old Christian churches and other monuments in what was Yugoslavia for a summer. Besides archaeological digs that they've gone on in the Middle East. It's a different world, and it's a world that maybe four or five universities in this country should have extensive programs in. It's very important that those four or five, and maybe I should say ten, should have very good programs.

TRELEVEN: Let me turn the tape over.

[End Tape 4, Side A]

[Begin Tape 4, Side B]

TRELEVEN: At the same time, did your having participated in this University of California project kind of pique your interest in the administration of colleges and universities, be it Aquinas or Saint Mary's? I mean, did you retain an interest as a result of . . . ?

BYRNE: Yeah, very much so. I did. And I read a lot of material on it. I looked upon it in the perspective of what I had learned in dealing with the University of California. Actually, also in the practice of my legal sphere I have been representing in labor relations matters a

community college, El Camino Community College district, for about fourteen years. That was when the new law in collective bargaining passed affecting community colleges, and. . . . Or even a little bit before that was passed, I represented that college in handling its negotiations with its faculty and with its classified staff. That's a different institution, but it happens to be an excellent example of a fine community college. Very high quality faculty and widely diverse student body, has a very fine physical plant, and it's been a real pleasure to work intimately with that school all these years. Not particularly to assist them in their governance, because they had from the beginning a good governance setup, but to be of some support in certain areas over time in that direction.

TRELEVEN: I was quite intrigued that in your résumé, you indicated that since '67 you had been a member of the board of directors of the Constitutional Rights Foundation. I guess I'd like to include in this interview information about the origins of your involvement with that organization. I know that you have an appointment in about a half

hour or forty-five minutes because you're still on the board, so you've retained that involvement, very strong involvement. But what is the background of that?

BYRNE: Well, that's interesting. I think it might have been just a little bit before '67, it might have been '66, and it probably came about through my involvement with this University of California thing. It was a brand-new organization at that time. It started in about 1963 or 1964. Oddly enough, it was an offshoot, in a sense, of the [American] Civil Liberties Union [ACLU, Southern California chapter].

TRELEVEN: I was going to ask you what the connection was between the two.

BYRNE: Eason Monroe then was the director of the ACLU, and it came about at that time that some tests were taken of students in the school system as to their knowledge of the Bill of Rights and what rights citizens had. It was a dismal report. It was a nationwide survey that was done. A really dismal report as to the total lack of knowledge of citizenship and rights under the Bill of Rights and so forth. The idea. . . . And I was

not a part of that, but Eason's wife Vivian Monroe. . . . Vivian became the director of the Constitutional Rights Foundation and set this up as an educational rather than as an advocacy operation, with the stated purpose of what's now been called law-related education but was more narrowly defined then as teaching students and teachers about the Constitution, the Bill of Rights, and the rights of citizens thereunder. And Marvin Sears, who was one of my classmates at law school, at Harvard--also a lawyer in a firm in Los Angeles--was one of the early people who had set this organization up. He was with the firm of Pacht Ross. Judge [Isaac] Pacht was one of the early supporters of the organization. Marv went on the board. And Marv came and talked to me one day. We had lunch and he asked me if I would be interested in joining the board. I looked into it and decided to do so.

TRELEVEN: Okay. Sears had been in ACLU, also?

BYRNE: No, I don't know if Marv was in ACLU. I just don't know that answer. But Vivian was the wife of the then director of the ACLU.

TRELEVEN: So that's the ACLU tie.

BYRNE: That's the connection there. She's a very strong person and was able to work and build up the organization step by step. She's recently retired and is on the board but is not now the director. She built quite a fine organization, which has involved itself very much with the high school and now middle school students with active programs that illustrate points of the Bill of Rights and also, very strongly on the other side of the coin, community service of students. But having community service be such that students are the ones who decide what they're going to do and how they're going to go about it. We've developed a lot of programs of that ilk.

TRELEVEN: So it's like consensus decision making amongst the . . .

BYRNE: And we have the Bill of Rights in Action Newsletter, which we mail free of charge four times a year to I think it's about thirty thousand teachers around the country, inviting them to xerox it and use it for student programs, each issue devoted to two or three different topics which illustrate the Bill of Rights in action. And other publications, a recent very

BYRNE: fine publication on the [Rodney G.] King [civil rights] trial, to be used. . . . Probably it will be used by police departments in their training programs, be used in colleges, used in high schools. Wonderful program.

Anyway, I've been close to that organization, was president for two years and chairman of its publication committee all these years, and do look upon it as throwing out a lot of good seeds, particularly in California, but also throughout the country. We have a lot of good programs. We do a mock trial presentation. We have a history day, a California History Day, which we. . . . Sometimes we run these with other organizations, but our people seem to be more trained in doing it. That's developed to be a very, very fine program in schools, along with the mock trials to become a very fine program.

Anyway, I enjoy those things. I think it's important, and I think now we all have to pull the oar particularly hard in helping in secondary education. Beginning with middle school and sixth, seventh grade, we've got to drastically reform and build up that sector of education.

We're throwing away millions of kids that we're not bringing up to their potential. It's tragic when you look at the school system.

TRELEVEN: And included is just a lack of information about, it sounds, if I'm hearing it right, basic citizenship rights.

BYRNE: Yeah, that's part of it, but just the three R's declined.

TRELEVEN: Oh, no, I understand.

BYRNE: And we have to improve the teachers. There are a lot of dedicated ones, but there are a lot that just don't have what it takes. We've got to make teaching a much more sought-after profession. We've got to do so much in that field, and we're scratching the surface. Everybody's wringing their hands and saying we've got a terrible problem, but no one is pulling it together, really--at least that I see up here.

TRELEVEN: Were I to look at the membership of the Constitutional Rights Foundation, would I conclude it has a "leftist slant"? Or does this involve people from across the . . . ?

BYRNE: No, it's . . .

TRELEVEN: All across the spectrum?

BYRNE: It's pretty much mainstream. In early days it was, yeah, you might say a little bit leftist. If anybody who was interested in civil liberties was leftist, yeah it was. People that were interested in civil liberties were the ones who were interested in joining with it. That continues to be the case, because you have to start out with that interested feeling that our students should be educated as to what the duties of citizenship are and what their rights may be. Excuse me a second.

TRELEVEN: I'll just pause for a minute.

[Interruption]

Okay, we're back on.

BYRNE: I'm just looking at the list of the board of directors now. Until he was appointed to the California [State] Supreme Court by Governor Deukmejian, [Justice] Ronald George was a member of our board. I look here, Harry Hufford, who is a longtime [Los Angeles] County administrator and has gone back as acting administrator at this time. . . . William P. Hogoboom, retired judge of the Los Angeles Superior Court. We have partners in most of the major law firms listed on this

list. California Appellate Justice Arleigh Maddox Woods. Pretty much in the middle, mainline group--some that are conservative bent, some that have somewhat of a liberal bent, but pretty basically people who are very much interested in government, interested in education, and a combination of the two. We've become very much a respectable foundation in the sense of being able to get grants from Carnegie [Institute], Ford [Foundation], Keck [Foundation], you name it, Reader's Digest Foundation.

TRELEVEN: Well, that's a pretty good spectrum of funding support, too.

BYRNE: When I was president, the budget was about sixty or seventy thousand [dollars] a year. Now it's about four million.

TRELEVEN: Wow!

BYRNE: We do a lot of good, and I'm glad to be a part of it.

TRELEVEN: Good. And it gives you a special sense of achievement to do this. Why?

BYRNE: What is it? I guess we pass on what we have to future generations. We don't live in a vacuum.

I think service is very much an important part of what anyone should deliver. As a lawyer, you deliver service to the people who pay your fees. As a member of the community, you owe to the community that measure of service which you can render outside of your working mode. I feel that it's a very important moral obligation on everybody, and therefore people should participate where they think they can do some good. I have geared my participation, as you note from the educational institutions, to that area, and I do in other areas, other charitable areas. But I think it's very important that we all do that. I don't mean to give a George [H. W.] Bush "a thousand points of light" speech, but I think as funny as the reference was--and the context was kind of warped--that it's very important that private citizens take on these obligations. Private charity is important, I think--important for those that are the beneficiaries, but probably more important for those who are performing a service. So, yes, that's the simple answer.

TRELEVEN: Good.

- BYRNE: It's a long-winded answer to the idea that you have some obligation to the community.
- TRELEVEN: Right. The Industrial Relations Research Association, Los Angeles chapter. I know you've been a president, but what is the purpose of that organization?
- BYRNE: Well, it is an organization, and there are chapters around the country, of professionals in the field of labor relations. It will be kind of like one-third employer-type representatives, one-third union representatives, and then one-third mediator types, arbitrator types, like some of your colleagues at UCLA.
- TRELEVEN: Like Ted Jones, you mean?
- BYRNE: Ted Jones. Ted would be a good example. [Benjamin] Ben Aaron. And arbitrators, there are a lot of arbitrators in the field. What the organization basically does is have eight or ten monthly meetings where particular topics of interest are discussed by a speaker or by a panel. That's basically it, to provide some means of communication among people in that community. It's open to all that are interested. There's no voting on membership or anything like

that. It's just a presentation, in a nice atmosphere, of issues in the field of labor and employee relations.

TRELEVEN: So contemporarily . . .

BYRNE: That's strictly related to my practice of labor law.

TRELEVEN: Yes, yes. In a contemporary workplace, though, a new issue that might come up that would be the basis of a discussion would be eyestrain using computers.

BYRNE: Yeah. Yeah.

TRELEVEN: VDT [video display terminal] emissions and stuff like that.

BYRNE: Well, what's the fancy word for that?

TRELEVEN: Ergonomics of . . .

BYRNE: Ergonomics, yeah, of the workplace.

TRELEVEN: Right. Far removed from the era of typewriters. I know there have been these workplace issues raised at least in terms of . . .

BYRNE: Yes. Within our law firm, we have a couple of people in our Washington [D.C.] office that are really up to snuff on all the ADA [Americans with Disability Act] ramifications and the OSHA [Occupational Safety and Health Administration]

ramifications in those arenas. I have tended to avoid them, but those are significant. I think you're going to hear a lot more about that kind of thing. I have to believe that repetitive constant motions or constant viewing of screens and stuff are likely to be harmful to people. There have got to be ways of breaking that up, it seems to me, but I don't know enough about it to talk about it.

TRELEVEN: Nor I. In your bar association activities, I know you've been a member of ABA [American Bar Association] and Los Angeles County Bar Association.

BYRNE: Well, you have a bio that's . . .

TRELEVEN: Have you had a particular focus, though, or a particular . . . ?

BYRNE: No, I pay dues, and I go to occasional meetings, but I have not been particularly active in the committee work of the various bar associations. I probably should have done more of it, but every time that I was on one of them I would be very busy practicing law, and to take time to do it was just almost impossible. So after a few years of trying to do some of this work, I backed out

and said, "No more." I just had to compromise that for doing the work that my clients were paying me to do, which is unfortunate, but some of my partners make up for me. They do a lot of activity in the bar association. So I look to them. They're doing their community service that way, and I don't have to do that. But I'm a member of all of these. I support them.

TRELEVEN: Good. Finally, we've talked about this informally, and maybe now that we're on tape you can repeat it, and that has to do with your involvement in partisan politics. Since you're being interviewed for a state archives program that has to do with politics and government, broadly defined, I wonder if you would recount for me your activity in the Democratic Party, and maybe weaving in your association with the early stages of the John F. Kennedy campaign.

BYRNE: Well, when I first came out here to California from Harvard, I was pretty much a Democrat. I guess you always came out of Harvard that way, unless you were born a Republican before you came. I wanted to get active in some Democratic affairs. Well, there was not much of an avenue

BYRNE: for that, but there was a group that I joined. I'm trying to remember. I believe it was something like Democratic Associates. It was a group that one of the federal judges had gotten together. This was during the [Dwight D.] Eisenhower years, and Democrats were pretty quiet. Federal Judge [James Marshall] Carter headed this group. He later moved to San Diego when they set up the southern district of the court down in San Diego, but at that time he was here. A lot of us young lawyers joined this group. We used to have monthly meetings and got involved in some political activities. In fact, I can remember some of the people that were involved at that time are now famous. Warren Christopher was in the group. He was my vintage out of law school. My partner Lester Ziffren was then independently practicing and became my partner thirty years later. I'm trying to think of some of the others. But it was a whole group of us that are in our mid-sixties or beyond. Many of them have been active; some have become judges. That was a very good group to work with.

Then I did some work with the Adlai [E.] Stevenson campaigns. I mean grunt work, nothing very important. That would have been in '52 and '56. A group of us got active in helping Fletcher Bowron in his campaign for mayor of Los Angeles. I participated in that. Then we were supporting. . . . God, what's his name? At one time the councilman in the harbor. John Gibson. There were lots of different activities we were involved in at that time, all through the fifties.

Then I took an active interest in Jack Kennedy's campaign and signed up early with him in '58 or early '59 and hosted a breakfast for him on one occasion.

TRELEVEN: Okay. You were attracted to Kennedy, why?

BYRNE: I don't know. Maybe there was something to do with the Irish Catholic background. He certainly had a lot of youth and charm. He spoke the right things, took the right positions. I think he was far removed from his father [Joseph P. Kennedy] in his political views. I could see it as a maneuver of the father to provide for the son. That was pretty obvious. I don't think there was

anything. . . . This whole idea of a dynasty and so forth, which came later but . . .

TRELEVEN: So it was evident that . . .

BYRNE: He seemed to me to be. . . . I was very much opposed to Mr. [Richard M.] Nixon. I was not terribly opposed to Mr. Eisenhower and think the general probably will go down as a great president. It was more or less also pragmatic in looking for someone who would really be a good candidate against Nixon. That combination. . . . And also, once meeting him. . . . He was full of vitality and charm. You immediately were taken by him. So I did quite a lot in this campaign. I say that. . . . I was working full-time, so I didn't take off time or anything like that, but three of us. . . . I gave this breakfast reception for him. That was in '59. I established a local Kennedy campaign for him. In fact, one of the young guys that worked in that, that I think was one of our strongest young organizers at that time, was [Mervyn M.] Dymally, who became a U.S. congressman. I was kind of head of it, but not doing the operational things, except pulling things together. We were getting

stuff organized for the convention and that sort of thing. Three of us also filed for Jack Kennedy to be on the ballot here in California. We did that right at the last minute, not with the acknowledged blessing of the Kennedy people, but with their sub silencio blessing, as politics were done then and now. [Laughter] Because the whole thing that Governor [Pat] Brown wanted to do was run as a favorite son, and that would be antagonistic to his running as a favorite son, to have a major candidate come in and . . .

TRELEVEN: Okay, let me get this straight. First, Pat's being elected governor certainly gave a boost to the Democratic Party of California.

BYRNE: Oh, sure.

TRELEVEN: I mean, no question about it.

BYRNE: And he was an estimable governor. He was a great guy.

TRELEVEN: Right, right. But in your judgment, Pat would not have been an effective candidate against Nixon at that time had Pat . . . ?

BYRNE: I don't know if I made that judgment. I think, at the time, that Jack Kennedy presented a stronger candidate, as strong a candidate as

there would be in the country. That was my view at the time.

TRELEVEN: Because he was better known nationally as opposed to Pat . . . ?

BYRNE: I think it was partly that. It was partly the charisma that he demonstrated. It was partly his intellectual capability. Pat Brown wasn't running for president. He would be running as favorite son of his delegation, which would give him some power at the convention. The Kennedy people didn't want to outwardly run a slate, but they wanted the opportunity to do so if. . . . Although they never said this, they just intimated. So the three of us filed, which was back in, I think, February or. . . . January or February sometime was the last date you could file. We filed so that he had a filing if Kennedy wanted to use it later. He chose not to use it later. He chose, in other words, not to go the next step, which was to get a bunch of delegates listed on a ballot. I'm just saying it, not from any important thing that was done. It was just a matter of giving the Kennedy campaign the option, as unlikely as it would be

to exercise it--because their concentration was in the East and the Midwest--to take a try at the California primary. They decided not to, as was the indication all along that they would not do so, and hoped to get some convention support from Pat Brown rather than challenge him as a favorite son in the primary. After that, I was made a partner in my firm, in January 1960, and I was devoting myself more and more. . . . I always worked hard, but more and more to my firm work and my client work. I determined after Kennedy took office that I did not want to try to have a federal job or anything. I gave it a lot of thought and determined that I would prefer not to try to do both politics and practice law, that I could only do one of them. So I kind of faded out of a lot of political activity.

TRELEVEN: You didn't actively pursue any kind of position in the Kennedy administration?

BYRNE: No, I did not.

TRELEVEN: How about any involvement in the primary when [Robert F.] Bobby Kennedy ran?

BYRNE: No, I was not for Bobby Kennedy at that time. I wasn't active for him. I was leaning toward . . .

TRELEVEN: [Hubert H.] Humphrey?

BYRNE: No, [Eugene J.] McCarthy. Eugene McCarthy. He was attractive, but I wasn't supporting him particularly. Bobby came in at the last minute, as you may remember. He held off for a period of time, which was probably smart. I don't know whether I would have ended up supporting him or not. I think I ended up voting for him, but I didn't get involved. Was Eugene McCarthy still on the ballot--I can't remember--at the time of the election when [Bobby] Kennedy was assassinated?

TRELEVEN: I'm not certain.

BYRNE: I think Eugene was still on the ballot. I'm not sure. The answer is I was not really involved with Bobby's campaign.

TRELEVEN: Have you ever seriously considered running for political office yourself?

BYRNE: No, I was asked in 1965 by some prominent Democrats, and I just had no interest.

TRELEVEN: In running for . . . ?

BYRNE: Governor.

TRELEVEN: Really? Was this in the press? Or is this . . . ?

BYRNE: No, it's very private, and I just absolutely

BYRNE: turned it down right away. First of all, Governor Brown, whom I much admired, was running again, and secondly, as I said before, I had made the commitment after my involvement with the Kennedy thing that I was just going to do my work and work hard as a good lawyer and make some good money and do what I could elsewhere and devote myself to my practice. I took this leave of absence to do this university report, and it was very stimulating. I enjoyed it immensely. I thought we did a lot of good with it, and I was very proud of the effort. After that, I was an attractive person in the sort of amount of publicity we had after the report was issued. It was during that period that a couple of people that were serious--and I won't tell the names--asked me if I would consider. . . . And I said no. It wasn't anything that I really thought seriously about or said, "Well, I have to think about this and talk to six people." I knew I did not want to do that, that I wanted to devote myself to my work. I grew up relatively poor, and I wanted to have the opportunity to make some money, and that wasn't the way that I would be

BYRNE: able to make money. That's the way I looked at it. But more importantly, I had to make a decision between the practice of law to the fullest extent or dabbling in politics at some level. It was my feeling at a large law firm that it just didn't work.

 My idol in that regard is Warren Christopher. He took leaves of absence for discreet jobs in [Lyndon B.] Johnson's Justice Department and then in [James E.] Carter's State Department in responsible positions. He was gone for two, three years each time. That is a way to do it, I think. He did that along in his career at a later period of time than 1965 when this opportunity came to me. That is the kind of thing that would have appealed to me in retrospect, but I didn't have those opportunities at the time.

 And again, the practice of law is a very demanding thing. Throughout my years of practice it's been a lot of traveling and a lot of hard work. So to be involved in politics and the practice of law is very difficult to do. So I just had to make my choice and made it to the

private practice of law. If I'd had opportunities such as Warren made for himself, maybe I would have made that choice later on in my practice.

TRELEVEN: I guess this all leads to maybe one final question that relates, in part, to the student unrest, has to do with civil rights, has to do with disaffection growing about U.S. foreign policy in Vietnam. What makes me ask this is that you were leaning increasingly towards McCarthy by '68. How were you feeling about Lyndon Johnson in '65, '66? How were you personally feeling about Johnson, foreign policy, Vietnam, which many of the very students that you had had an association with, in preparing the Byrne Report . . . ?

BYRNE: Yeah. Well, I think Lyndon Johnson is a great tragedy, an American tragedy almost. Here was a brilliant country boy that perhaps got passed one of the most important pieces of legislation--the Civil Rights Act in '64--that you can imagine. At the same time, he had this awful judgment on Vietnam. I don't know if Kennedy had lasted whether he would have pulled back or not. He had

already sent some "instructors" over there. I recall that my one great act of defiance of the Vietnam policy was to cancel my Time magazine subscription. [Laughter] I say that terribly facetiously, as you know, but Time magazine at that time was a great promoter of activity in Vietnam. I don't know if you remember it, but they were all six feet into it and strumming up support for activity. "We can't lose Vietnam like we lost China" kind of stuff.

TRELEVEN: Domino theory.

BYRNE: I was convinced early that Vietnam was a very, very bad course for us to undertake. I think that one thing that really bothered me was Ngo Dinh Diem's ouster. That was during the Kennedy administration, while he was still around. That was a terrible harbinger of what was to come. Not that Diem was any great leader or anything. It was just our participation in it. Then came the silly Quemoy and Matsu Island nonsense. Wasn't that the . . . ? No, that was later.

TRELEVEN: That was during Nixon.

BYRNE: No, what was the . . . ? That Johnson had . . . ?

TRELEVEN: The destroyer? [USS] Maddox? Was that the name

of the ship?

BYRNE: Yeah, I forgot. In the Gulf of Tonkin. Well, the answer is I thought it was not where we should be.

TRELEVEN: So you were . . .

BYRNE: I remember with the Bay of Pigs, walking down the street and saying to some friends, "You know, I think Jack Kennedy ought to be impeached for this." Now, give the measure of the man; he got up and took full and total responsibility for it. He didn't try to put it off on anybody. He could have put it off on a lot. So I softened my view of his error there. But that adventurousness. . . . Now, all of this is just being refreshed in my recollection. I've just finished reading Norman Mailer's thirteen-hundred-page volume Harlot's Ghost.¹ Have you read it?

TRELEVEN: No, I haven't read it. I've read about it, but I haven't read it.

BYRNE: It's. . . . And he promises a sequel to it on the adventures of the CIA [Central Intelligence Agency]. Very interesting. I'm sure it's all Norman Mailer. [Laughter] But it's very

1. Norman Mailer, Harlot's Ghost. New York: Random House, 1991.

enthraling reading for this whole period.

TRELEVEN: Well, listen. I know you have an appointment, and we're at the end of the tape, anyway.

BYRNE: Okay.

TRELEVEN: I have no more questions, and just a comment. This has been thoroughly enjoyable talking to you about the Byrne Report.

BYRNE: I'd like to put on the record that I'm very appreciative, Dale, of the way you handled this and got me going. You're a very good interviewer, and you've probed my mind for things that I haven't thought about for--or maybe never did think about--a long number of years.

[Laughter] It's been a pleasure to work with this, and I hope it's helpful to be a part of what human toil can do.

TRELEVEN: Well, the feeling is certainly mutual, and thanks again on behalf of UCLA and the [California] State Archives.

BYRNE: You're welcome.

[End Tape 4, Side B]