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Herman Selvin

THE UNIVERSITY OF CALIFORNIA
AND CALIFORNIA LAW AND LAWYERS, 1920-1978

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HERMAN F. SELVIN

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University of California
Berkeley, California

University History Series

Herman Selvin

THE UNIVERSITY OF CALIFORNIA
AND CALIFORNIA LAW AND LAWYERS, 1920-1978

With an Introduction by
Joseph A. Ball

An Interview Conducted by
Anne Brower
in 1976 and 1978

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TABLE OF CONTENTS -- Herman Selvin

INTRODUCTION	i
INTERVIEW HISTORY	vi
BIOGRAPHY	viii
I CHILDHOOD IN TOOELE, UTAH	1
The Town	1
Early Education	4
Excursions to Salt Lake City	5
Family Goals and Ideals	8
Family Members	11
II THE UNIVERSITY OF CALIFORNIA	15
Choosing the University	15
Arrival at Berkeley	17
Family Move to Berkeley	18
The Berkeley Fire	19
Attitude toward Southern California	22
The "California Spirit"	24
U.C. Graduates and California Politics	28
Membership in Campus Organizations	29
Recollections of the Boalt Hall Faculty	31
Recollections of the U.C. Faculty	36
Campus Representative of the Associated Press	41
Campus Organizations	44
Influential Professors	46
Campus Politics	47
ASUC News Bureau	48
Bonus Stories for the Associated Press	52
U.C. Band, Card Stunts, and Mascot	54
Program for the First Memorial Stadium Game	56
The Big Game	58
Fraternities	61
The California Crew	65
U.C. Students and the Press	69
Kappa Nu and Zeta Beta Tau	73
The Berkeley Campus after World War I	74
Recruitment of Athletes	76
Berkeley in the Twenties	78
U.C. Students and Prohibition	81

III	THE UNIVERSITY OF CALIFORNIA ADMINISTRATION, THE STATE, AND THE PUBLIC	86
	Presidents of the University	86
	Regents of the University	88
	Governor Ronald Reagan	91
	Relationship between the Governors and the University	92
	University Issues '20s to 60s	93
	The University and Affirmative Action	97
IV	WORLD WAR II	102
	Enlistment	102
	Indoctrination and Training	103
	Caribbean and Atlantic Duty	106
	Duty in the Pacific	107
	Ordered to the States	111
	Return to Duty, Surgery, and Convalescence	113
V	CIVILIAN RESPONSIBILITIES	121
	Marriage and Family	121
	Digression on the Courts and the Law	125
	Return to Civilian Life	127
	Motivation for Service in World War II	128
	Ambitions Foregone	129
VI	THE LAW: PHILOSOPHY AND PRACTICE	132
	"The Hollywood Ten"	132
	Liberals and the Law	134
	The Police Commission	137
	The Constitutionality of the Death Penalty	141
	Fair-Housing Legislation	143
	Integration of the Los Angeles Bar Association	151
	Education for the Law	153
	Launching a Law Career	155
	Employers, Colleagues, and Clients	157
	Work Load and Training	160
	Effects of the Depression	162
	Effects of the Revision of the California Corporate Law Code	162
	Specialization in Law	163
	Move to a New Firm	164
	Relation of the Commercial to the Legal Community	166
	Hiring and Training New Lawyers	168
	Changes in Recruitment and Training	172
	Procurement and Retention of Clients	175
	Social Issues and the Practice of Law	177
	Further Comment on the Police Commission	177
	Advice to Prospective Lawyers	181
	Rewards and Penalties of the Practice of Law	181

VII	MISCELLANEOUS REFLECTIONS	185
	The Death of Andy Smith	185
	General Doolittle	188
	Football and Football Coaches	189
	Earl Warren	191
	Dale Coffman	194
	The Saint Thomas More Medal	195
	Queen of Angels Hospital Case	197
	Evelle Younger	198
	The Supreme Court of California	200
	The J.D. and the Bar Examinations	201
	Law Schools and Passing the Bar	206
	Influences	209
	Legal Contributions	210
	INDEX	212

INTRODUCTION

Three outstanding students graduated in June 1927 from the law school of the University of California at Berkeley, known as Boalt Hall. Roger Traynor, editor of the California Law Review, was to become Chief Justice of the Supreme Court of California. Ray Peters, also a member of the Law Review staff, was to become Associate Justice of the Supreme Court of California. Herman Selvin, associate editor of the Law Review, then and always was the lawyer. Each man was to become a major influence in the development of the law of California.

Traynor and Peters have been lauded by an appreciative bar, but it is about time that someone told the world about the achievements of Herman Selvin. After fifty-one years of practice, he can boast that he has participated as lead counsel in briefs and arguments which resulted in six hundred appellate decisions from the various appellate courts of California, and the nation. Few calendars of the Supreme Court of California for Southern California for the past thirty years have been without an oral presentation by Herman Selvin. He has argued seven cases before the Supreme Court of the United States. One was Reitman v. Mulkey,* which held unconstitutional an initiative measure which purported to give to property owners absolute discretion as to the persons to whom they desired to sell or lease their property. Mr. Selvin successfully argued that this encouraged racial discrimination in transfer of real property interests. Another was Jack Benny, Columbia Broadcasting System, as appellants, against Loew's Incorporated, as appellee,** which by a divided court affirmed a finding that

* 386 U.S. 970, 18 L.Ed.2d 129, 87 S.Ct. 1157 (1967).

** 131 F.Supp. 165 (1955), 239 F.2d 532 (1956), aff'd. on certiorari, 356 U.S. 43, 2 L.Ed.2d 583, 78 S.C. 667 (1958).

a Jack Benny parody plagiarized the moving picture Gas Light. The last argument was made in the case of McGautha v. California,* which involved the constitutionality of the death penalty statute of California. Mr. Selvin then argued principles of constitutional law which were later incorporated in concurring opinions which declared unconstitutional the death penalty statute of the State of Georgia.**

Herman left Boalt Hall to become an associate with the Los Angeles firm of Loeb and Loeb. His ability for research and debate soon placed him at the head of the litigation department of that firm. He served nobly with the U.S. Navy during World War II with the rank of lieutenant commander. The approach of the end of the war found Herman in Okinawa as skipper of a supply ship. Saved from kamikaze attack, he returned to the practice of law with his old firm of Loeb and Loeb in late 1945. For the next twenty years he served as chief trial advocate and chief appellate advocate for that firm. In 1967 he became a named partner in the firm of Kaplan, Livingston, Berkowitz, Goodwin and Selvin. He continues to practice with that firm at a location in Beverly Hills.

Successive governors, Warren, Knight, and Brown, offered Herman a place on the bench. Governor Pat Brown offered Herman an appointment to the Supreme Court of California. He declined judicial honors and continued with the more onerous duties required of a leader of the bar. Incisive thought and forceful writing would have made him one of the judicial greats. The same qualities gave effective advice to the judges before whom he argued.

Herman Selvin's work habits are unorthodox. He works as well at home as in the library. Propped up in bed or comfortably attired in a bathing suit beside his swimming pool, he reads transcripts, writes notes, and composes comprehensive briefs. All research and argument are recorded in his readable printing. He never dictates to a secretary. How does he do this? It is the result of experience and a fabulous memory. He describes his technique: "I write the argument leaving a space for the citation; then I go to the library and refresh my memory."

Whenever lawyers or judges gather they talk of Herman's ability to recall the words of the classics: poetry, the Bible, Shakespeare, judicial aphorisms. In the late hours of a frivolous evening, he may entertain his friends with quotations from his favorite poet, Tennyson, particularly "Ulysses": "To strive, to seek, to find, and not to yield." Justice Holmes

* 402 U.S. 183, 28 L.Ed.2d 711, 91 S.Ct. 1454 (1971).

** Furman v. Georgia, 408 U.S. 238, 33 L.Ed.2d 346, 92 S.Ct. 2726 (1972).

was his legal mentor. At seminars, his close friends have heard him quote the words from Holmes's dissent in U.S. v. Schwimmer: "I would suggest that the Quakers have done their share to make the country what it is, that the many citizens agree with the applicants' belief, and that I had not supposed hitherto that we regretted our inability to expel them because they believed more than some of us do in the teachings of the Sermon on the Mount."* As might be expected Herman admired the judicial activists of his time, such as Holmes, Brandeis, Black, Warren, Traynor. He had less regard for the conservatives, Cardozo and Frankfurter.

Anecdotes of lawyers and judges attest to Herman's effectiveness as an oral advocate. At one memorable dinner of the American College of Trial Lawyers, a justice of the Supreme Court of the United States described Herman's work before the court: "I see before me at the table a lawyer from California who has argued before our court several times. He talks for one hour without reference to notes. He quotes cases by name, book, and page. In reply to questions from the court, he will quote language which the questioning justice has written in another case." The late Chief Justice Warren, a close friend, praised Herman's appearances before the court: "Herman Selvin is one of the most effective advocates who has appeared before this court during my term of office. Herman never refers to a written note in argument." On one occasion, in reply to a question, Herman replied, "Mr. Justice Black, you discussed that question in Marsh v. Alabama where you said...." And then Herman quoted the exact words of the opinion. Frank Belcher, for years the dean of the Los Angeles County trial bar, once declared that "Herman Selvin is the best forensic debater that I have ever heard."

Herman has always been active in the work of the organized bar. In June 1928, he and others organized what was known as the Junior Committee of the Los Angeles Bar Association under the auspices of Hubert Morrow, then president. This organization later became the Junior Barristers, and then the Barristers of the Los Angeles County Bar. Some years later he was elected to the board of trustees of the Los Angeles County Bar Association as a representative of the young lawyers of the county. In 1951 he became president of Los Angeles County Bar Association.

In 1954, as a member of the board of governors of the State Bar of California, Herman Selvin did his best to curb the hysterical "red scare" encouraged by Joseph McCarthy and Richard Nixon. In that year there came before the board of governors a recommendation from a blue ribbon committee that the State Bar adopt a rule of professional conduct which would require discipline for any lawyer who refused to testify before any tribunal authorized to administer oaths on the ground that such testimony might

* 279 U.S. 639, 655.

incriminate him. Herman was the first to argue that such a rule violated the constitutional rights of lawyers. The board voted 13-2 to reject that rule of special conduct. This was proof that "lawyers should not become second-rate citizens."

In 1957 the House Un-American Activities Committee came to California to conduct hearings concerning "the committee for foreign born." The chief counsel for this committee continually baited the lawyers for the unfortunate "foreign born" who were hauled before the committee by congressional subpoena. A typical incident occurred on the first day of the hearings. Under the rules of the committee, each witness was entitled to the presence of counsel. The witness announced that his attorney was John W. Porter. Porter, the lawyer, had not been subpoenaed, nor was his character or political affiliation the subject of the inquiry. Committee counsel departed from the announced purpose of inquiry and accused Porter of being a "commie." Porter protested vigorously. Counsel addressed Porter as "Comrade Porter." Porter objected. He was ejected from the committee hearing. Several other lawyers objected to such treatment and when they protested they also were ejected from the hearing room.

The governors of the bar reviewed a transcript and tape recording of the Los Angeles session and adopted a resolution prepared by Herman Selvin which criticized the conduct of the committee counsel as "improper and lacking in dignity and impartiality" and the "grossly offensive remarks" which were directed at counsel for witnesses. The resolution further stated that the remarks "were of such character as to impose a threat to the right to appear by counsel and of the proper independence of the bar." Later, in June 1957, Wheeler, investigator for the House Un-American Activities Committee, demanded of Jack Hayes, secretary of the State Bar, that he reveal the name of the lawyer who drew the resolution. Herman Selvin proudly asked Jack, "I hope you gave him my name."

In support of the position of the State Bar, Herman declared that a lawyer should not be subject to intimidation and abuse at a time when he represents a member of an unpopular political party, otherwise the very person who needs counsel would be deprived of the right of counsel. He declared that the right to counsel is one of the noble traditions of constitutional government.

Governor Pat Brown appointed Herman to the Law Revision Commission in 1960. He served until 1967. He was chairman of this commission for four of those seven years. During his service the commission studied, prepared, and presented to the California legislature the California Code of Evidence and the Tort Claims Act of California. In 1965 Chief Justice Warren appointed Herman Selvin a member of the Advisory Committee to Study Uniform Rules of Evidence for the Federal Courts. That committee took as a guide the Evidence Code prepared by the Law Revision Commission of California.

A change in his work in the law occurred in 1956 when Mayor Bowron appointed Herman Selvin to the Police Commission. He served as president of that commission for two years. During this period he took an active interest in civil rights problems which from time to time were presented to the commission. He was in a position to criticize policemen when they were wrong, and he vigorously defended them when they were right.

Herman has studied and written in various fields--tort law, contract law, entertainment law. He has done little work in criminal law but has been vitally interested in civil rights. He was an ardent supporter of the decisions of the Warren Court, which required state criminal proceedings to conform to due process requirements of the Bill of Rights. He has one claim to fame in the criminal field; he represented one man accused of crime, and the man was acquitted.

One well-publicized case in which he served as lead counsel was the successful defense of various moving picture studios for breach of contract action brought by the "Hollywood Ten Screenwriters." In conducting this defense Herman Selvin was a true advocate. He presented his clients' case even though his sympathies might have been to the contrary. Most lawyers believe that if the Hollywood Ten cases were tried today the plaintiffs would win. It is also a certainty that Herman Selvin today would look with some criticism upon the appellate decisions which deprived the "Hollywood Ten Screenwriters" of their contract rights.

Herman Selvin is one of the most popular lawyers at the bar. Everyone claims friendship with the little genius of the courtroom. During a trial he is courteous but a bit unfriendly. When the ordeal is over, he is pleased to invite his opponent to the nearest bar for a drink of his favorite beverage, scotch whiskey. Perhaps more could be said of the life of this man, but it would take all of the chapters of this book. In summary, it is the opinion of lawyers and judges who have witnessed the meteoric career of this talented lawyer that he stands first among the great advocates of California.

Joseph A. Ball

March 1979
Long Beach, California

INTERVIEW HISTORY

Herman Selvin, distinguished jurist and loyal alumnus of the University of California, has practiced law in California for more than fifty years. Despite the demands of his profession and heavy family responsibilities Mr. Selvin has maintained close ties with the University over that same period. Because of his perspective on the evolution of the philosophy and practice of law in California, his role in fair-housing legislation and in the challenge to the constitutionality of the death penalty, and his intimate knowledge of the University, Mr. Selvin was asked to be a memoirist in the University of California Historical Series.

At sixteen Herman Selvin came from a small town in Utah to Berkeley, where he entered the University of California. That was the beginning of a lifelong love affair with the University. Upon his graduation from Boalt Hall Mr. Selvin moved to Los Angeles to work for the law firm of Loeb, Walker and Loeb, and he has lived in Southern California since that time. The move was merely an accident of geography, however; his heart remained with the Berkeley campus, which has enjoyed his loyalty and his generosity over the succeeding years. Mr. Selvin also gave much of himself in service to his area of residence: He is a former president of the Los Angeles County Bar Association; he served on the board of trustees of the Beverly College of Law and on the board of councilors of the University of Southern California Law Center; he is a past president of the Los Angeles Board of Police Commissioners.

During World War II Herman Selvin interrupted his law practice for navy duty. He was in command of a ship doing escort duty in the Caribbean and the Atlantic and then was transferred to the Pacific, where he participated with the Fifth Fleet in landings at Iwo Jima, Okinawa, and Ie Shima, engaged chiefly in salvage and rescue operations under combat conditions. In the fall of 1945, upon the surrender of the Japanese, he was separated from the navy with the rank of lieutenant commander.

With the exception of his World War II service, Mr. Selvin's distinguished career in the practice of law has been continuous since 1927, when he received the J.D. degree from Boalt Hall, where he was a member of the Order of the Coif. He served on the board of governors of the State Bar of California and

on the United States Judicial Conference Advisory Committee on Uniform Rules of Evidence for the Federal Courts; he was chairman of the California Law Revision Commission. Among the honors he has received are the Distinguished Alumnus Citation, Boalt Hall (1965), the Saint Thomas More medal (1966), and the Shattuck-Price Award, for distinguished service to the cause of administration of justice (1972).

Three interviews were held with Herman Selvin, on November 19, 1976, and on February 14 and February 15, 1978. All three interviews were taped in Mr. Selvin's Beverly Hills law office, an elegant, well-appointed room with a splendid view of the nearby hills. Although I found the austerity of the setting and the dignity of Herman Selvin himself rather overwhelming at first, I was soon put at ease by the gentle thoughtfulness of both Mr. Selvin and his secretary, Miss Frances Richkind, who provided coffee and on two occasions materialized lunch at Mr. Selvin's impressively large desk.

In general Mr. Selvin responded to my questions with little hesitation. He sat at his desk, half-facing the window and half-turned to me, and spoke in a low but entirely audible voice, often a little as though he were speaking to himself. Queries about the Berkeley campus evoked happy recollections of events and personalities and frequently released a flood of detailed memories. When his law career was touched upon, Selvin's responses tended to be more diffident, especially with respect to his own accomplishments. My question about his personal life received minimal answers--it was clear that he felt these matters were of slight interest to posterity. Nevertheless, Mr. Selvin was always courteous and never answered questions curtly or with impatience.

The interview as presented here does not follow altogether the sequence in which it was recorded. The first interview was undertaken for the Walter Gordon project, an oral history of a great University of California football player and coach, who was a leader in the black community, the head of the California Adult Authority, and governor and federal judge of the Virgin Islands. The Walter Gordon material in the interview of November 19, 1976 appears in that oral history. Other material from that first interview here augments the later recordings, and the accounts of General Doolittle, football and football coaches, and Earl Warren that appear under "Miscellaneous Reflections" were also taped at the first meeting. The other subjects subsumed under that heading were recorded at the later sessions and were moved out of sequence because they intruded upon the continuity of the discussion.

The transcription as it appears here was submitted to Mr. Selvin for his approval; he carefully answered specific queries but made no substantive changes.

Anne Brower
Editor/Interviewer

January 1979
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University of California at Berkeley

Born: October 28, 1904; Grodno, Lithuania

Education: Public Schools, Tooele, Utah

A.B. 1924, J.D. 1927
University of California (Berkeley)

Admitted to practice October 11, 1927, and in practice continually since then, in Los Angeles and Beverly Hills, as a member, first, of the firm of Loeb, Walker & Loeb, and later of the firm of Kaplan, Livingston, Goodwin, Berkowitz & Selvin.

Member: State Bar of California;
American Bar Association;
Los Angeles County Bar Association;
Beverly Hills Bar Association;
American Law Institute;
American Judicature Society;
Order of the Coif;
Fellow, American College of Trial Lawyers;
Fellow, International Academy of Trial Lawyers;
United States Judicial Conference Advisory Committee
on Uniform Rules of Evidence for the Federal Courts;
United States Attorney General's National Committee
to Study the Antitrust Laws;
California Constitution Revision Commission;
Beverly College of Law, Board of Trustees; [Term expired]
Board of Councilors of USC Law Center.

Past President:

Los Angeles County Bar Association;
Boalt Hall Alumni Association;
Los Angeles Board of Police Commissioners.

Past Member and Chairman:

California Law Revision Commission.

Past Member:

Board of Governors, State Bar of California.

Awards: Distinguished Alumnus Citation, Boalt Hall (1965);
Medalist, St. Thomas More Society (1966), Loyola
University Law School;
Shattuck-Price Award, for distinguished service (1972)
to the cause of administration of justice, Los Angeles
County Bar Association.

I CHILDHOOD IN TOOELE, UTAH

Brower: Mr. Selvin, can we begin with where you were born?

Selvin: I am one of these bloody foreigners whom Americans hate so much, fear so much at times. As a matter of euphemism more than anything else I refer to myself as a Lithuanian because I was born in Lithuania, but at the time it was part of Czarist Russia. So, strictly speaking, I suppose I ought to call myself a Russian or a former Russian, but that is not as popular as it is to be a Lithuanian.

Brower: How old were you when you came to this country?

Selvin: Five. Matter of fact, I think I had my fifth birthday somewhere in mid-Atlantic. My mother was bringing me over. My father had preceded us by a few months in order to get things ready.

The Town

Selvin: We settled in a little town in Utah--called Tooele--thirty-five miles south of Salt Lake right at the foot of the Oquirrh Mountains, which are really a spur of the Wasatch range.

Brower: Those are beautiful mountains.

Selvin: Yes. It's a beautiful valley, the Tooele Valley. Tooele, incidentally, is the name of the town.

Brower: What took you to Salt Lake? It seems so remote from Lithuania.

Selvin: My mother's oldest brother had settled in Salt Lake, in fact, he was in the mercantile business in Salt Lake City. He got to Salt Lake because his wife's brother was there. How his wife's brother

Selvin: got there or why, we've never been able to figure out! At that time Tooele was largely an agrarian and mining town. There was quite a bit of mining in Tooele. Just on the other side of the Oquirrh range you get Bingham Canyon where you have what is now the famous open pit copper mine. So, it seemed a good idea to somebody, outside interests, to open a smelter in Tooele and run a tram line across the mountains to the mines in Bingham to bring over the ore to be smelted.

Well, that apparently gave my uncle the idea that Tooele might be a good place for a general merchandise store. So, he opened one and put my father in charge of it. I think my father ran it as the manager, oh probably a year or so, and then finally bought the store and continued until, well, the time he retired, not till the time of his death. The time he retired was quite a while before.

In the meantime I grew up in this little town of 3500 people. The population was mostly Mormon. Because of the smelter there had been some importation, probably in violation of the peonage laws, of people of southern European descent, mostly Serbs, Greeks, Austrians, and some Japanese strangely enough.

Brower: That's really a surprising group, isn't it?

Selvin: The Japanese lived by themselves in a barrackslike structure near the smelter. The smelter incidentally we always referred to as being up On the Hill, something like Congress, because it was in the foothills at the base of the Oquirrhs. The other people, the south Europeans, along with a very few Irish families lived in a section of town that technically was really called Plat C but was always referred to as New Town. The reason, I think, that the Irish people lived up there along with the south Europeans was that that was where the Catholic church was located. Most of the south Europeans were Greek Catholic, Orthodox Catholic, but the Catholic church there was Roman Catholic. They attended that, I suppose, on the theory that it was better than nothing at all for them.

Brower: Did this group tend to be single men or were there families?

Selvin: Families.

Brower: Was that true of the Japanese as well?

Selvin: No, the Japanese as I recall were pretty largely single men. There weren't very many of them. As a matter of fact, by the time I got old enough to appreciate the fact that there were such things as marked differentiations of race I think most of the

Selvin: Japanese had left there anyway. They were really peons. They had been brought over by a contractor and their wages were turned over to that contractor and he charged them for their living accommodations, for the scanty amount of food that he let them have, and a few things of that sort. It was a clearly illegal operation.

Brower: The south Europeans were more nearly free agents then?

Selvin: They were entirely free agents. As a matter of fact, some of them had their own businesses. I remember Steve Jankovich--he ran a bakery and, incidentally, baked very good bread--and people of that sort. With that exception, the rest of the town was all Mormon and practically all pioneer-stock Mormon. A good many of the old-timers that had crossed the plains with Brigham Young or shortly afterwards were still there.

One of the closest friends that our family had was a man by the name of Bevan--John A. Bevan, a patriarchal looking gentleman with a long white beard and flowing white hair. He was in fact a patriarch of the Mormon Church. I remember we rented a home from him for quite a while until my parents became so circumstanced that we could build our own. But John Bevan loved to reminisce about the old pioneer days in Utah. He liked children and he and I struck up a rather strange May-and-December type of friendship. I was a little kid still in the early grades of grammar school and here was this bearded, patriarchal old man. Having attained the age that I now have attained, I realize that John wasn't quite as old as he appeared to me to be.

Brower: It's interesting though that there seems to be an ease of relationship that skips a generation.

Selvin: So, I grew up on tales of the Mormon pioneers and living among the Mormons. We were the only Jewish family in town, incidentally, and completely and unself-consciously accepted by everybody, pretty largely I think because, in the first place, we were the only ones. In the second place, the Book of Mormon teaches that there is a connection between one of the Lost Tribes of Israel and early Americans. So, they always considered us as being sort of cousins.

Brower: They didn't proselytize? They didn't try to convert you?

Selvin: Well, no more than they did anyone else. The Mormons have the practice of what they called home missionaries. They not only send missionaries out into foreign parts or other parts of the country as well as other parts of the world, they have home missionaries. Those people visit non-Mormons at their homes in the town in which they live every so often. The general purpose

Selvin: of it is to attempt a conversion to Mormonism, although I can never recall it being a hard-sell type of operation. They just come and sit around and visit and talk.

Outside of that, no, there was never any attempt. Quite the contrary. Because of the supposed Mormon connection with the Tribes of Israel they made quite a bit out of my father who, having been trained for the rabbinate in the old country, naturally spoke and read Hebrew and was quite familiar with at least the first five books of the Bible, the Torah (the five Books of Moses). He was frequently invited to speak at a Mormon meeting. That's what they call their church devotional services on Sunday. That was a meeting. It wasn't church services. It was called a meeting. He was frequently invited to speak to them at their meetings about Biblical lore. Sometimes they asked him to speak in Hebrew, although I don't imagine there was anybody there that understood it. He'd have to translate it for them afterwards, but they seemed to enjoy hearing it in what they believed to be the original language of their own remote ancestors.

Early Education

Brower: What about your education? Were there schools? Was yours a good school?

Selvin: Yes. We had one grammar school. I take it back. We had two grammar schools. Up at New Town they had a little grammar school too. The New Towners were sort of segregated. They lived in one section of the city altogether--"the city," the town! They had their own school. They were all of a different religion and to a considerable extent they were treated as sort of second-class citizens. We had one high school and it wasn't until the children from New Town got old enough to go to high school that the barriers began to break down. I think that was largely due to two things. In the first place, seeing them up close people began to realize that they really didn't have horns. In the second place, some of them were damned good athletes.

Brower: We have this same situation in Berkeley, where there's one high school. Now there's busing, but before that it was the first breaking down of racial barriers.

Selvin: I went through grammar school there in what I now realize was too few years. I skipped or was made to skip quite a few grades. I didn't ask for it. They just promoted me. I now realize that was a mistake because I was too young when I got to college to be going to college. I didn't get as much out of my first two years

Selvin: of college as I might have had I been at least two or three years older than I was. But, I went through grammar school and then I went through the local high school. I succeeded in making the football team in my senior year incidentally.

I got a pretty fair high school education all things considered. I remember that our English courses were good. Math, as far as it went--it didn't go far enough; it didn't go beyond trigonometry--was good enough so that it still sticks with me. My last year they instituted a foreign language course, which was French, so I got in one year of French. Unfortunately that got me fouled up when I got to Berkeley because two years of high school French seemed to be a prerequisite to everything. It really got my first year fouled up because I was mistakenly steered into a course by my, quote, adviser, unquote, that required two years of high school French as a prerequisite. I passed the course despite the absence of the prerequisite, but they wouldn't give me credit for it because I wasn't entitled to take the course. I lost five units. I had to go to summer school to make up that five units.

Brower: You must have gone to college when you were only sixteen.

Selvin: Fifteen. I had a very good academic record in high school.

Excursions to Salt Lake City

Brower: Your family was not deeply religious, was it? Well, you couldn't be. There was no means for expression. There wasn't a synagogue.

Selvin: No, there was no synagogue in Tooele and there were no other Jewish families except one for a short time with whom we never developed a very close relationship as I remember it, largely I should think because they were there only a short time.

Although Salt Lake was only forty-two miles away at that time by road, it was a long ways away in the then stage of the development of the automobile and of roads. The roads were not hard surfaced. They were gravel roads. Cars were far from dependable, particularly the tires, so that a trip to Salt Lake was not as it is today. I think with a modern highway and a modern automobile, you'd get into Salt Lake in thirty minutes or so. But in those days it was a two-hour trip at least and it was an adventure.

Brower: It's something we tend to forget, that a lot of adventure has been taken out of the world by the ease with which we get from one place to another.

Selvin: Well, I suppose that's true today. I don't live there and haven't for a long time, but I suppose that a trip to Salt Lake is no more than a trip to a neighborhood movie or a downtown movie is today to people who live in a larger city. But in those days a trip to Salt Lake was not something that came as a matter of course. It had to be prepared for. It was an adventure and you were fortunate if you got to and from on time and without a great deal of trouble.

Brower: Was it a trip your family made often, and if they did for what purpose?

Selvin: I wouldn't say often but they weren't infrequent. There would be several purposes. One would be to visit the Salt Lake relatives who consisted of Mother's two brothers and their families. Another would be business; traveling salesmen from concerns with whom my father dealt would be in Salt Lake, so one purpose would be a buying expedition. In addition to that, a substantial supplier of my father's business was what we, and I think almost everybody else in Utah, referred to as the ZCMI which of course stands for Zion's Cooperative Mercantile Institution. Now, the ZCMI was a retail establishment in those days but it was also a jobber and a wholesaler and in those latter respects a considerable part of the stock that my father carried and stored in Tooele was obtained from ZCMI. So we'd go in there for that.

Then the enjoyable ones from the standpoint of kids growing up were the trips that were taken to Salt Lake for pleasure, sometimes in connection with the annual state fair which was a big event. Sometimes just to go in, see a show, have a social visit with the relatives and come home, something of that sort.

Brower: When you said a show, did you mean a stage performance?

Selvin: Yes, the Salt Lake Theater. I still remember it was at State Street and First South. It was a famous theater in its day. It had the greatest theatrical stars of America visit there and some of the plays that would be staged at the Salt Lake Theater were the leading attractions of the day. Maude Adams, of course, was a Utahan and she was one of the great female stars of her day, even before and certainly after Peter Pan.

Brower: I was going to ask you if you'd seen her in Peter Pan.

Selvin: No. So the Salt Lake Theater was always an attraction. Sometimes [we saw] a movie that hadn't gotten out to Tooele. During a great part of the time that I lived in Tooele we only had a movie once

Selvin: a week. I can remember seeing The Birth of a Nation there and a traveling theatrical performance accompanied by an orchestra at the old Opera House in Tooele.

Brower: As a stage performance?

Selvin: No, as a movie but accompanied by an orchestra. Learning what I have learned since about the entertainment industry, how they road show a picture of that magnitude accompanied by a live orchestra into a town as small as Tooele is something that I don't understand but they did.

Brower: It was economically unfeasible?

Selvin: It would seem so. That was a great picture. Since then, I have learned to disagree with its primary theme but it was dramatic and whatever you may think about the old Ku Klux Klan or even the new Ku Klux Klan, the old one was certainly a dramatic institution and, of course, the principal motif of The Birth of a Nation was the ride of the Ku Klux Klan after the destruction of the Civil War. That's where Henry Walthall I think, wasn't it, who played the part of the little colonel? Well, he was a Confederate soldier and as the movies have done from that time to today, the Confederates (I prefer to call them the Rebels because that's what they were) were the flower of American chivalry whereas the Union soldiers were the thugs and the butchers and the rapists, particularly after Sherman's march to the sea.

Brower: It is true that the South has been romanticized always, hasn't it?

Selvin: Well, I can reveal my prejudices by saying that I frequently maintained that the greatest tragedy that ever happened to the United States was that the North won the Civil War because if the South had won it, the South would be a foreign country and we wouldn't have to pay any more attention to them than we now pay to Afghanistan or some places. But anyway, The Birth of a Nation was a great picture.

Brower: Those trips to Salt Lake must have been pretty exciting adventures in those days.

Selvin: They were and those that stand out in my mind are when my father and L.L. Baker, who was a neighbor and a friend of my father, whose oldest son Leroy was probably my closest friend through high school, would combine to take the kids (the Baker and the Selvin kids) into Salt Lake to the state fair or for some other function and which trip always included dinner, except I guess we called it supper, at Kwong Nom Low's, a Chinese restaurant serving primarily American food, on Third South, Salt Lake, west of Main Street, right next to the Orpheum Theater I remember. Kwong

Selvin: Nom Low's great attraction, aside from the fact that to the kids from the country it was its good food, was its bountifulness. I still remember that for the price of thirty cents, the Kwong Nom Low menu included a full dinner including two meat courses!

Brower: Was L.L. Baker an attorney?

Selvin: Yes, he was a lawyer and a Mason although married to a woman who was a Mormon. She was a Mormon and, of course, the Masons and the Mormons theoretically don't get along. I've never known the reason for it, although I have suspected from things that I've read and been told that Joseph Smith, the founder of Mormonism, was himself a Mason at one time and that the Mormon Temple ritual, which of course is secret to everyone except Mormons in good standing, is a plagiarism of Masonic ritual. The Masonic ritual, I learned from my father, is never written. It's maintained in oral tradition. They don't have the ritual, at least the complete ritual, written down any place.

Well, through the Masonic Lodge and the fact that we were neighbors, L.L. Baker and my father got to be very close friends--for that matter, all of the family did, including the girl Charmian, who played the piano accompanying me playing (you can put playing in quotes in that connection) the violin. But Leroy and I were very close, as I say, during high school.

Family Goals and Ideals

Brower: Do you think that acquaintance had anything to do with your interest in law?

Selvin: No. I can't recall L.L. Baker ever attempting to proselyte me in anyway or ever saying anything about the law practice to me. I think as I said before, I can't remember a time where I didn't want to be a lawyer and I can't isolate the reason for that feeling unless perhaps it was the old Jewish stereotype--you know, "I want you to meet my son the doctor, I want you to meet my son the lawyer." But Mother was never that way. I can't recall Mother ever trying to make me out to be anything except what she considered to be a clean and honest individual.

Brower: But she did emphasize education?

Selvin: Oh, no question about that. Education stood number one in her mind. There was never any question, as I said before, of whether the Selvin children were going to college. In those days, that **was**

- Selvin: a question for a lot of kids, as to whether they should or shouldn't or could or couldn't. But that was never a question in our family. The only question was where.
- Brower: I suppose she did assume some sort of professional life would come out of that education?
- Selvin: Well, yes, all right. I really don't recall any family discussion on the subject. It was just taken for granted. I took it for granted. There was nothing to talk about. That's what I was going to be and in the event I was admitted to practice so I guess we were both right.
- Brower: Your father was equally interested in educational goals?
- Selvin: Yes, but Dad was never as vocal or as voluble as Mother. He, I now realize, to a considerable extent, voluntarily I guess, sort of stood by in the shadow of Mom's--what we used to call lectures--to the kids, but he never expressed any dissent.
- Brower: In their roles in the household, was your mother the dominant member of the household? How would you allocate their responsibilities?
- Selvin: That's a difficult question to answer. On the surface, the answer is yes. But as I look back on it, Dad was a much more potent influence than one would suspect from his comparative silence about matters. Mother used to turn everything into a lecture. Dad very seldom said anything. I still remember when I left to go to Berkeley, Mother was away because one of her sisters had become seriously ill and was being treated in California. Dad saw me off at the station. The only thing he said to me was, "Come back as good a boy as you were when you went away." There were no homilies, there were no lectures, there was nothing on the order of Polonius. That's all he said.

Now, after Mother died, Dad blossomed considerably--and I think it's even wrong to say that--say the blossoming was more perceptible than it was when she was around.

- Brower: What about their relative education? Had they similar educations?
- Selvin: Their education, of course, being in Russia and they being of the persuasion that they were, was nonexistent from any formal standpoint. There wasn't any school, as I understood it, that they could have gone to. But they were both privately educated. Both were well educated; Mother particularly was greatly interested in literature and the arts and she had a pretty good knowledge of them. Now, where she picked that up, I can only assume, was from her interest in the old country, supplemented by whatever she was able to piece out from reading in this country.

Brower: But your father knew Hebrew and had been trained in--?

Selvin: Oh, yes, he had had training for the rabbinate and he could speak what I suppose was fluent Hebrew. He was quite familiar with the Old Testament. I don't know how much of the New Testament he'd ever read. I doubt that he knew very much about the New Testament. He was, I suppose, still influenced enough by the old orthodox ideas that were prevalent among Jews in the old country--you notice that, the "old country"? You can see I'm an immigrant--in the old country about the New Testament. Of course, the very orthodox Jews, as I understand it, deny the existence of Jesus and therefore, the New Testament is sacriligious as far as they are concerned and certainly they deny (even the nonorthodox) that Christ was the Messiah. I was brought up to believe (whether that's what I figured out for myself or whether that's what my parents told me, I think primarily my father) that there was a man called Jesus and he was a great man and he was crucified because he was in revolt against the Roman domination.

Brower: That's essentially the Unitarian view with which I grew up.

Selvin: Well, yes. It was Unitarian; it's just what its name indicates. They don't believe in the Trinity and theologically I see very little difference between what I know of Unitarianism and Judaism, that is at least Conservative or Reform Judaism. Orthodox Judaism doesn't see itself as having anything in common with anybody, I guess.

Brower: David [Selvin] said that he went to the Methodist Sunday School.

Selvin: I don't think Dave ever went to the Methodist Sunday School. My sister used to go to the Methodist Sunday School, only because some of her friends went there, not with any religious motivation. She went there more with social motivation than anything else. But I don't know. I haven't talked to her about it. I don't think I was ever inside the Methodist chapel. I don't think I ever went to a Mormon service on Sunday, although I was frequently in the chapel for other affairs. [Chuckles]

It reminds me of the time--I couldn't have been more than six or seven years old at the time--another youngster about that age and I were playing on the grounds of the old South Ward Chapel in Tooele. That was the first of the Mormon chapels to be built. I think it went back to 1860-something. This young fellow came from a Mormon family and undoubtedly he had heard his people talking about something called the Holy Ghost. I had never heard of any such thing as the Holy Ghost. I had heard of ghosts. But we decided that day (it was a week day but the chapel

Selvin: was open but there was nobody in it) that we would go inside and look for the Holy Ghost and we did, scared to death that we'd find him! But we didn't. [Laughter]

Brower: So religion was not really a very dominant factor in your family life?

Selvin: No, it wasn't but on the other hand imperceptably--I mean without any lecturing or express discussion of the fact--we did grow up with an awareness of our Jewish ancestry and of the Jewish tradition and the Jewish legacy if you want to call it that. I haven't thought of myself as anything else particularly, other than that I've always insisted that my nationality was American.

Brower: Do you think that your ethical ideas were born at that period?

Selvin: Yes and they were largely due to the result of my parents, the more vocal of them being, as usual, Mother. But Dad would chime in on that subject too and it's really only one precept and that was honesty. There was an unexpressed though still strongly felt--extramarital intercourse was, to put it mildly, impermissible. I shall not go into my present reaction to that.

Brower: The world has moved a great deal in that regard.

Selvin: Yes, unfortunately not soon enough. But, as I say, honesty was the thing that I was taught by word and by example.

Family Members

Brower: There were no grandparents, of course, in this country?

Selvin: No, they were all, I think--by the time we got to this country the only ones left were my father's parents. His father died shortly after. I can remember when his mother died; it was 1919 and the reason I remember is that we were spending a vacation for my mother's health at the time in Long Beach when the news came from the old country that Dad's mother had died.

Brower: There were no other relatives of that generation in the United States?

Selvin: No. Whether it was an older brother or not I'm not sure, but a brother of my paternal grandfather was still alive in the old country. I'm not sure whether he was taken care of by the Hitlerites or whether he had died before then.

Brower: But in the United States there were none?

Selvin: No, there was nobody else. The only other Selvin in the United States was my father's kid brother, Isador--whose name was not changed to Irving I might add.

Brower: Is that where "Irving" came from?

Selvin: Yes.

Brower: Do you have any pre-United States recollections at all?

Selvin: Oh, yes. But let me finish about Isador. Isador was my father's kid brother. He is alive today. He is, I think, at least 86 years old today and he's just as active and alert as he was as I first remember him when he was a young man.

Brower: What did he do?

Selvin: Well, he's practically retired now. He's in Saginaw, Michigan. He has a mercantile establishment there in Saginaw. It's not a very big one as I understand, but apparently it satisfied his needs and his desires to keep busy although his son is primarily the entrepreneur now.

Brower: Did your father reach that age?

Selvin: No, Dad died at 81. Mother who, as is not uncommon among Europeans, particularly of Europeans with other than aristocratic or very wealthy connections, was never too sure of her birth date. When she died we always thought, and I don't know how accurate it is or was, that she was 65.

In fact, she had maintained a relatively small insurance policy on her life payable to the four children. It was New York Life, whom I never represented, but I've represented other life insurance companies. When the claim on that policy was put in, it was rejected on the alleged ground that she had mistated her age in the application for the policy. That's what reminded me of it. For various reasons, I thought the [insurance company's] claim was no good, not the least of which was that I thought the age she stated was as nearly accurate as the information at the time could have made it. But New York Life and the home office sent an adjuster out to talk to me about the case, wanting to settle it for peanuts which I refused to do. Then he told me in effect that the company would have no alternative but to continue in its refusal to pay.

Well, I said, "Fine, you go ahead and refuse to pay. The beneficiaries of the policy will sue you and we'll sue you in Tooele County, Utah. We'll ask for a jury trial. If you think

Selvin: for a minute you can get a jury of twelve people in Tooele County who will bring in a verdict that implicitly finds that my mother was a liar, you've got yourself another think coming. So you just go ahead and refuse to pay. You will ultimately pay, plus whatever it costs you to defend that case in Utah. It's not going to cost us anything because I'll try it."

So they paid it, but without a lawsuit. But I meant it. I thought at the time, there's hardly anybody in the county of any consequence and certainly not anybody who would be on that county jury roll who didn't know my mother and didn't at least respect her if not like her. You're never going to find a jury in Tooele County that will bring in a verdict saying that she was a liar when she gave her age.

Brower: If the basis on which she gave her age was unacceptable to them, it should have been unacceptable from the beginning I should think.

Selvin: Insurance companies are funny. New York Life at that time had a reputation, maybe not among the public generally but certainly those of us who were in the insurance law end of the practice and I was, we were familiar with New York Life's reputation which was that of being a litigator. They rejected many claims that other companies would have paid without a murmur and I knew that at the time they turned down this claim and I wasn't about to give in.

Brower: I would have thought of insurance as being safe as a church.

Selvin: No, there are instances where an insurance company is justified in not paying or at least in shaving a claim and I have tried lots of lawsuits in which I've raised that justification but this didn't happen to be one of those, that is one for which there was no justification in my opinion.

Brower: Then your father outlived your mother by some years?

Selvin: Yes, she died in 1940. He died in 1957. My mother died just a few weeks before her first grandchild was born. She knew he or she was coming at the time but she never saw him. She died, I might add to show you how the University has permeated the Selvin life, she died at the University of California Hospital in San Francisco.

Brower: You mentioned her coming to California earlier because of her health. Was she not a well person?

Selvin: Well, she was. Even at that time, she wasn't suffering from any specific or concrete illness. She just was a little weak and tired, I think, more than anything else.

Brower: Utah has a pretty harsh climate, I guess.

Selvin: Well, yes. I look back on it and I didn't realize at the time, Mother was never really happy in a small town without cultural facilities that she craved so much.

For her, the greatest city in the world was New York and not because of its size or its buildings but because of the cultural opportunities that were open to anybody for little or no cost. She loved New York--the museums, the theaters, and that sort of thing. Consequently, in Tooele about the only outlet aside from reading that she had for that drive was something called the Women's Literary Club. I don't know whether that's the official name, but a bunch of women got around and talked about the latest books or things of that sort.

II THE UNIVERSITY OF CALIFORNIA

Choosing the University

Brower: Mr. Selvin, can you tell me how you happened to come to the University of California, from high school in Tooele, Utah?

Selvin: One day in my senior year I was called to the principal's office, which puzzled me because I hadn't done anything to merit discipline for quite a while. I had been a rather troublesome student my senior year, largely because I had too much time on my hands. I had enough units to graduate from high school at the end of my junior year, but even I realized that that was pushing it too far. So, I took another year and I took the minimum number of courses permitted. The result was I had a lot of time on my hands and that time was spent largely in creating hell around the school. [Laughter]

I couldn't understand why the principal wanted to see me because, as I say, things had been quiet and I hadn't been responsible for anything that had happened for quite a while. So, I finally announced myself in his office and he asked me to sit down. Then I breathed a sigh of relief. I knew there was nothing disciplinary about that if he was going to permit me to sit while I was talking to him.

He asked me if I'd given any thought to where I wanted to go to college. I said yes, I'd given it a great deal of thought and there had been a great deal of discussion about it at home, which was true. Mother particularly was very much interested in the question of where the children were going to get their higher education. The question was never whether or if but where. We had discussed a lot of places including, I am glad to say, Stanford which I scornfully rejected. At that point I had never seen Stanford. I didn't think much about it.

Brower: What was your basis for rejecting Stanford?

Selvin: I had read an encyclopedia article about Stanford and it struck me as being not quite the kind of a place that I wanted to go to.

Brower: Good early intuition!

Selvin: Well, the principal said to me, "Have you ever thought of going to Berkeley?" Now, of course, in those days--and that was a long time before the Free Speech Movement--the University of California consisted only of the Berkeley campus, the Affiliated Colleges over in San Francisco, the Scripps Oceanographic Institute down at La Jolla and the Lick Observatory on Mount Hamilton--oh yes, and the farm up at Davis.*

Well, "Have you ever thought of going to Berkeley," which was how the University of California was always referred to in those days. I said, "Yes, as a matter of fact, I have." That was true, because in addition to other schools that I had looked up and my mother had looked up in encyclopedias and other reference works California was one of them. Then, in my senior year we got a new student at the high school who was a little bit older than the rest of us. He had been in the army for a short time during World War I and had been stationed on the Berkeley campus in connection with the SATC [Student Army Training Corps] there. He was also a football player. So, I used to see quite a bit of him when we were out to practice and at games, one place or another. He kept telling me what a wonderful place Berkeley was and what a magnificent location, institution, and so on and so forth that it was.

When the principal asked me if I'd ever thought of going to Berkeley and that he thought that was a good place for me those two influences just happened to come together and they made up my mind right then.

I went home that afternoon and I told Mother that the great question had been decided, that I knew where I was going to go to school. She said, "Where?" and I told her Berkeley. Then, as only Mother would have done, she started arguing with me, not because she disagreed, but she just wanted to be sure that I was sure. And I was. Of course, the more she was unsure the surer I was. So, that's how I got there.

*There was also the "new" UCLA campus on Vermont Avenue.

Arrival at Berkeley

Selvin: I walked onto a campus which at that time had ten thousand people on it, having come from a little town of 3500, and I was really a frightened kid.

Brower: That was very far from home. Did you know anyone here before you came?

Selvin: No, I knew absolutely no one on the campus. I had heard that a cousin of a cousin of mine, but no relation to me, whose family had moved from Salt Lake to Portland, Oregon, was planning to go to Berkeley. But there was no confirmation of that report and I hadn't seen him or he me since we were about six years of age. We were about the same age.

I guess about the second day that I was on the campus, walking through Sather Gate, I saw some individual about my age wearing a freshman hat as I was. I stopped and he stopped and I said, "Aren't you Shirley Baron?" and he said, "Aren't you Herman Selvin?" and we both said, "Yes." That was my cousin. Outside of that fellow I knew absolutely no one on the campus and knew absolutely no one in the Bay Area.

For that matter the only people that we knew in California at all lived down here in Long Beach and they had about as much interest in California, or any other university, as the late esteemed Ronnie Baby [California's ex-Governor Ronald Reagan].

Brower: Where did you live when you came to this new area? How did students manage? Was there anybody that sort of steered them around?

Selvin: Well, there were boarding and rooming houses around the campus. I lived at a place called the Southgate which was on Telegraph Avenue about a half block south of Sather Gate. There were eating establishments too, that sort of thing. If you didn't make a fraternity--and I didn't of course--that's where you lived.

Brower: That sounds a little bleak.

Selvin: No, it's not too bad because it was the equivalent--you were as close if not closer to the campus than the present dorms up there, the residence halls. Most of those places were entirely occupied by students. So, for all practical purposes they were very much like a residence hall without its official restrictions.

Brower: So, if anything, it was an improvement?

Selvin: Yes, to that extent, I suppose it was.

Brower: You were pretty young for this experience, though, weren't you?

Selvin: That's the conclusion I ultimately reached. At the time I didn't think so and, of course, at the time I had a good time. I'd always wanted to be a lawyer and why I can't tell you. It was always taken for granted in the family that I would be a lawyer. No one ever proselyted me into the profession. But I had decided, having grown up to some extent on liberal doses of Stover at Yale and that tupe of work, that your undergraduate days at college were the time to get a modicum of education and to have a good time and then when you got into your graduate work that was the time to get down to real serious study. And I followed that course. I had four years as an undergraduate of respectable grades, nothing startling. My upper division work was good. If I had done as well in the lower division as I did in the upper division I think I would have had Phi Bete grades but I didn't have.

Brower: Well, that sounds like a good program.

Selvin: Then, I took my degree. In those days they had a combination arts and sciences and law curriculum by which you could take three years in the college of arts and sciences and your fourth year as your first year in law school. So, then at the end of your first year in law school you would get your bachelor's degree and then go on for two more years and get your law degree. That was the last year. My class was the last class who could have entered under that program.

But, two of us--Don Nichols, who was captain of the varsity football team, and I--decided no, that we were going to take our senior year as undergraduates. He wanted to devote himself to football. I wanted to devote myself to my activity which was the ASUC [Associated Students of the University of California] news bureau, of which in my senior year I was director and which, I somewhat unblushingly say, did a better job of getting publicity for the University in an amateur fashion than the pros do today.

Family Move to Berkeley

Brower: Earlier you spoke of your father saying goodbye to you when you went to school, but do I understand that the family came to California at about that time?

Selvin: Yes, for one year. For one year they lived in Berkeley and then, I guess, decided that I could handle it on my own.

Brower: Would the move to California have been in part because of your mother's wish to be in a more cultivated atmosphere?

Selvin: Probably that had something to do with it. I think more than anything else was that Mother was sort of a domineering parent, that's all. She just wanted to be there to see that her son towed the line as he was supposed to.

Brower: You mentioned a residence hall that you lived in?

Selvin: Oh, yes, that came sophomore year, the old Southgate. Yes, because my freshman year we lived for a while somewhere on Grove Street; the rest of the time, up north of the campus on Buena Vista. The house burned down in the Berkeley fire of '23, along with my violin, which was a godsend to everybody. [Chuckles]

Brower: Did you ever pick up up again?

Selvin: No, I was never very good. In the first place, I had very bad instructions I now realize. I wasn't taught the scale as a scale. I was taught in terms of which finger you put down on which string. I was never taught anything about time and that sort of thing and the result was that I never was very good.

Brower: Then if the violin burned up, that meant that you were there, that the family was there in '23?

Selvin: No. When we left, whether by design or inadvertently, I'm not sure, I left my violin behind down in the basement. I never got around to picking it up again and before I got around to it the Berkeley fire came along.

The Berkeley Fire

Brower: You must have been in Berkeley that day of the fire?

Selvin: Oh, yes, I was there on campus. We could see the fire building up on the other side of the hills coming down later what I later learned was Wildcat Canyon although I never knew it by that name at that time. And as the smoke got heavier and the flames reached the top of the ridge, the Campanile started clanging to call an assembly at the foot of the Campanile, and students who gathered there were parceled out to go to various areas to fight the fire. So we went north of the campus on up Euclid, helping residents to

Selvin: evacuate, trying to get their prize possessions out of the scope of the flames. We knew that they couldn't be stopped. They were coming down the hillside and down Euclid, or rather they were meeting Euclid at an angle when the fire crossed Euclid. The flames were catching the houses, oh, I would say about one block per minute or so. They were really roaring through there.

I remember two rather funny incidents. One, there was some guy, I didn't know him. I don't know whether he was a student. As I think back on it, he appeared to be older than an undergraduate certainly. But he was a big, burly individual and he was on the second floor of some house there on Euclid, I think just a little north of the street that the Phi Kappa Sigma house is on. I've forgotten the name of it. It's one street north of Hearst, as I recall it, but in any event that house, a typical Berkeley shingle-faced house, he was on the second floor in an open window carrying a big ornate wall mirror. He shouted out something about, "Here, save this!" and threw it down two floors and, of course, it shattered into bits and a few minutes later he came staggering down the stairs and outside carrying a big mattress over his shoulders. [Laughter]

Brower: My word, what confusion!

Selvin: Then, by that time, I decided to go down to a house on Virginia Street where the Flaherty family lived. Mrs. Flaherty, who was the widow of an Army officer, Colonel Flaherty, had acted as the housekeeper for the fraternity that I belonged to and I had gotten to know her and her whole family and we were very good friends, and I knew she was right in the path of the flames that were going to come next, so I crashed down there to see if I could be of any assistance to her. On my way down there, ahead of me, was a mailman running to deliver his mail to each house and he would no sooner leave the mail there and go on to the next house than the house at which he'd left the mail caught on fire [laughs]. But he was getting the mail delivered and he got it delivered. He went down that whole walk! He was running, delivering that mail so he could get it delivered before the flames hit.

Of course, another part of it, Andy Smith adjourned football practice and the football squad came out in uniform to help fight the fire, but among other things the football team, ably assisted by some others, liberated President Wheeler's wine cellar, which incidentally was a very good wine cellar. Now, how much of it ever went back to President Wheeler I don't know but it was very good wine, I know that.

Brower: Where did President Wheeler live at that time?

Selvin: On the north side of the campus. I think it was north of Hearst, but exactly where I don't remember now.

Brower: That was during Prohibition, too.

Selvin: Oh, yes, but they were all imported wines as I recall.

Brower: That was an exciting day, even in Oakland where I lived.

Selvin: Oh, yes. Well, fortunately, the wind changed and beat the flames back over the burned out area and so they had nothing to feed on and they died away. The tongue of those flames, the forward tongue, was not more than a block, probably just about a half a block, away from the campus when that happened. We thought that the campus was going to go or everything inflammable on it was. We didn't see how it could be prevented. They tried some dynamiting to stop it, unofficially and irregularly, but the wind changed and that stopped it.

I remember, too, one of my outstanding memories of that fire, Louis Reynolds. Lou was in my class. He's dead now. He was on the Daily Cal; and I still remember the lead of his front page story for the Daily Cal. He said, "As I sit on a hillside north of the campus, a scene of hellish beauty spreads out before me," and then he went on with his story of what had happened that day. I remember that phrase, "a scene of hellish beauty."

Brower: The Daily Cal was the student newspaper.

Selvin: Yes, in my senior year Bill [Albert Samuel] Furth was the editor. Bill later became executive editor of Fortune and after that he became (I don't know what his title was) but he was in effect Luce's right-hand man. He was always with Luce. Wherever Luce went, Bill went, and he was very high in the Luce organization. He died at an early age, unfortunately. Otherwise, well, by now he'd be retired, I guess, because of the mandatory 65 retirement, but short of that, he'd probably be publisher of Time or something of that sort. His name was Albert. In our freshman year his name was Albert Samuel Furth. We always called him Bill, why I don't know. Later, while we were undergraduates he changed his middle name to Lavinson. That was his mother's family name.

Attitude toward Southern California

Selvin: Bill's brother-in-law at that time was George Cohen who graduated from California in Golden Bear and all that sort of thing. I've forgotten what George's activity was--oh, he was a debater. But George had become a very successful lawyer down here with the old firm of Loeb, Walker, and Loeb and it was George who (I was later told by him) at the instigation of Bill Furth offered me a job with Loeb, Walker, and Loeb and that's how and why I'm in Los Angeles.

I certainly didn't want to come down here. I had the usual San Francisco attitude toward Los Angeles, but a job was a job and in those days they were not to be sneered at because in those days, you rapped on doors to get a job in a law office. A law office didn't come out on the campus and seek your services the way they do now, interviewing and all that sort of thing. So it was the only tangible thing that I had in the way of future job offered to me--I remember it was in the fall of my last year in law school. The reason I remember it was in the fall was because the occasion for it was that George was up for a Big Game and he was visiting in Boalt among other places and I saw him there.

Brower: But although your residence changed to Los Angeles, your relation with the University has nearly always been to the Berkeley campus, has it not?

Selvin: Entirely.

Brower: You've never been very much involved with UCLA?

Selvin: No, not at all. What I consider the Berkeley campus is what was Berkeley in those days. That included not only the campus in Berkeley strictly speaking but also what we then called the Affiliated Colleges in San Francisco, and Scripps at La Jolla, Lick on Mt. Hamilton, and the farm at Davis. Now, I still consider those my university even though they're separate campuses.

Brower: One of the questions that I was asked to ask you was whether you had any role in the acquisition and development of other campuses of the University of California?

Selvin: Only to oppose them. Bob Sproul and I used to argue at length while I was still on the campus over what I called "chain store education." The occasion was that the opening of what was then called the southern branch was imminent. In fact, it probably had been opened. Bob at that time was comptroller and his offices were in old Cal Hall which was right across the road from old Boalt Hall and frequently leaving Boalt during the noon recess I'd

Selvin: run into Bob leaving Cal Hall and just as often as not we'd stop there right in the middle of the street or between Boalt and Cal Hall and talk about things and sooner or later the subject would get on to what I called "chain store education" and I expressed my firm opposition to all this, not as a matter of principle but as a matter of college loyalty, I guess. [Laughs]

Bob's argument was a purely pragmatic one. He said, "The population is down there. They're going to control the state, the southern part of the state. The fortunes of Berkeley are going to depend upon the vote in southern California. We've got to give them that." That was his argument. Well, I don't know that I ever had any very effective reply to it except that I didn't believe in it from an educational standpoint and I figured at that time, southern California did not have, as it does now, a majority of California's population although Bob and the rest of them knew that that would happen sooner or later.

But really that wasn't the thing that motivated it. In my opinion, what motivated it was that Guy C. Earl, the publisher of one of Los Angeles' afternoon newspapers was a regent of the University of California and the whole doggone business of opening up the southern branch was a piece of provincialism on his part and an outshoot, in my opinion, of Los Angeles' very deep jealousy of San Francisco in those days. Today, the situation is probably reversed. [Chuckles] But Bob Sproul was at least far sighted enough to see that whatever might have been Earl's motivation, that was a good practical reason for it, or what he thought was a good practical reason.

Brower: They had very close relations with the legislature, I gather, those people in Los Angeles?

Selvin: Oh, yes, there was no question about it. As a self styled expert on public relations or what we used to call publicity in those days, I will say that UCLA has beaten us to a frazzle in that area of activity. Their relationship with the press, their ability to get a favorable press and consequently a favorable reception from the public and that, of course, includes the public's representatives up in Sacramento, far surpasses anything that we have done in all of the years that I've been down here. As I say, I guess somewhat vaingloriously, I did a better job as an undergraduate as head of the ASUC News Bureau than the pros are doing up there, in my opinion.

Brower: I'd like to know how that worked. But before we move on to that, wasn't it a little unusual that a young man in law school would feel so strongly about this question that he would debate with the comptroller of the university on it?

Selvin: Well, I don't know that it was unusual.

Brower: Did you know each other in some other context? Did you and Robert Sproul know each other in other contexts when you were in law school?

Selvin: Well, I knew him as the comptroller. I knew him in at least one of the societies to which I belong. I think he used to come around to Winged Helmet. He was the principal participant in my initiation into Golden Bear.

Brower: Winged Helmet and Golden Bear were open to you because of your work doing the publicity for the ASUC?

Selvin: No, [because of] my general work in campus activities and my very evident interest in the University and what I suppose those who voted on me considered my loyalty and my devotion to the University.

The "California Spirit"

Brower: Mr. Selvin, your devotion as an alumnus of the University of California is also so outstanding. I wondered what created that, what it was about the atmosphere of the campus in the 1920s that made not only you but a good many of your generation so loyal?

Selvin: It's hard to describe. In fact I can't describe it. But, I have noticed over the years that a good many people, even those who had had no scholastic connections at the University, that is student connections, who come there in some position or another--take Lynn Waldorf as football coach or Ky Ebright as crew coach, or even people out of the athletic field--who come there and get in that atmosphere that used to exist on that campus, and they come out of it with an extreme devotion to and love for the campus. What it is I don't know, except that we used to have the great cliché in my day that it was "that intangible something." That was the cliché. It was "that intangible something called California spirit." But, the reason it was called the intangible something was that nobody could define it.

Brower: Was President Wheeler on the campus at that time?

Selvin: He was emeritus, but he was there, yes. You used to see him quite frequently riding that horse of his around the campus.

Brower: Would you think that it had anything to do with his legacy? Apparently he cared a great deal.

Selvin: It might have had because he was such an impressive looking old man. I look back at it now and think of how he must've looked to kids from eighteen to twenty-two years of age. He was a distinguished looking man. He was what you would picture in your mind as the president of a great university. That might have had something to do with it, in addition to which he had an appeal to young people.

Now, I have read--of course I wasn't there--I have read the talk he made at the flagpole which is where the Campanile is now situated when he first addressed the students upon being made president of the university. That's where what I once called in a talk "the California benediction" arose, "It is good to have been here."

I can remember in my freshman year I managed to get down to what would now be called the Rose Bowl game. Of course, the bowl hadn't been built then but it was the Tournament of Roses game. We were playing Ohio State. I can remember Wheeler's addressing the rooting section between halves. At that time we were leading the game by a very comfortable margin, as I hope we will be tomorrow [the California-Stanford game was played on November 20, 1976]. He made a short little talk on the theme that this was a great day for California.

That kind of enthusiasm coming from the president of the university I think is bound to have its effect on kids and it's bound, whether they realize it or not, to instill in them the idea that there must be something about this place that's wonderful.

Brower: Of course, it didn't hurt to have five years of successful football teams.

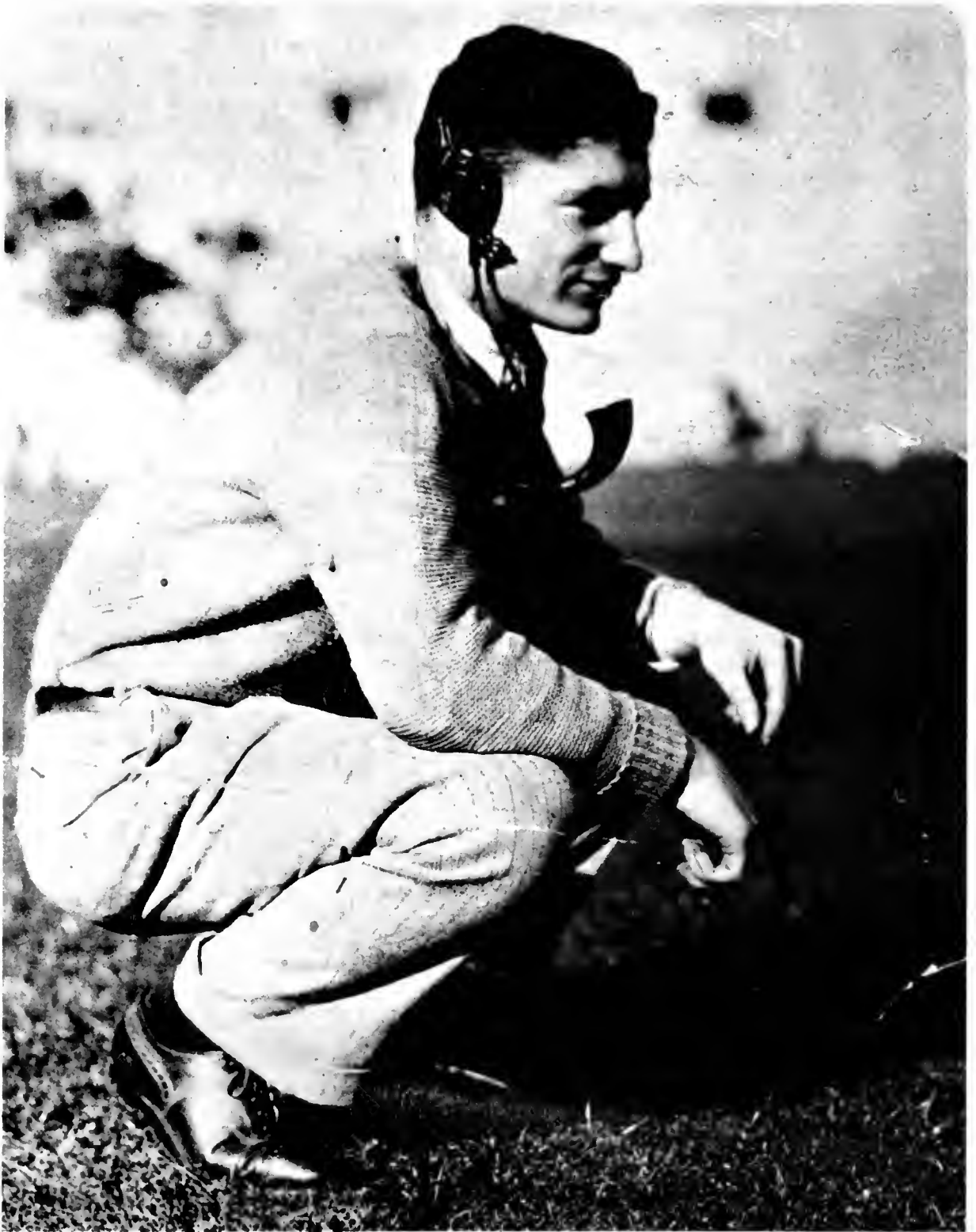
Selvin: It only hurt later when we started losing.

Brower: I know. That was my era; we were losing by the time I came along.

Selvin: So, that's the best answer I can give to what there is about California that inculcates that devotion. Whether it does today I don't know. I'll have to admit that I am not adjusted to modern-day youthful styles of clothing, conduct, or thinking. I've done my best to do it and I think I have grown tolerant of it but it takes an effort on my part to be tolerant. So, I don't know what it's like up there now. As a matter of fact, there was a period of time, to be frank, when if I'd go to Berkeley I'd deliberately stay off the campus because I didn't want to suffer the agonies that I knew I would suffer if I saw what was there.

Brower: I think we're having a swing now back to more conventional behavior.

- Selvin: I understand that. Of course, in my day while we were not like Princeton at least we took some pride in appearing on the campus neatly clothed. Although slacks and a sweater were permissible instead of the three-piece suit as Princeton required, nevertheless that was about as informal as we got.
- Brower: Do you think the traditional dress for the various classes helped this "California spirit"?
- Selvin: I'm sure it did. Kids are sort of romanticists and kids are a lot more traditional than we older people will give them credit for being. I think they like the traditional sort of thing. They like to know that what they are doing is something that has been done for years and that it's been done for years because it's a good thing to be doing. The distinction of having attained senior status symbolized by the sombrero certainly had its effect. In those days on the campus we had real student self-government. Athletics for instance were not a function of the department of intercollegiate athletics, largely because we didn't have such a department, and they weren't a function of the physical education department. They were a function of the Associated Students of the University of California, which was an unincorporated association composed of all the students on the campus who paid the required ASUC fee, which in the beginning was \$5 I think. They ran athletics, they ran the Daily Cal, they ran the news bureau, and all the rest of the student activities including the then Occident. I don't even know if the Occident still exists.
- Brower: I don't either.
- Selvin: The Pelican?
- Brower: The Pelican still flies, but I'm not sure about the Occident.
- Selvin: The Occident was the literary magazine and there were some pretty good people who wrote for it in their day, including Sidney Coe Howard among others.
- Brower: Yes.
- Selvin: So, all of that, it gave you a sense of belonging and a sense of responsibility and of pride in being able to meet that responsibility. Now, you ask what attached me to the university. That's probably it. I came from a little town, 3500 people. There was



Herman F. Selvin
University of California
ca. 1925

Selvin: no great future there for me as far as I could see. While I had been the so-called high-school leader, why it was a little high school and when we compared ourselves to what was going on in that great metropolis, Salt Lake City, which at that time I think had a little less than 100,000 people, we were the country cousins for sure.

California gave me a chance some way or another to prove myself. I think I must have realized that in becoming attached to the place, that it enabled me to work out my own fulfillment to the extent that I was capable of doing anything. It proved to me that I could walk on equal terms with people who to me were almost prodigies. I don't mean that the way it sounds.

Brower: You must have been something of a prodigy yourself.

Selvin: I was going to say I don't mean by that that I was a prodigy [laughter].

Brower: But you were!

Selvin: In any event the original plan was that I was going to get my bachelor's degree at Berkeley and I was going to take my law at Harvard. By the time I had spent four years on the campus I didn't want to go anywhere else. So, I stayed there and I have never regretted the seven years that I spent on the Berkeley campus. In fact, they are one of the fondest memories I have. I've tried to say why, but I really can't put my finger on it. The fact is it's there.

I'm sorry that the kids today don't get that feeling if they don't. I don't know whether they do or not. I remember sitting in my office one day with one of the young men in the office who came from another school--I've forgotten which one. An Old Blue friend of mine came in and we were reminiscing about some of our undergraduate experiences. The young man, of course, heard us and then said, somewhat wistfully, "I wish I could have had the kind of college life you two had." My reply was: "You could have had. There is plenty of time left for your generation to take on themselves all the cares and woes of the world."

Incidentally, the expression Old Blue as referring to a California alumnus originated down here. It was used by a very dear friend of mine, now dead, Frank Storment. He started referring to those of us who were primarily interested, not primarily, but intensely interested in California athletics as Old Blues, being an obvious take-off of course on Oxford or Cambridge. From that it sort of spread all around apparently. It's become a common expression now for a California alumnus, or alumna--you can see at least I got some education at Berkeley--to refer to them as Old Blues.

Brower: Did Storrent play football?

Selvin: No. He was a musician. He played the piano and at one time he had a campus orchestra. But, he was just one of the ten thousand up there who knew each other and had a good time together. He was--he's dead now--he was a good friend of Stan Barnes's and he loved to needle Stan.

U.C. Graduates and California Politics

Selvin: If this were Stan's oral history, why, this story would fit well into it. Without going into the long background that preceded it, I had been trying to persuade Stan to get himself into the race for attorney general of California because the Republican incumbent at that time was in my opinion a crook and later, I think, proved to be one. Anyway, I thought Stan was ideally suited for the position and Stan was very reluctant about it.

Now, Frank who was a Phi Psi--Stan of course is Mr. Sigma Chi--was always needling Stan about the fact that there was no particular honor to be a Sigma Chi. They had so many people in the order that almost anybody could be a Sigma Chi. In fact, he said, he didn't know anybody that wasn't or something to that effect.

Frank and I were having a drink with Stan at the University Club one afternoon after work, and I started in again on the campaign that I'd been carrying on to get him to consent to run for the Republican nomination for attorney general. I'm a Democrat and he knew it too, but I thought he ought to run and I thought he ought to be elected. Stan was saying no. Frank joined in the urging, agreeing with me. Stan finally said, "Oh, hell, I couldn't be elected." Frank said, "What are you talking about Barnes? The Sigma Chi vote alone would elect you!" [Laughter]

Brower: Did he run?

Selvin: No. The peculiar part of that story is that the man who was probably more responsible for Earl Warren's advancement in Republican politics than anyone, who was the elder statesman of the Republican Party in California, Jesse Steinhart, a former regent of the university, as a matter of fact an alumnus--Jesse was a very good friend of the senior partner of the firm of which I was then a member and I had gotten to know him quite well. Jesse knew that I was a Democrat and he also knew that I was a good friend of Stan's--he was as much if not more concerned about the generalship and the Republican incumbent that I was.

Selvin: He called me one day and asked me if I personally would ask Stan to run. He authorized me to tell Stan that whatever in the way of funds and Republican support that might be needed would be made available to him without any obligation on his part. So, I told Stan that, but he still refused, which may or may not have been a good thing. It would have been a good thing for the state of California if he hadn't refused, in my opinion. On the other hand what it might have done to the career of Earl Warren to the extent that it depended on his being attorney general I don't know.

Brower: It was, then, that same election?

Selvin: No, it was before Earl ran for the office. Warren and Barnes were very close friends.

Membership in Campus Organizations

Brower: Could you list the organizations to which you belonged?

Selvin: Golden Bear, Winged Helmet, Order of Coif (Coif is the Phi Beta Kappa of law; the selections to Coif are limited to the upper ten percent of the graduating class), Pi Delta Epsilon (which is the journalistic honor society).

Brower: How did that happen?

Selvin: The news bureau was a journalistic activity. On top of that, I was on the editorial staff of the Blue and Gold although that alone would never have gotten me Pi Delta Epsilon. I don't even know if Phi Delta Epsilon exists any longer. But it was a journalistic honor society and I made that and, since, I've made the Big C Society. I'm an honorary member of the Big C Society.

Brower: When did that take place?

Selvin: Clark Kerr was chancellor at the time--no, not chancellor I guess. He was president at the time.

Brower: I wondered whether it dated from way back or was more recent?

Selvin: To tell you the truth, I don't remember when it happened, that is the year. I know that in what passes for an initiation ceremony in the Big C Society, Clark sponsored me or presented me or whatever is done and Clint Evans and Nibs Price were still alive and active and in good health. I remember seeing them in the audience. Stan Barnes was there. [Laughs]

Selvin: The reason I'm laughing is that, as you know, Stan Barnes has a great attachment to the Wonder Team, and when he speaks of the Wonder Team he means the first one, the one in 1920, my freshman year. So, sometimes when I'm with Stan--although I'm an honorary member of the Big C Society. I never made a letter. I had a tie clasp made out of it [the C] and sometimes I wear it--I have been with Stan and somebody will see that and they'll recognize it and they say, "I didn't know you'd ever made a letter at California." "Yes, see I did." I can see Stan gritting his teeth. "What sport?" I'd say, "Football." They'd say, "Did you play on the Wonder Team?" I'd say, "Yes." At that point it was all Stan could do to keep from saying anything, but he'd let one more question come in. "What position?" I said, "Live tackling dummy," which was true. I was on what was called the Goofs. We used to scrimmage against the varsity and individuals would be selected from time to time to go down to the varsity and let the varsity practice tackling on live people instead of the dummy.

My initiation ceremony into the Big C Society was in the days when Red Sanders was at UCLA. The reason that I remember that is that, having taken a plane that took too long to get in here I had to take a cab to get over to Berkeley in time for the initiation dinner and as we were driving from the airport I noticed the driver studying the rear vision mirror very carefully. Apparently, it was so cocked that my face showed up in it and he seemed to be puzzled about something. When he stopped for a signal he turned around and looked at me and he says, "Do you have anything to do with football?" I said, "In a manner of speaking, yes." Then the signal changed and so we went on and stopped at the next signal and he turned around and he said, "I've got it. You're Red Sanders, aren't you?" In those days my hair was sort of reddish, so my reply to that was, "No, and that just cost you a tip, you s.o.b." [Laughter]

Brower: Oh, the poor man!

Selvin: Well, it didn't really.

So having learned even then that on occasions of that sort you are very likely to be called on for some remarks even though you haven't been notified in advance, I had thought, going over in the cab, of a couple of things that I might say and it occurred to me that I might start with that story. For some reason or another, I focused on Clint Evans while I was telling that story. (I was called on to talk) and Clint saw me afterwards. He said, "You old so-and-so, you made up that story, didn't you?" I said, "No, Clint, it happened exactly as I told you." "Ah," he said, "I thought you made it up, but nobody would be that silly." [Laughs]

Selvin: Clint didn't say "you old so-and-so." One of Clint's prides was that he didn't swear and certainly not in the presence of his "boys" as he called them and despite my age which was about the same as Clint's, I think--no, Clint was a little older but not much. I was always one of his "boys."

Recollections of the Boalt Hall Faculty

Brower: Can you tell me who on the Boalt faculty in your day influenced you most?

Selvin: In my day we had an all-star faculty. There wasn't any one man who dominated over the others in my opinion. It was a small faculty but for quality it wasn't surpassed even by Harvard and that was in the days when Williston and Beale Scott and that crowd were at Harvard. But we had the old dean O.K. McMurray--Orrin Kip McMurray--who was really a character and a delightful man and a fine legal scholar and historian. We had Max Radin, who was simply a brilliant man in addition to being an effervescent, ebullient, and most engaging individual, just as warm as he could be and probably the only man in American legal history who for sheer versatility and extent as well as profundity of knowledge could equal Dean [Roscoe] Pound of Harvard. Pound, of course, started, I think, as a biologist and wound up a law professor. But Radin was about the only man I've ever known who knew a lot about almost everything. He wasn't a dilettante. He wasn't one of those fellows who knows a little bit about a lot of things. Radin knew an awful lot about a lot of things including particularly philosophy, languages, the arts, and of course, law. There was Radin. You had McMurray, and [Dudley Odell] McGovney, constitutional law, a great lawyer and had he been a trial lawyer I'm sure he would have been a cross-examiner that could match the best. Certainly he could cross-examine me into a corner in his class, knowing where he was trying to put me and finding myself unable to keep from getting there or being put there.

Brower: Even though you knew where you were being pushed?

Selvin: I knew what he was trying to do. Then [James Patterson] McBain--well, before you get to McBain you had [George P., Jr.] Costigan for sheer output of work next Radin, that is published works, I guess was the leading man on the faculty, probably had a bigger national reputation than almost anyone on the faculty other than Radin. You had [Henry Winthrop] Ballentine on corporations. He's the national authority, was then, on corporations and was the leading California authority on the law of corporations.

Brower: McBaine you didn't particularize?

Selvin: McBaine came toward the end of my law school career and didn't teach any courses that the third-year men took, so I never had him as a professor but I knew him. I know that Roger Traynor admired him both as a man and as a professor and that's good enough for me. If Traynor thought he was a great professor then he was a great professor and Traynor did think so.

Brower: What about "Captain" [Alexander M.] Kidd?

Selvin: Well, I was going to come to Captain Kidd. Captain Kidd you have to leave for the last because he's in a class by himself or he was in a class by himself. He taught crimes but he was almost the prototype of the mythical character that he would describe in examination question as someone "who was a schizophrenic with paranoidal tendencies." [Laughter] I've never forgotten that and the Captain, as I say, was almost that. I say schizophrenic because in class he was a tyrant and a miserable tyrant, not one that you could stomach pleasantly, an unfair sort of tyrant. He'd blow up over the least excuse and generally no excuse at all. Outside the classroom, he was one of the sweetest men you've ever known in your life and he'd do anything for one of his students to help them out with their personal difficulties if it was within his power to help them. But in class it was a different thing. That was the schizoid part of his character.

The paranoidal tendency comes from his furious temper and his continuous explosions without any particular provocation which I could only attribute to the fact that he thought somebody was trying to get the better of him or trying to show him up. But there are hundreds of stories about the Captain and most of them probably true.

Brower: I never knew this about him.

Selvin: Well, he was a delightful man outside of class but in class you didn't want any part of him. Why, I remember one year he taught evidence in the third year and without evidence the third-year class of that year wouldn't graduate because they needed every unit they were taking, and he became so incensed at what he considered the stupidity of the class because of their inability to answer some of the Captain's complicated questions that he picked up his books and in a characteristic gesture pulled down the green eye shades that he always wore and stalked out of the classroom and said that there was no use trying to teach a bunch of people that were as stupid as this class, that when they got ready to learn something about evidence to let him know and he'd come back and until then there would be no evidence class. Well, he didn't come back and the third-year men quite understandably got worried about

Selvin: their graduation and they needed the evidence for the graduation. So they finally had to swallow their pride, if any, and sent a delegation around to the Captain to come back and finish the evidence course which the Captain did. Why, I've seen him walk out on our class.

As was true in all of the Boalt classes of that era, he called no roll. We had no assigned seats in his classes in our first year. We took crimes from him. I think we also took legal ethics. Legal ethics was a required course and the practice in those days was to circulate the course around the faculty, and in the year we had to take it, unfortunately, it was the Captain's year to teach it. But, as I say, we had no assigned seats. He had no roll. But he always knew who was or wasn't in the class. The fact he figured out arose because we always had a tendency (I think it must be true of all classes) once you have to come back to the same room, even though there aren't any assigned seats, you tend to sit in the same place all the time and the Captain knew that and he had a picture of his class before him, even though he gave no assigned seats, so he knew who was there and who wasn't. I remember one day, one afternoon, some of us were discussing that question and I told them that I thought that's what the Captain did, that he knew who was there and who wasn't and he purposely called on somebody who was absent to give him an excuse to burst into a tirade and give the class what in his opinion was not only a well-deserved but a profitable lecture on what to do in the study of the law because invariably his class started off with his calling on two, three, or four people who weren't there and it happened too often for it to be a coincidence in my opinion. So I decided that that's what he was doing. He used to bustle in. He was a man very nervous in his gestures. He was never cool or slow or deliberate. He'd come in and put his books down on the table, yank the eye shade down, and take a quick look around the room and the first thing you know he'd be calling on somebody that wasn't there. That would build him up to a pitch of high frustration by the time the class got going in good order.

Well, we were talking about that and I expounded my theory and somebody disagreed. So I made a bet with one of the fellows. I remember I bet him five dollars, first, having committed him to the proposition that I hadn't been called on all year in that class and he said, "That's right." I said, "I'll bet you five dollars that he'll call on me tomorrow morning." So the fellow put up the five dollars. I sat in a different seat, clear across the classroom. The Captain took a quick look around the classroom and the first man called in, he looking at the chair that I usually sat on, "Mr. Selvin, will you state such-and-such a case?" I said, "Yes, professor" from the other part of the classroom. He whipped around, he was the most astonished man in that classroom. [Laughs] So I thought I proved my point. In any event, I won my five dollars. That's what he used to do, I know.

Selvin: Well, he walked out on that class, I remember. We had a girl transfer from Columbia and she was one of the few women in law school at that time at Boalt. We had a couple of others in the class. But she came in from Columbia. Her name was Silverman and I don't think she left all of the Bronx behind her when she came to Berkeley. But in any event she obviously didn't think in the same wavelength as the Captain. So he asked her one morning what in her opinion was the greatest problem that the bar had to face and solve. She mumbled out something probably their manners were so bad, they didn't know etiquette, at which point the Captain picked up his books. The class had just started--picked up his books, yanked down that eye shade, gave his usual grunt of "huh" [grunts] and strolled out of the classroom and that was that. That was the class for the day. He came back finally. He didn't precipitate a strike against us, but at least he walked out that day [chuckles] because of that silly answer. It was a silly answer but then if he couldn't stand silly answers I guess he shouldn't have been teaching.

Oh, but you learned from him. He was a good teacher in that sense. He impressed the subject on you to a point where you didn't forget it. He used to teach in second year, he taught a course called business law that was pretty much feared by my generation of law students because it was not one course, it was three courses. It was a combination of bills and notes, security transactions, and assignments or something of that sort. The Captain used no case book and he used no syllabus in that course. He used to give you a hypothetical problem and say, "A client comes to your office giving you those facts. What advice would you give him?" Then you're supposed to come back the next day prepared to discuss that state of facts and the advice that you would give the client. Well, the obvious way (I guess it was the obvious way) of preparing for that was to get into the library and do a little legal research and find out what the answers were. So when the day came for one problem--I think it was the first day in business law, that is the first day in which we had to recite on a problem of that sort that he gave us--he called--I'll try to think of the fellow. It wasn't Dave Bellum. I think it was John Rossen. But in any event he called on one of the members of the class and the guy gave him an answer which apparently was right and the Captain said, "How did you find that answer?" How did you get that answer?" The fellow that he asked that question apparently wasn't as sharp as he might have been. He told him the truth. [Laughter] He said, "I had the summary of this course from a man who took the course last year!" [More laughter] Then the Captain flew.

But he stayed. He didn't walk out on us that day. This was too early in the semester. So then he picked on me. Now, he knew me from the crimes course but he never picked on me much in crimes,

Selvin: but he picked on me and asked me a followup on that question and I gave him the answer and he said, "How did you find it?" So I told him the truth. I said, "I went to the library and read the article on this particular subject in California Jurisprudence. I read the cases that they cited. I ran down the cases in Shepherds to see that they were still good law and that's how I got the answer." He said, "Now, that's the way work in this class should be done." He never asked me another question all year.

Oh, the Captain, I don't know. If it comes to influential teachers who influenced my life or certainly my professional life, why, I'd have to give the Captain a very high rating because he taught me what a lot of kids, particularly those today coming out of law school, don't appreciate and that is that trying lawsuits is a pretty hard business and a pretty realistic one and judges can be mighty cantankerous and you've just got to stand up and take your licks when the licks are being thrown at you and counter them as best you can. Well, if you could survive a year of the Captain you could survive almost any judge in the country. In that respect, it was very educational and I'm not at all sure that that wasn't part of the reason for the Captain's exhibitions of temper, although he had a low boiling point, I'll have to admit that.

Yet, on the other hand--I'm not going to mention any names because the man became a great figure in California, and I hasten to add that it wasn't Traynor because I've mentioned Traynor so adoringly from time to time. I have to say that it wasn't Traynor. The law student got himself into the kind of a jam that we young kids in college or law school during the days of Prohibition could get. He was in an automobile accident and he was drunk and his brother was with him and the Berkeley cops started hauling the brother off to jail and the law student, this friend of mine, attacked the cop. He was really in a jam. He could think of nothing else to do but call the Captain. He did and the Captain went right to work. It was all taken care of. Nothing was ever done about it. Nothing was ever said. So far as I know there's no public record of that escapade. But the Captain not only saved that kid's liberty at that time, but he saved a magnificent career which the fellow has had since that time. But that's the kind of fellow the Captain was.

Brower: You must have sensed that or you wouldn't have put up with that much nonsense from him.

Selvin: Oh, sure, we realized that the Captain was--his bark could hurt. It had a bite to it sometimes, but his bite was largely bark, as a matter of fact. He didn't mean some of the things that he said. Reg Jones--he asked Reg, as I recall, I think it was in business

Selvin: law again. He said, "Jones, a client comes into your office and puts this state of facts to you. What advice would you give him?" Well, Reg, who apparently didn't have the slightest idea of what it was he would give him, he was hemming and hawing and stuttering around. The Captain stood it as long as he could and finally he yanked down the eye shade. That was always the signal that trouble was coming. Shrugged his shoulders, which was the second step, and the third step was what he was going to say and that was the third step. [Chuckles] He said, "Mr. Jones, I'd advise him to go see a lawyer if I were you." [Laughter]

Brower: What a put-down, goodness!

Selvin: Well, that was the Captain for you and that's what I mean when I said that his favorite culprit in a crimes question just as often as not was a schizoid with paranoidal tendencies, and I always thought the Captain was being autobiographical!

Recollections of the University of California Faculty

Brower: It certainly sounds that way. What about the professors you had as an undergraduate? Do any of them stand out in your memory?

Selvin: Yes, quite a few of them. I have to put number one in the list [Charles H.] Rieber who was only there my freshman year. He taught logic in the philosophy department. He taught a brilliant course I always thought, maybe because I got an "A" in that course, but he really was a great teacher. I always sensed in him a streak of kindness and a streak of sentimentality that appeals to me although it may not appeal to a lot of men. It had been announced that the new proposed California Memorial Stadium was going to be built where it is now in the mouth of Strawberry Canyon. Rieber lived up on the nearest hill now overlooking the stadium. At that time he had an unobstructed view to the Golden Gate and for that matter he still has but he didn't think the stadium was not going to obstruct the view. So he appeared one day toward the end of the semester for his lecture and he didn't talk about logic. He talked about what these days I somewhat scoffingly refer to as "life, love, law, and letters." He was obviously speaking from the strain of great emotion, but what it was there was no way of figuring out from what he was saying. He wound up, in the middle of his lecture he couldn't stand any longer. He pulled over a chair and sat down and he finished his lecture sitting down and we were in Wheeler Aud. He wound up with a quotation [from a poem] that I think that's called "Invictus": "It matters not how strait the gate, how charged

Selvin: with punishments the scroll, I am the master of my fate: I am the captain of my soul." That was his peroration. He sat there and said, "Good night" and we walked out.

I can remember puzzling about that, not only walking out but afterwards. I knew that he was under some great strain but I couldn't figure out what it was and then the next morning the paper explained the mystery. He had just resigned because he did not want to be connected with an institution that would let that magnificent view to the Golden Gate be obstructed by something like a football field--and he meant it. He wouldn't withdraw the resignation. The University didn't want to lose him, so they finally persuaded him, as I gather at least, to go to UCLA which he did and he finished his academic career teaching at UCLA but he would never teach at Berkeley after that. That was his last lecture at Berkeley. I don't think he ever gave a lecture after that. I remember his substitute was a fellow by the name of Brown from Stanford and compared to Rieber he was awful. Rieber was sparkling, brilliant, effervescent, full of life, and he made logic a real subject. Brown was dull and deadly and pendantic and it was just awful.

Well, that exhibition on that last day just confirmed the feeling that I had for him up to that time. I liked him because I sort of sensed that he was a warm human being who believed in things and who believed in them enough to be sentimental about them. That appealed to me. I don't know why, but it did.

Brower: Yet the issue was one that you must have felt quite in the opposite camp about. You must have been glad to have the stadium built.

Selvin: Well, yes, but on the other hand, the view through the Golden Gate had a large part--not a large part, but some part--to do with my coming to the University of California because I can remember looking at a picture when I was a kid, at a picture of a sunset seen through the Golden Gate and I still remember that as a kid, vowing to myself that someday I was going to see that. I wasn't going to have to look at just a picture.

Brower: It was nice when we could look right through it without a bridge in the way.

Selvin: Yes. Well, that was Rieber. Ira [B.] Cross, was, of course, as he was of most people I think, a great favorite [of mine]. I've gotten to know him better since then and I knew him as a freshman. I didn't know any of these people as a freshman personally. I just sat there and listened to them, entranced by most of them. I liked Ira's effervescence, his eccentricities which included a dislike of anybody reading the Daily Cal in class (he also lectured in Wheeler Aud.) or of any coed powdering her nose--literally, not in the euphemistic sense--in class.

Brower: I remember his making problems about the Daily Cal, all right.

Selvin: So I've always liked him. Since I've gotten to know him, my earlier liking of him has been strongly confirmed.

Now, the opposite example, a man who I liked very much and whose classes I enjoyed was Joel [H.] Hildebrand in Chemistry 1 up in the old Chem Aud., and yet later when I got to know him we didn't get along at all. He was then dean of men and in his official capacity he had no use for me either. [Laughs] But since those incidents have passed into what I think is the forgotten past as far as the dean is concerned, not so far as I am concerned. We have met on various occasions and they have been very pleasant meetings, usually at the Berkeley Fellows. He's a character. Oh, he was a fine teacher. There's no question about that. But he was a little prim and straightlaced about a lot of things, including the Prohibition Law. As I say, in his official capacity, when I had to meet him in his official capacity or one of his assistants, we didn't get along at all.

When I was on the subject of faculty I think I mentioned Rieber, Cross, Hildebrand, Teggart. Then [Benjamin H.] Lehman in English always fascinated me, but at the same time sort of repelled me. I never quite understood what Lehman was talking about. He was very much avant garde for those days I now realize and, in fact, he was the first one who ever brought Vachel Lindsay to my attention and thereby cured me of ever wanting to have Lindsay brought to my attention [chuckles]. He loved Vachel Lindsay and he used to recite his poetry in class. I remember something about the Congo and the boom-boom of the drums [laughs]. As I say, he fascinated me but I can't say that he had very much effect on me. Certainly, he didn't make me love poetry. I am very fond of certain kinds of poetry, but he's not responsible for that I don't believe.

Brower: He must have been a newcomer to the campus.

Selvin: He was. I think I had him--well, both of us were in our first year on the campus, I think.

Brower: He came from Idaho which was sort of an unlikely place--

Selvin: I didn't know he came from Idaho. Of course, I came from Utah and Idaho is the same kind of a state; mountainous, there's a lot of mining interest, a lot of Mormons, and so forth. Idaho is just immediately north of Utah. What is now Utah State University was then a private agricultural college just a few miles from the Utah-Idaho line.

Brower: Was there anyone else you remember in the English department?

Selvin: No. I didn't do what I would do if I had it to do over again. I did not take very much English. I majored in political science. If I had it to do over again, and I have since advised a few people who asked me what they should major in, looking ahead to law eventually, and I told them to major in English, and I wish I had done that. But on the other hand, I didn't need to be an English major in order to read the good stuff. I haven't read as much of it as I should, I would be the first to confess that.

Brower: Do you think of other memorable professors?

Selvin: Franklin [Charles] Palm, I think, came there while I was there. He was popular then, right from the first. I'm not sure that I took a history course from Palm. I took quite a few history courses but they were upper division courses and I always had either [Eugene I.] McCormac or [Herbert I.] Priestley, and they were great teachers. Now, McCormac, academically had a great influence on me in shaping the views that I still hold on the Constitution and the constitutional history of the United States. I took a course in constitutional history of the United States from him and it was a fascinating course and he did a good job at it. What used to intrigue me and I know that a lot of my thinking on constitutional law is the direct descendant of the ideas that he implanted in me before I was in law school.

Brower: You also took courses from Priestley?

Selvin: Yes, Priestley was teaching then. I don't think I ever took anything from him. I took a course from [Charles E.] Chapman in the history department.

Brower: Do you remember that he was a scout for a Big League baseball team?

Selvin: Yes, I know and he used a pseudonym because he didn't think it would be dignified for a university professor to be associated with big league baseball [laughs]. But he was a rough, tough sort of guy, Chapman, a fascinating lecturer. I don't think he was much of a scholar, but he was fun to listen to. He gave a one-unit course, that was I suppose about the only pipe that I was ever lucky enough to take, called History of California: One hour a week which meant twelve or thirteen lectures each of which was on a separate topic such as, for instance, California food, California costumes, and things of that sort; very little about the growth and development of the state. But there was a lot about the customs and the mores of the people at that time.

His most famous episode, I think, was when he was lecturing on California costumes or California clothing. He described the groom's wedding costume of a wealthy Spanish or rancho family in

Selvin: California and described the fact that the groom wears knee pants and he'd go to the blackboard and he would draw some knee pants, more or less schematically, and tell that they were heavily embroidered with gold, this, that, and the other thing, and down the front there were three solid gold buttons. He said that on those buttons there was inscribed a very wise motto well worth following. But he'd go on to say, "A certain false modesty that pervades our society prevents me from telling you what that motto was." [Laughs]

Brower: How exasperating!

Selvin: Oh, well, he knew what he was doing. He said, "However, I will be glad to tell anyone who is interested privately if they will just come to my desk after class [laughs]. The whole class lined up and the motto that he couldn't speak out loud was (as I say, this was on the bridegroom's costume), "Do not take me out without reason; do not put me back without honor" [more laughter].

I heard of his connection with big league baseball, but I always thought he was a player. I didn't know he was a scout.

Brower: Perhaps he played too, but when I knew Mrs. Chapman he was a scout.

Selvin: I know he was connected with baseball. He's also responsible for a brilliant put down of President [David P.] Barrows. We used to have university meetings in Harmon in those days. At one of the meetings, Professor Chapman, who had just returned from a year as a visiting professor at the University of Chile, was the speaker. Barrows, who was an excellent speaker, but inclined to be [chuckles] a little portentous at times and certainly a little oratorical, gave quite a flowery introduction of Professor Chapman in which he referred to the University of Chile and the Republic of Chile several times, pronouncing it each time "sheely" and, of course, it was noticeable. You could hear suppressed murmurs all over the gymnasium, and Chapman sat there with a straight face and then Chapman finally got up. He said with a straight face after acknowledging the introduction and so forth, "When I was at the University of Chile"--and the whole place broke down. [Laughter]

He was a character. His lectures were very interesting, as I say, although I didn't learn much about the real history of California from them, the real history that I have since learned by reading the California Reports in which you can find the history of almost any jurisdiction reflected if you have the imagination to read between the lines.

Campus Representative of the Associated Press

Selvin: Dean Hildebrand was faculty representative to the ASUC executive committee at that time I was covering the campus for the Associated Press. I was paid on space rates. I was a stringer. I used to get 25¢ an inch I remember. I made pretty good money at that because the Associated Press was generous enough to give me a bonus every now and then whenever I sent in a story that they thought was pretty good.

At that time, one of the big campus turmoils that the executive committee was struggling with was whether or not to fire Brick [Clinton R.] Morse as director of the Glee Club and the trouble with Brick apparently was that on a couple of trips that the Glee Club had taken, a couple of these Glee Clubbers had taken a drink or two. They hadn't gotten into any trouble. There wasn't anything public about it at all, but they had taken a drink or two and apparently Brick knew that they had and did nothing about it. Well, the great cry came then to fire Brick.

At that time I think Carl Byer was ASUC president. If not, he was one of the big men on the campus at that time. By this time, I was in the law school so all of these things had a professional interest for me only, the profession in that instance being the newspaper profession. No, Carl was on the executive committee but in addition to being on the executive committee he was president of the college YMCA and acted accordingly, so to him this was probably the most heinous crime that had been committed on or connected with the campus at least during his short connection with the campus.

Well, Brick was a colorful figure, well known in the Bay Area. He used to write a feature story for the San Francisco Call's sports page in which he and Dink Templeton, a Stanford coach and an old Stanford football great, also wrote a story and the two of them used to fight through the columns of the San Francisco Call, I believe it was. They were both well known around the Bay and both well liked.

So Brick Morse's firing at California would naturally be a newsworthy story in the Bay Area and I wanted it for my 25¢ an inch. So on the night that the question was to come up to the executive committee--no, I remember now, Brent Metzler was the ASUC president. Brent, incidentally, is a lawyer now in Los Angeles with one of Los Angeles's leading law firms. Brent was president and before the meeting started I talked to Brent and asked him what was going to happen so far as Morse was concerned, and he told me he didn't know but that they were going to take it up that

Selvin: night. I said, "I'll stick around." Well, they went into executive session and the Morse incident came on and we were excluded. Those of us who weren't on the committee were excluded from the Stephens Room. It was Stephens Union at that time. So I waited until they finished their proceedings and Brent came out and I asked him if they'd taken any action with respect to Brick Morse and he said, "Yes." I wanted to know what and he said he couldn't tell me, that the committee had agreed not to make a public statement on it. I told Brent that I thought that was foolish. They weren't going to keep the story hidden or buried. If nobody else, Brick would at least let his own paper know. So why not let the story out and let the AP handle it whom I was representing and which, as they knew, was a pretty conservative organization and we weren't going to sensationalize the thing. "Well," he said, "You have to go in and talk to the committee" and he invited me to come in with him.

The whole committee was sitting around an open log fire there in Stephens Union, surrounding Dean Hildebrand, who was the faculty representative. Brent told them that I was there and that I wanted some kind of a comment for the Associated Press on the action they had taken, whatever it was, with reference to Brick Morse. Now, the dean saw me standing there. He knew me, in addition to which Brent had told him why I was there and the dean said in my presence and in my hearing, "I don't think we better make a statement. We ought not to say that we fired him until we have notified him." Well, then I made the same pitch with the dean as I had made with Brent--you know, make a statement and so forth. "No," there would be no statement.

I remember saying something to the effect that they hadn't told me anything, that all I had learned I had learned by the use of my own senses. Nothing had been told me in confidence. If it had I would preserve the confidence, but it hadn't been and therefore I felt myself free to use any information I already had or any information I could find out afterwards about the Brick Morse situation and I was going to do it and I said, "Good night" and I left, went immediately to a telephone and called Brick and asked him if he had heard from the committee and I think he said, "No." I said, "I understand they fired you. Haven't they told you that yet?" He said, "No, but it wouldn't surprise me if they had." So I let it go at that. That was enough as far as I was concerned for the story. I phoned the story over to the Associated Press and incidentally I got a bonus for that story, I remember. [Chuckles] That was that as far as I was concerned.

The ex committee used to meet on Wednesdays, as I recall, Wednesday nights in those days. I got a telephone call over at Boalt. I think it was a Wednesday morning. It was Lute [Luther A.] Nichols. Lute was then general manager and, of course, he sat on

Selvin: the ex committee. Lute's younger brother was in my class and had been varsity football captain, Don Nichols, and then I knew Lute quite well. Lute called me and he says, "If I were you, I'd be at ex committee tonight. You may find it to your advantage if you're at ex committee tonight." I said, "Lute, thanks." He didn't have to spell it out for me. I had a pretty good idea as to what was going to happen.

So I showed up at ex committee. After they had approved the minutes of the previous meeting and before they started on number one on the agenda, Dean Hildebrand (the presiding officer was Brent Metzler) asked for the floor because he would like to say something and what he said was to the effect that he thought that he owed the committee an apology, that because of a thoughtless remark on his part in the presence of a newspaper reporter a story had broken that they hadn't intended to have broken and therefore he owed the committee an apology but in any event, I had broken a confidence in using that story and therefore he moved that I be excluded from executive committee meetings from that time on. Somebody seconded the motion. I guess Carl Byer did. If Carl Byer didn't, it's because he didn't talk that much. He usually was the dean's toadie.

I stood up and asked Brent since I was the person who was the subject of the resolution before them, could I say a few words? Brent asked the committee if there was any objection and there was no objection, so I did, and I told them substantially what I told you, that the story wasn't given to me in confidence, how it happened and one thing and another and that as far as I was concerned I was not guilty of this accusation by the dean. I had only used what had come to me through the use of my own senses and perception and nothing had been told me in confidence. If it had, I would have kept the story even though it meant money to me, a loss of money to me, if I sat on the story. When I got through, the dean withdrew his motion and that was the end of that. I think the dean has forgotten that but I haven't.

Brower: I am glad that he was big enough to withdraw his motion.

Selvin: I'm not taking anything away from him, but I suspect that Lute had had a word or two with him in the meantime and Lute was a very good friend of mine and Lute thought I was right [laughs] but so did I and I wasn't about to back down even for a dean, stupid as that may sound and vainglorious as it might sound.

Brower: How old were you? You were in law school?

Selvin: Yes, well, this would have been I suppose the fall of '24 or maybe the spring of '25, so I had barely reached voting age and probably might have been even younger than that at that time.

Brower: It's not easy to stand up to a dean over this sort of thing.

Selvin: No, but I think that I can say without unbecoming immodesty that I do have a certain amount of firmness of character and if I think I'm right or if my conduct is brought into question and I think that it's defensible I'll defend it, whatever the form may be. As it happened, there wasn't anything that the dean or anybody else could do that could hurt me at that time, so I happened to be brave in the absence of any danger. I was a graduate student up in the law school. I didn't take any courses from the dean. It's true he was dean of men, but I always assumed that the dean of men's office had no jurisdiction over graduate students, as I once told his assistant dean. [Laughs] But anyway, that's the way it happened. Whether I was being a fool or whether I was being brave or what, I don't know, but I was not about to admit that I was wrong in that situation because in my honest opinion I wasn't wrong.

Campus Organizations

Brower: Did you have any classes from Henry Morse Stephens?

Selvin: No, he was gone by the time I got there, but it almost seems to me as though I had because I heard so much about him after I got there and that's particularly true in Winged Helmet. I think he was the founder of Winged Helmet or one of the founders so we heard quite a bit about him there. As a matter of fact, I think after the Union was built, Winged Helmet used to meet in the Stephens Room.

Of course, Golden Bear used to meet in what was called "the usual place." [Laughter] I don't know whether it's commonly known on campus now where the Golden Bear meeting place was.

Brower: That was the extent of the description, "the usual place"?

Selvin: Yes, well, then I won't tell you where it was. [Laughs] It's supposed to be a deep dark secret, something like the Skull and Bones Tomb at Yale. But I had never suspected that there was any such place until I was taken in, into the order I mean. Very few people did. But the notices still to this day always come out, "the initiation will be held in the usual place." [Laughs]

Brower: But don't I remember a tomb--

Selvin: The Skull and Keys.

Brower: Where was that?

Selvin: That was just off Euclid on the other side of the Phi Kappa Sigma house or right in that area. Of course, they've been kicked off the campus. Bob Sproul kicked them off the campus when he was still president. Bob, I'm sure, was a member of Skull and Keys.

When they got into this latest row, which got publicity down here, when a kid went charging into some Jewish organization house right near the tomb yelling, "Kill the Jews, kill them all." It got publicity down here. It didn't do the University any good. The publicity we get out of Berkeley generally doesn't do us any good and I lay a good part of that to the lack of good public relations with the press by the officials and the press department of the University but in any event it was a very bad story and I wrote a letter to Bowker. I told him I wasn't complaining about a sophomoric kid who apparently had one bottle of beer too much yelling that. I said, "Over the years I've been accustomed--I've heard something on that order a lot of times, but what I do get upset about is that, judging from the newspaper accounts of what happened, you people in the administration up there are taking this as just another childish escapade, that a little slap on the wrist will take care of. That I don't like and I want you to know it." Or words to that effect.

I got back an explanatory letter from Al in which he said that they weren't taking it lightly and telling me what had been done within the extent of their jurisdiction. After all, Skull and Keys was an off campus organization and had been ever since Sproul kicked them off, but they're still carrying on the same activities internally at any rate as they did when they were a recognized campus organization. What those activities are, I don't know. It's a secret organization although from what I gathered when I was on the campus and judging from that escapade which confirmed it, their campus activities consist of sitting around the tomb and drinking beer. But, yes, that's right up there by the Phi Kappa house. It's a small little square, tomblike structure.*

Brower: I remember what it looks like. I just don't think I've seen it in years.

Selvin: I remember in Andy Smith's will he left--I've forgotten the amount--I don't know whether it was 20,000 each or 10,000 each. He left 10,000 to SAE. He was an SAE from Pennsylvania, I guess. He gave the same amount to Skull and Keys.

*Now on Prospect Street.

Influential Professors

- Brower: I don't want to depart too far from the list of people who were influential professors in your undergraduate career.
- Selvin: Well, I've given you Rieber and Hildebrand and Cross. The one with whom I don't think I've ever exchanged a word and whose course was an upper division course which I took in the lower division, so I was really out of my depth, is one of the most profound and at the same time complicated thinkers that I've ever run into was [Frederick J.] Teggart in the department of social institutions I think it was called then. Teggart was such a profound scholar that even a dumb idiot such as I could appreciate it and realize that while I was sitting there listening to him lecture. I can't say that I can trace any direct influence on his part upon me except the realization that there was a great deal more to scholarship than just reading Shakespeare once in a while.
- Brower: I think the department was called social institutions because somebody was afraid that the word sociology sounded too much like socialism.
- Selvin: Something like that I suppose. He had a teaching fellow, Nicholas Spykman. He was a striking looking fellow, a big husky, handsome blond Hollander. He was a brilliant student and he was Teggart's teaching fellow until some university in the East got to him and lured him away to become a professor teaching the same kind of courses that Teggart taught. Teggart, when I took his course he had written three books which I had read and to this day I don't understand although I have reread them. They were called Prolegomena to History, The Theory of History, and The Processes of History. He always referred to the first one as "my little Prolegomena to History." He was always referring to that in class. I didn't know what it meant. [Chuckles] But I looked it up. It intrigued me.
- Brower: It's one of those words I have to look up every two or three years.
- Selvin: Yes. I found out eventually and as a result I still remember; it means introduction.

This reminds me of an incident which is completely off the track. Every year at the state bar convention on Thursday, which is traditionally the day for the various cocktail parties and social functions around there, while all this conviviality was going on, Loyola University Law School always had something that was called the Loyola Symposium. I always thought to myself that must be a pretty stuffy sort of a faculty that they've got there,

Selvin: having a symposium, getting really serious about the law during the time when everybody else was getting together and drinking. Then I got to know Father Joseph J. Donovan who was the regent of the law school and all of a sudden it dawned on me. Father Joseph said, "Why don't you come around to the symposium some time?" I said, "Father, I've never been asked and I usually don't go to places where I'm not asked." "Oh," he said, "You must come to the next one. Come to the symposium and you'll have a good time."

I asked, "What's the subject of discussion?" He said, "You must be crazy." Then it all suddenly dawned on me that symposium is the Greek word for drinking party! Then I realized that that's what it was and that's what it was--this cocktail party was called the symposium. [Laughs] I remember I said to him, "That's where you priests have it over us. After all, you get a classical education so you know some Greek. I don't." [Chuckles] Good old Father Joe, he's dead now, but one thing for which I'm sure he was responsible was my receiving the Saint Thomas More Medal.

Campus Politics

Brower: What do you recall of class politics?

Selvin: As I remember campus politics didn't amount to much. Class office really wasn't a great distinction. The kind of student activity that would probably put you into consideration for either Winged Helmet in your junior year or Golden Bear in your senior year didn't involve class office to any considerable extent. You could be president of the sophomore class and that wouldn't take you into Winged Helmet, but on the other hand, if you were an up-and-coming editor of the Daily Cal or if you were an up-and-coming athlete or one thing and another, why, you'd be in consideration for Winged Helmet and the same thing for Golden Bear.

Brower: Class office didn't carry the prestige that membership in these other organizations did?

Selvin: No. ASUC office was another matter. So far as class offices were concerned, I suppose about the only time anybody paid much attention to them, at least that was true of my experience, was in the freshman year and that generally amounted to, for most of us, to simply confirming a choice made by a group from Berkeley High or from San Francisco, probably Lowell High. They knew each other--they'd known each other in high school, they knew each other on the campus and they were in a position to concentrate on some

Selvin: individual and work for him. The rest of us, coming from all over the state and some of us from outside the state, we had no one person to concentrate on. So that was that.

ASUC politics were quite different, but by and large the only groups that were organized and in a way in which you could do effective work among them to form some kind of a coalition or block were the fraternities and sororities. A nonorganizational vote was too scattered. They lived in boarding houses, a good many of them commuted from San Francisco, a good many of them lived in Oakland. There was no way of getting them together and getting them organized, whereas with the fraternities it was simple. All you had to do was to have a representative in each-- I guess at that time maybe there were about fifty or sixty houses and one student could do the spade work in his house and you had it made. Now, each candidate for an important ASUC office, particularly president, probably would have one or two nonorgs supporting him and the representatives' job was to try, however they could, to get the nonorganization vote out for their candidate. But that was hard to do. A good part of the nonorganizational vote was the commuter student. The commuter student didn't have the same interest in the university and in the nonclassroom activities of the university that those of us who lived on the campus or in Berkeley had. So they were pretty much an ignored group, not because anybody wanted to ignore them but because nobody could get to them in sufficient numbers for them to be of any importance in elections.

Brower: I suppose for them it was a matter of not having the time, of having to get home.

Selvin: Of course, during a good part of that time we didn't have a union, that became a student union. You had no congregating place for the people who didn't belong to a fraternity and who, as you say, had to get home, whether in Oakland or in San Francisco or Richmond or wherever.

ASUC News Bureau

Brower: Oh, yes. That was very much like the Daily Cal. It was new compared to the Daily Cal but it operated in the same general way. You went out for it theoretically in your freshman or sophomore year and gradually worked up the ladder as they did on the Cal. On the Cal they worked up to editor, managing editor, and on the bureau you worked up to director. The first two, three, or four years that you work up to that is where you learned the trade.

Selvin: When you got to be director presumably you had learned it. That was in the days before the professional publicity experts, the sort they now have, and consequently the news bureau did a lot of work and it did good work and it did needed work.

As I recall, the guy that was my opposite number at Stanford was a fellow by the name of Don Liebendorfer. He was a semi-pro. He was a young man, I guess about my age, maybe a little older. But it was a job for him. It wasn't a student activity at Stanford, but still he wasn't a public relations or publicity man to begin with. He became one simply by virtue of the position he had at Stanford, and at California we never had anybody to perform that function before the news bureau and it did good work. The news bureau wasn't entirely concerned with athletics, although the stories that the press was most interested in were the athletic stories.

We covered the whole campus for the press. So we'd have a staff of reporters who'd dig up the stories. The stories would be written. The director or one of the junior editors under his direction would select the stories that were to go out to the papers. Each paper had a cubbyhole or receptacle in the office where the flimsies of the stories that we handed out each day were put and their campus correspondents or their regular correspondents who covered the campus would pick up their stories each day and they'd use them. It saved them a lot of work and a lot of leg work and as a matter of fact the stories were generally live enough so that by the time they were written and the newspaper picked them up, the incident was over and they never would have gotten the story except for that. But with that they got the story and they used it.

Brower: When did you become director?

Selvin: In my senior year, 1924. Actually I became director in the spring semester. It was such a new function that I think I'd only been on it for two years and they weren't quite sure, I guess, that I had enough experience because they brought Bob Cushman who had served three years on the Daily Cal but had missed out on the editorship, they brought him over to be director in the fall of our senior year. Bob was in my class. But in the spring semester I guess they decided that by that time I would be able to handle the job, so I was the director.

The way we got our stories printed, aside from the fact that we covered the stuff that we had sense enough to know would be newsworthy, we covered it in a way that made it accessible to the people who covered the campus, made it accessible in a way that they could use, and this assured us more or less that our stuff would be used. Coupled with that, I made it a policy so far as I

Selvin: was concerned to establish personal rapport with, primarily, the sports editors because it was the sports publicity that put money in the till. That's what drew the people onto the campus for games and one thing and another and also because it was the thing that was most likely to be published. So I knew all the sports editors over at San Francisco and in Oakland and on a personal basis. I made it evident to them either by saying so or by my conduct that I was there to serve them by supplying them with information, stories, courtesies (such as tickets), things of that sort, and that I was available. Well, they took advantage of that. They asked me or asked from me the stuff that the bureau would put out. I would call them with fresh-breaking stories that were immediately newsworthy and that you didn't want to wait for writing a story at our shop and waiting for one of their reporters to pick up the flimsy. I would get on the telephone and call these people and give them the break and that sort of thing.

Well, that way they published it. Then when they got in a jam where they couldn't cover everything that they wanted, as happened when Stanford was playing Notre Dame in the Rose Bowl, and we were playing Pennsylvania in the stadium. We were getting very little attention in the sports pages because of the obvious newsworthiness of the Stanford-Notre Dame game. At the same time, the sports writers didn't want to let the California-Penn game go unnoticed. It was a pretty important game in its own right. They wanted something to publish about it and it came around that what they were publishing was almost verbatim the stuff that came out of the publicity bureau or, in that instance, from me personally because that was a special job that the ASUC employed me for after I had been director of the news bureau.

But that's largely the secret: Personal relationships plus some idea of what does or doesn't make a good news story so that you didn't feed them a lot of trash, you didn't give them stuff they couldn't use and, as I have frequently said when discussing with other people who were trying to get publicity for California, a modicum of imagination. You can figure out ways of getting into the newspapers if you just think about it and use a little imagination and combine that imagination with something that is newsworthy, and generally a good name, a big name, is always newsworthy. So if you've got, as we had, if you've got a coach such as Andy Smith and you can get Andy's permission to use his by-line on a story and feed that out to the papers, they'll use it. They'd be delighted.

Brower: That's what you did?

Selvin: Well, I did in order to drum up some publicity for the Cal-Penn game which, as I say, I was employed to do specially. I did. I got Andy's permission and offered my column, circularizing the leading

Selvin: newspapers in all the larger cities of the United States--by larger cities I don't mean the big metropolises but cities of 50,000 or 100,000, that type of thing--and offering them free a weekly sports column written by Andy Smith (and Andy was a well known football figure in those days and his name was newsworthy) and also making it clear that they could have this column free. We weren't charging them anything for it. I don't think--I can't recall a single turn-down--and practically every paper that I wrote to accepted my offer. I wrote the column but used Andy Smith's name with his permission. I don't think he ever read a column before it was sent out.

Brower: How long did this go on? Because this essentially was started to publicize that particular game.

Selvin: Just for the Cal-Penn game. I don't suppose it went on for more than maybe from let's say the Big Game to the first of January the following year. But it was a huge success. It was carried by, I never counted them but I'm sure, by a couple of hundred newspapers or more throughout the country and the column consisted of nothing except stories about California football, the Cal-Penn game, and then football in general, being signed by Andy Smith, head coach. I knew Andy Smith's style of play and his theories of football well enough so that I could write something that he wouldn't be ashamed of and that's how it was done.

I suggested after the last Olympics that with the Nemea dig going on at the time that the Olympic games were being held in Montreal an imaginative publicity director would have seen an obvious tie-up with the Montreal games and the Nemea digs. And because of the fact that the games were being covered on a twenty-four-a-day basis practically the network would welcome any usable and relevant material, particularly if the material was offered to them free, that there was a wonderful opportunity to put the University of California on nationwide and, in fact, international television every day simply by tying in the Nemea dig with appropriate personnel to make appearances on the telecasts with pictures and all the rest of it to tie in with the Montreal Olympics. It was a natural tie-up. Now, it didn't take any genius to think of that although the fact that I keep harping about it indicates that maybe I think it did, but, no, it seems to me a perfectly simple relationship or idea to think of if you're a publicity man with a job to do and you apply a little imagination. Your publicity man should always look for an opportunity to get the name of his client (in this case, the University of California) dropped into the press at every opportunity and the only way to drop it into the press--not the only way, but the best way--is to get the University of California involved in something that is newsworthy at the time and that you're pretty sure the papers and the other media will handle. Nemea was a great opportunity it seemed to me, but nobody thought of it.

Bonus Stories for the Associated Press

- Brower: Could you give me an example of some of the news stories when you were in the ASUC news bureau, some nonsports events that were newsworthy at the time? Was there any great scoop at that time?
- Selvin: There was one involving Ira Cross, Professor Cross, that as a matter of fact was one of the biggest successes that I ever had so far as a story was concerned. It earned me the biggest bonus that I ever got from the Associated Press. This was nothing about the news bureau. This was done afterwards when I was a stringer for the AP while going to law school, but it's something that the news bureau could have done at the time and should have done. Professor Cross had two things that he couldn't stand and one of them was coeds making up in class and whenever he saw a coed powdering her nose or painting her cheeks or lipsticking her lips or whatever he would generally deliver his tirade Number 272A about the undue freedom that the feminine gender would take with the proprieties and that after all, if a coed could make up in class, a man ought to be able to shave in class and that he would give an "A" to any man in his class who had the nerve to shave in class.
- Brower: This was pre-electric shavers, too, wasn't it?
- Selvin: Oh, yes, yes. You had to lather up and all the rest of it. I was in law school by the time this incident happened although I'd heard that tirade myself when I was taking Econ 1. Somebody said to me over at Boalt one day, "Did you hear what happened in Cross's class this morning?" I said, "No, what?" He said, "A couple of students sat down in the front row, took out complete shaving gear, lathered up, and shaved in class and then marched up to get their promised A's from Cross." Well, it immediately occurred to me that that would be a wonderful story. Now, it would have occurred to me when I was director at the ASUC bureau except that it didn't happen and it could have occurred to the then director, it seems to me. It didn't take a great deal of news sense to realize that that was sort of an interesting feature story. But it was no good without names and I didn't have any names. I asked my informant if he knew who the fellows were and he said, "No."

So then came the problem of how to get the names. It was right near the noon recess. I sat down with an Officers and Students in front of me at the telephone at Boalt and I started calling the fraternities in alphabetical order and when the freshman answered the phone I ask him to call anybody who was in

Selvin: Econ 1 that morning to the phone. I didn't care which one it was, but anybody who was in Econ 1 and I finally got an Econ 1 student who was there and who knew the two guys and he gave me the names.

Then I called Professor Cross to get a quote from him. Well, he decided he didn't want the story published. After all, it wasn't very dignified for the professor and so forth! [Chuckles] I said, "You're not going to be able to suppress this story. It's going to come out. It's all over the campus now and one of the San Francisco papers, probably the Call, will run it and they will sensationalize it and they'll put you in a worse spot than you think you are now. On the other hand, you know the Associated Press is a very conservative news service"--which it was at that time. "We'll be the first to release the story and the rest of the San Francisco papers will get it off the AP wire and it will be a conservative story and you'll get as much of a break out of it as possible." So he finally consented and gave me some kind of a quote, [chuckles] I've forgotten what it was, and I ran the story. I got a very big bonus for it. It was very big comparatively speaking. I think I got \$125, which is more than I generally made in a month, because that story went on the international wire and we started getting back clippings of editorials in papers all over the world "welcoming at last the liberation of man."

So that wasn't a news bureau enterprise but it could have been at the time and I'm sure it would have been if I had been in the news bureau at the time because my imagination wasn't any better when I got to Boalt than it was before. I knew just as much about what was a good story then as I knew afterwards. Well, that was one of them.

As I mentioned, my confrontation by Dean Hildebrand was the result of an AP story that I wrote about an executive committee meeting in the firing of Brick Morse. It was another story that got a big play simply because of the name involved. Brick Morse was a favorite in the East Bay. He was an old-time football player who, as a matter of fact, was permanently crippled as the result of a football injury. Brick always walked on crutches. He got that injury I think in his junior and perhaps his senior year playing football for California.

U.C. Band, Card Stunts, and Mascot

- Selvin: Later on, in the fifties, the band leader was fired. That's the only time I ever knew a band leader to be fired as the result of losing a football game [laughs]. We got licked in the Rose Bowl by Ohio State, the first of the Big Ten teams to beat us and our band made such a miserable showing as against that magnificent Ohio State aggregation that we fired the band leader. We didn't fire the coach. We lost the game but we didn't fire him. We fired the band leader [laughter].
- Brower: You somehow worked off your resentments that way, I guess.
- Selvin: Well, what happened now. They fired the band leader. They got themselves a professional college band leader. Our uniforms were modeled after the Ohio State uniforms, the uniforms as they then were and still are, and the whole manner of that quick-stepping march and all the rest of it was as a result of that debacle at the Rose Bowl. Our band at that time was the ROTC band and they came out dressed in their ROTC uniforms which were shabby and drab and terrible. They played pretty good music but they weren't very large. They weren't a so-called marching band as we understand that term today. Ohio State beat us by three points, but their band humiliated us! [Laughs]
- Brower: So the current band owes its general appearance to--?
- Selvin: To the Ohio State band at the Rose Bowl in Pappy Waldorf's second year, I guess it was. I don't think he went to the Rose Bowl in his first year because we lost to USC. That would be in the early fifties. It was a very funny incident but it was humiliating, I want to tell you. I sat there and everybody just saw the contrast. It was a long, far cry from the days of the band, the same band in their ROTC uniforms was quite small during the first of our five and a half undefeated years. They'd come marching in at the start of the game and their entrance piece was always the same: "Just One More River to Cross" [chuckles].
- Brower: The olive drab ROTC band was for all those successful years the band, wasn't it?
- Selvin: Oh, yes, that's right. It wasn't until we got licked in the out-of-state game in the early fifties that we got a band that was divorced from the ROTC and that had uniforms of its own.
- Brower: What about the card stunts? When did they come in?
- Selvin: Well, there's a big dispute about that. Stanford claims they originated them and we claim we originated them but in any event, whichever, it occurred during the rugby days, which would mean

- Selvin: prior to 1915. Yes, I've seen a picture (I don't think I have one here), I've seen a picture of what is reputed to be California's first card stunt. It was a big scene and the Californians of that era insist that that was the first card stunt anywhere; Stanford claims that they originated them before we did. I don't know what the answer is. That's a little bit before my time even [chuckles]. But I know it was during the rugby days and that was before '15.
- Brower: The card stunts got to be very elaborate and interesting, didn't they, with the flip cards? What about entertainment between halves, when did that come in?
- Selvin: It came after my time and there again if it were left up to me to decide the question, then I would say that we were the first in the country to come out with that papier-mâché head mascot and then gradually all over the country now they do the same thing. When we did it, Oskie was always a gymnast so that he could climb goal posts and go through all the various contortions that he goes through and I'm pretty sure that we were the first. I don't recall ever seeing anything to the contrary. Then, of course, Stanford came along some time after that with their "live" Indian. They never talk about why they were called the Indians.
- Brower: No, why were they?
- Selvin: Well, because their nickname in those days was the same as it is now--Cardinals, cardinal and white being their colors. Cardinals very easily degenerated into Reds, not only because it's shorter and therefore better for a headline, but it's more descriptive. But then Reds got to be a very unpopular word in the American lexicon so they changed to Indians. Now, why Indians I don't know except from the Reds--
- Brower: Redskins?
- Selvin: Yes, the redskins, Indians. Otherwise, as far as I know, there's no Indian flavor to Stanford at all. But anyway, they got that real, live Indian and he used to come out there and do that phony war dance.
- Brower: I think they've been called Indians surely since the twenties.
- Selvin: No, when I came to California in the twenties, they were the Cardinals and that very quickly became the Reds and not too long after that--but, as I say, Reds became an opprobrious term.
- Brower: It became a nasty word.

Selvin: Yes, and that's when they changed to the Indians. The Reds sometimes were translated in the sporting press as the redskins. I know that and that I suppose is the connection by extension to Indians. Now, they're back to Cardinals and maybe they'll be the Reds again one of these days. I don't know. If detente with Russia keeps up, why, they might.

I thought I had that picture of the Big C here but I haven't. But I've seen it somewhere and I don't know where it is. It must be in some book that I have at home.

Program for the First Memorial Stadium Game

Selvin: One of the things the news bureau did was to put out the programs for the California athletic events. The dedicatory game in the memorial stadium was in 1923 and I was then, I think, assistant director of the news bureau. It was the next semester that I became director and it was my job that semester to put out the program for the Big Game. The athletic administration wanted an especially big and elaborate program because of the significance of the game, being the first game in the stadium.

So I went to work accordingly. I had an adequate budget and it did turn out to be a pretty good production. In preparing for it, I wrote to Don Liebendorfer at Stanford who was my opposite number there so far as athletic publicity was concerned. I think he's still there. No, I guess not, but he was there until recently in any event. Well, I wrote and asked him for 8 X 10 glossy prints of his varsity football players for use in the program, which was standard operating procedure, and I got no response, and I got no response to two or three follow-ups, I don't know how many, and I got mad. I had a program to put out and I had to get some pictures of the Stanford players so I went down, as I recall it, to the Oakland Tribune to get the permission of their sports editor, which was not hard to obtain because of the rapport I had established with the Tribune and all the other papers in the Bay Area.

He told me to go in and talk to Moe Cohen, who was their head photographer and did all their athletic photography. Moe was a character in his own right, but I'll leave him alone for awhile. I told Moe what my troubles were and he dug out file copies of the prints that I wanted and I selected the ones that I wanted and he had them run off and gave them to me. I offered to pay for them, that is with ASUC funds, of course, but I've forgotten whether he gave them to me or whether he accepted the money. But in any event, that's where I got the pictures that went into the program.

Selvin: But I was furious at the treatment that I had gotten and I wanted some way of retaliating without getting into a big brawl about it.

Brower: But it was to their disadvantage really not providing you with--

Selvin: Well, no, it could have been. How did they know what I was going to do? I could have come out, and they had no reason to suppose that I wouldn't, with blank pages saying, "This is where the pictures of the Stanford players were supposed to be, but Stanford would not supply them. Well, I didn't do it. I had pictures of all the Stanford players. After all, I had a program to put out that would be useful as well as a souvenir of the occasion and because something of that sort wouldn't do I had to figure out a way of retaliating without at the same time spoiling the program. So if you see a copy of that program, the name Stanford as such is never used in it. Every time the reference was to Stanford, it was to Leland Stanford, Junior--spelled out--Leland Stanford, Junior University. That's their official name. So all through that program it's Leland Stanford, Junior University. From a couple of remarks I've heard since, I think that my retaliation was felt [laughter]. They hate that.

It gave the impression that they were just a junior college and that's one reason, I suppose, that they don't like it and why they use the abbreviation most of the time in their own publication. I know that the first time I ever read anything about Stanford back in Utah where the name was spelled out, my own reaction was, "Hell, that's just a junior college. Why be interested in that?" Then I realized my misconception later.

Strangely enough, I don't have a copy of that program.

Brower: Even at home?

Selvin: No. I have a trunk of memorabilia that I brought back from Berkeley when I came down here. I've never opened it. I don't know what kind of stuff is in it--I do know that I have a proof copy of that program. It was a long program. As I recall it, it was sixty-four pages or maybe even more. I have a proof copy of it in the trunk, but I don't think I have a complete copy.

One of my very dear friends, now dead (he died on a Naval Reserve training cruise after the war) who was a loyal son of a Stanford Red, knew that I had put out that program for the first Big Game in the California Stadium and he was going up to the game that turned out to be the twenty-fifth anniversary of that game and it was in the stadium and for some reason which I do not now remember, I couldn't go. He brought me back the program for that twenty-fifth anniversary game.

Brower: What would the anniversary be now?

Selvin: Let's see, the fiftieth anniversary was in '73.

Brower: They should have reprinted that early program, shouldn't they?

Selvin: It's too big, it's much bigger--you see, they wanted a real souvenir program. We had somebody who was a pretty good artist draw an oil of a football player in action, a striking piece. I think it was of a punter just as he hit the ball and that was in three colors, of course, and we used that as the cover--three colors for the cover. The pictures, the faces of all the players, individual players including Stanford as well as California were superimposed upon a background print of an air view of the stadium itself.

We had several feature articles and something that I have to thank Bill Furth and Ernie Spiegel for. They were editor and manager of the Daily Cal that year, and it was their idea. Crossword puzzles were becoming popular about that time and that program carried a crossword puzzle that Bill and Ernie devised for us and I published the thing in the program with a caption something to the effect that this was something to do on the ferry going back home after the game.

Brower: I presume it was all about football?

Selvin: Well, as I recall it, it probably was, but the idea was just to get a crossword puzzle in there because they were coming into very strong popular favor about that time.

The Big Game

Brower: I remember going to the Big Game at Stanford once and going over on the ferry. I really miss the ferries.

Selvin: Oh, the ferries were a wonderful institution. It's a shame they ever gave them up for an underground system that doesn't run and, of course, the great thing in those days was to go across the Bay to the city to have a little fun. If the last ferry left too early, you tried to make the milk boat. I think that left around 2:00 or so. But the trouble with the milk boat was when you got over to the Oakland mole you had to walk a long ways because there were no trains to meet it at that time.

Brower: Then, of course, the post-Big Game activities in San Francisco--

Selvin: Oh, not only post but pre-game festivities. In those days--I've been up there since and it isn't true any longer. All of your shop windows in San Francisco were always decorated in blue and gold and cardinal and white and they had Big Game motifs. The Big Game was a great social event up there. (It's like "the Game" in the East. The Game in the East, of course, is Harvard-Yale.) It was something more than a football game. It was an institution and a tradition and a big social event--or more than a social event; it was a civic event, and it was great. The parties after the game--if the game was down in Palo Alto, down the Peninsula, why, somebody always knew some people who lived there and you were invited to their parties after the game. You got to the city and, of course, you just made the circuit of hotels--the Palace, the St. Francis, a few places like that--where parties would be going on and it was a wonderful time.

Brower: Surely some of that goes on still, doesn't it?

Selvin: I don't know. I've been up to Big Games, except for the last three years, frequently but I've never done much partying after them, so I don't know what goes on.

Brower: I don't really know either.

Selvin: But I do know that the pre-game festivities and the pre-game feeling, the pre-game fever, doesn't exist, it doesn't seem to exist, the way it did in my day.

Brower: What I do know is that the stores don't reflect it the way they once did. It isn't the community event that it was.

Selvin: What's taken the place of some of that pre-game feeling, of course, when the game is at Stanford, is the tailgate parties down in the parking lot there before the game. But before the tailgate parties became prominent, there again somebody always knew somebody in Palo Alto who'd be having an open house or some doggone thing, and if one would be invited that meant all of us in that particular automobile and there we would be.

The Big Game was a great institution. What Dean Hildebrand did will always be wrapped up in my mind as the Big Game. In Chem 1, Big Game week was always the time at which he arrived at that part in his course where in qualitative analysis you determine the kind of product you had by the color of the flame when you burned it. Well, now, he would start on the lecture, on the last lecture before the Saturday of the Big Game saying that he was about to show us an experiment that, considering the date, was a very timely one. He had before him a board with two trails of some kind of powder leading toward each other and meeting in a

Selvin: point and then trailing off in one single trail ahead of it. "Well," he said, "That, you can see, is the game and this I hope will be"--or words to that effect--"will be prophetic because you see as I light this, you see a strong, red flame burning down. As I light this, you see a blue and gold flame flying down. But when they join what happens? Nothing but blue and gold.

Brower: Did it really work?

Selvin: Yes! [Chuckles] I don't know what the chemicals were that he used for that experiment. But he did that, apparently he did that every year. It was a classic, it really was. I've always meant to ask him about that. I'd see him or did see him every year at the Berkeley Fellows although since the combination of my heart attack and my wife's illness I haven't been north except once in over three years. One day I summoned up enough courage to take a plane in the morning, see a football game in the afternoon, come home immediately after the game. But outside of that I haven't been up there. I haven't seen a Big Game in over three years. I had my heart attack on the night before I was going to fly out for my fiftieth class reunion.

Brower: What a shame. Has it limited your life since that time a great deal?

Selvin: No, not too much, except for strenuous physical activity and that's no limitation because I never permitted myself to be physically strenuous anyway [chuckles] most of the time. But while I made up my mind that I wasn't going to let myself become a cardiac cripple, you can't help but be conscious of the fate that might come at any time without any warning. So to a certain extent I'm probably more careful than I was before, but when the cardiologist laid down his big string of do's and don'ts for me after I was convalescing from the attack, I told him that I would follow his advice to a certain extent but I wanted him to know one thing. He said, "What's that?" I said, "I'm not going to stop living in order to live and that's all. With that philosophy I'll undertake to do what you told me to do or not do as best I can." I've followed that out. I haven't limited myself too much. I still take a drink or two every day.

Brower: Is that something you're not supposed to do?

Selvin: Well, he said no at the time but this was so early in my convalescence that I don't think--he never got around to rescinding it, but I don't think it's applicable. As a matter of fact, I had, in addition to the cardiologist, an old college friend, a fraternity brother of mine who's a very good doctor although he's a surgeon

Selvin: and who followed my heart trouble through my convalescence, when he had a heart attack of his own [chuckles]. I don't know why I'm laughing; it isn't funny. When I asked him about it, he said, "Oh, have a drink or two once in a while." So I've always taken that as medical permission.

Fraternities

Brower: You've spoken once or twice about a fraternity that you belonged to. What was that?

Selvin: It's Kappa Nu. Since then, because of the parlous times upon which fraternities have fallen, it merged with something called Pi Lambda Phi which in turn merged with Zeta Beta Tau, which was also on the campus when I was there and which, I suppose, is the oldest Jewish fraternity in existence. So I suppose I'm a Zeta Beta Tau, but I couldn't prove it. I couldn't give you the grip or the password or anything [chuckles].

Kappa Nu came on the campus, I guess, at the end of my sophomore year. I was one of the charter members. It started because there were a group of Jewish students with whom I associated (not exclusively by a long shot because, as you can tell, my interests in the campus were reasonably catholic) who felt that something of that sort ought to be available to Jewish students even if it did partake of acquiescing in ghettoization. If I had it to do over again, I wouldn't do it; I would take the position that it was ghettoization and there was no reason I ought to agree to it.

Brower: Then Zeta Beta Tau did not exist on campus at that time?

Selvin: Yes, it did. It had just gotten started.

Brower: But you preferred Kappa Nu?

Selvin: No, I didn't prefer. I think Zeta Beta Tau blackballed me. I don't know, but I suppose they did because I was never asked to join and I knew most of the people in it. But in any event, one of my friends who came from southern California, I suppose through his father's business connections, had met a Harvard graduate who had a ladies' clothing manufactory in San Francisco. His name was Alfred Cohen. Well, Al had been a Kappa Nu at Harvard and he wanted to pioneer a chapter at California. So he got Al interested and Al talked to me and between us we got a few others interested and Al approved of us and we applied for a charter from Kappa Nu. We got it and we formed the Berkeley chapter of Kappa Nu, I remember, and that was that.

- Selvin: By my senior year, of course, it was a very young fraternity. It had only been on the campus two or three years. By the time it folded up because of the times, it was almost as old as the oldest fraternity on the campus was in my time. The oldest house on the campus when I was on it was Zeta Psi. When I was in college, I don't think Zeta Psi was as old as my fraternity was at the time it folded up. I can't tell you why it folded up except that fraternities became unpopular during the Free Speech times.
- Brower: That seems to be reversed now. There's a good deal of activity in fraternities again.
- Selvin: I understand that there is and I think it's a good thing, although there are certain things about the fraternity system that aren't good at all, but then you can say that about most anything I suppose. I don't think and I didn't feel--well, I thought it too but not perhaps as thought-out as my feelings are today--that fraternities with their nonegalitarian tendency and with their restrictive membership policies based on what I consider to be impermissible criteria, particularly impermissible for a state university, don't deserve to exist and in that regard I think it's just as bad to have a Jewish fraternity limited to Jews as it has to have a Zeta chapter limited to Christians and perhaps Christians with the proper face, I don't know. I don't know if the Zetes ever take in Catholics. Some of the so-called Gentile fraternities don't take in Catholics I understand, but I don't know. I think they're wrong in principle in a state university. If Stanford wants them, let it have them. Stanford is that kind of place. It's a private school and the kind of private school that I think glories in its snobbism and its so-called social status.
- Brower: They don't have sororities at any rate.
- Selvin: They don't have sororities but they have fraternities.
- Brower: You couldn't get Stan Barnes to agree with your view on fraternities.
- Selvin: Oh, Stan is Mr. Sigma Chi. I don't ever tell Stan Barnes this, but I'm sure I know the Sigma Chi grip because I think Stan, after four years of being national president, has gotten into the habit of giving that grip so often that he automatically shakes hands that way and I think I'm sure I know the Sigma Chi grip [laughs]. I'll tell you something else, I'm sure I know what Sigma Chi stands for although nobody's ever told me.
- Brower: You just deduced this?

Selvin: From a couple of things. I've seen some of Stan's plaques. He belongs to something called the Order of Constantine which was given to Sigs who have rendered devoted service to the fraternity and he tells me himself he's one of the few Sigs who belong both the order of Constantine and something they call Significant Sigs. Significant Sigs are Sigs who have made their mark in life. He belongs to both of them and he says he's one of the few of the society that do. Well, when you put together their badge, which is the Templar Cross, and their motto, which is the Templar motto "In hoc signe vincit," and with their name, Sigma Chi--SC--it's perfectly obvious to me that it's either the Society of Constantine or Society of Christ, I'll take either one. But I think it's the Society of Constantine, the first Christian Roman emperor.

Brower: Much more likely I should think than Christ because that would be getting a little too--

Selvin: Yes, Christ is the Alpha Chi Rho, because there was no secret about Alpha Chi Rho. That's the standard--I forgot what they call it, it's now an acronym--but anyway the Greek letters of Alpha Chi Rho.

Brower: You've got to spell the Templar motto for me.

Selvin: [Spells out motto] "In hoc signe vincit"--"by this sign we conquer." Now, that was the motto of the Old Knights Templar and incidentally the motto of the great Christian Crusades, and I had no reasons to have any love for the Crusades [chuckles].

Brower: It's amazing that they go back to so old a tradition.

Selvin: I think that at the time those fraternities were being organized in the eastern colleges, they were all doing that. In the first place, most of your colleges were private in those days. You had very few state universities; I don't think you had any east of Michigan. These fraternities were all formed in the early part of the nineteenth century or at least earlier than the second half of the nineteenth century. At that time, your private schools were all denominational schools or largely under denominational auspices. That was certainly true of Harvard and Yale, among others, and the religious consciousness was much more acute in those days on the campus it seems to me than it ever has been since and so these were a natural outgrowth of that religious spirit. Today they work it out in something called "Athletes in Action" or "Athletes for Christ" or something of that sort. But I think they were all like that. Phi Beta Kappa, of course, was the first one. Phi Beta Kappa didn't have a religious influence to that extent because its name stood for the Greek phrase which I can't repeat. I don't know any Greek. But what it means in English in effect is that philosophy is life. That's what Phi Beta Kappa stands for. It's become non-secret. Of course, it became something other than a social fraternity.

Brower: Did it begin as a social fraternity?

Selvin: Oh, yes, yes. It began as one--1776 I think it was. I've studied these things, once I suppose largely out of a feeling of frustration at not being able to be a member of any of them.

Brower: I think you know far more than the members do about the origins.

Selvin: Well, I went over to the library a couple of times and dug out something called Banter's Greek Exchange which is an encyclopedia of Greek letter fraternities and I read up on all of these fraternities, as I say, probably out of a sense of frustration more than anything else. But, yes, I do think I know more than anybody who survived his freshman class at these fraternities know about them. I got interested in heraldry once [chuckles]. I read a book on heraldry. I've forgotten most of what I read, but I still remember some of it. Why I read something on heraldry I don't know. I just got intrigued.

But the fraternity situation at California, with the absence of residence halls it was a very important system. It did a lot of good for the university. It enabled a substantial number of the student body population to live, in effect, to live on the campus. One of the things that Stanford is very proud of and rightly so, it's a residential school. It's a residential college. So is Yale, Harvard to a lesser extent these days I suspect, Cornell and schools of that sort. California is much more of a residential school now than it ever was but in my days what made it a residential school was fraternities and sororities.

Brower: Now there are the university residence halls.

Selvin: Yes, we didn't have anything of that sort when I was on campus. We had no official dormitories. We had something like the thing I lived in, Southgate, that played the part of dormitories. They weren't under college supervision.

Brower: I guess the first of the university living halls was Bowles Hall.

Selvin: I think so, for the men. I don't know whether it was Bowles or whether it was International House.

Brower: International House was slightly different.

Selvin: Yes, that was one of the Rockefeller contributions to the campus as I understand it, because of the large proportion of foreign students that Berkeley had. So we got one and I think Columbia got one for that same reason, from the Rockefeller people.

Selvin: Do you know how we got the Hearst Women's Gymnasium?

Brower: Because Mrs. Hearst didn't want the poor girls to just have the use of Harmon Gym during the noon hour?

Selvin: Well, she had a building erected and furnished, which she donated to the university for use as the women's gymnasium and social center. But that burned down.

Brower: Do you remember its burning down?

Selvin: Oh, yes. While the embers were still hot--the fire was out but the embers were still hot--so far as I know without solicitation, a wire came from William Randolph Hearst, who at that time was in New York, pledging a million dollars and more if needed to rebuild the first women's gymnasium, and the present structure was built with that million dollars, if any more I don't know.

Brower: It's appalling to realize that women had no facilities at all for their own gymnasium classes or even any kind of social room except the use of Harmon when it was not being used by the men.

Selvin: Harmon, of course started out as a little octagonal building and they split it in the middle and stretched it out and joined the two former ends. As my recollection has it, I wasn't there but I read quite a bit about the history of the university. I was interested. It was for a long time the most important and the most dramatic part of my life and I devoted a good deal of attention to it. I remember seeing pictures of the original Harmon.

Brower: It was sort of pulled apart to be made larger?

Selvin: Yes. I still remember, my most vivid collection of Harmon, we had an indoor running track in it.

The California Crew

Selvin: Up over the track on the wall was a shell, a rowing shell. I think that the first time the California varsity crew rowed in Poughkeepsie at the Intercollegiate Regatta they saved the old shell and it was up there on the wall.

Brower: They won in the Olympics, didn't they?

Selvin: Three times.

Selvin: Maybe I have it here--Ky [Carroll] and Kay Ebright send out their Christmas cards in the middle of the year [laughs]. It's a wonderful gag, it really is, and you look forward to them with extreme pleasure because they really do a good job of making it a pleasant as well as a funny card. I just got the card the other day. What reminded me of it was the mention of the crew because, of course, Ky was the coach. He coached the crew to three Olympic victory championships. That's a record that will never be matched because they no longer let institutional crews row for the United States. They select a crew from individuals who compete for the position and they put them together and train them and make a separate Olympic team out of them. So there'd be no institution, club or collegiate, who ever had the chance to win three Olympic championships again.

Brower: I remember seeing some awfully good basketball games in Harmon Gym.

Selvin: Ky Ebright and Russ Nagler (he came down as a freshman coach) came down from Washington in the spring of '24. It was either '24 or '25. Up to that time, we had been coached by a volunteer coach, Ben Wallis [spells name] who had rowed at Yale and he coached California just because of his interest in crew. He wasn't a paid coach as I understood it and he had been only moderately successful. But when we employed Ky and Russ to come back as varsity and freshman coach they were both Washington coaches.

Brower: Seattle would be a pretty good place to practice, right on the water.

Selvin: Do you mean the University of Washington? Oh, well, sure. Of course, up there crew is their biggest sport, even bigger than football until this year when they won the Rose Bowl. Oh, yes, they have a magnificent institution up there. They have a whole building that's devoted to the crew. It's their crew house, dormitory quarters where the crew lives when it's in training, the crew training table and all the rest of it. The crewmen up there are elite and they look down on the football players because the football players get paid to play!

Brower: What were the years of those three Olympic wins? Do you remember?

Selvin: Yes, 1928, 1932--I don't think we won three in succession; 1940 I think may be one. It wouldn't have been '44 because the war came along in '44 and it wasn't as late as '48 so I guess it was '28, '32, and '40. *

There was a great deal written in the Bay Area sports press about Ebright and Nagler coming down [laughs] Like Sanders introducing the single win, why, they were going to introduce something called the "Conabear stroke."

*1928, 1932, 1948.

Brower: Heavens, what was that?

Selvin: Well, that was a method of propelling the crew that had been devised by an old-time Washington coach by the name of Hiram Conabear. It was called the Conabear stroke because it was something that he himself apparently set up.

Brower: It seemed to have worked!

Selvin: Oh, yes. At that time, I was doing by assignment a sports story a month for the California Monthly.

Brower: Were you still in law school? Or was that later?

Selvin: No, I was in law school. I was either in law school or still an undergraduate. I think I must have been in law school. Yes, because Bill Fritz was editor of the California Monthly so Bill had graduated which means I had graduated, so I must have been in law school. One of my assignments was to get a story on the new crew coaches and what the Conabear stroke was all about.

[Pointing to a photograph of President Wheeler] There's a great president of the university right there, a handsome man, a great speaker, who could talk and read something else at the same time.

I met Ky the first day he arrived in Berkeley. I met him by appointment at his room in what was then the Whitecotton Hotel, which was originally the Shattuck Hotel and I think is the Shattuck Hotel again. So after the pleasantries and getting acquainted a little bit--neither one of us had seen the other one at all until then--I asked him, was he going to use the Conabear stroke? He said, yes in effect, or something like it anyway; when I said, "What is it?" he said, "It's simple. It means a shorter lay back and a harder catch."

Brower: Were you any wiser?

Selvin: No, I asked him to translate that into English and what it means, it seemed to me, is that in pulling the sweep through the water when they're applying the pressure, they don't go all the way back to where they're almost parallel with the bottom of the shell as we were doing before that, and the harder catch is that when they put the oar into the water and start their forward sweep, they do it with a hard catch so that it takes hold and gives the shell a big burst forward right then. So he said, "That's all there is to the Conabear stroke," and that was it. I could see the difference after I saw the crew row, after having watched a lot of crews, and I could also see the difference at the finish line [laughs]. We'd win once in a while then.

Brower: So it was four years after he came that he won the Olympics?

Selvin: The coxswain of that winning crew was Don [F.] Blessing. I knew Don in college and that meant Don was there before the end of the academic year in '27, which was when I graduated from Boalt, and Don was in the class of '28. So obviously he was in school during some of the--well, during all of the time I was in Boalt.

Brower: Isn't he still in Berkeley?

Selvin: Yes, he lives either in Berkeley or Piedmont, somewhere in that area, and I think he's in the investment counselor business over in the city. He was a fiery little guy when he was coxswain of the crew. Of course, to be a good coxswain you have to be the kind of a guy with an abrasive enough personality so that the crew hates your guts.

Brower: What an unenviable job!

Selvin: Well, on top of that the crew sort of resents the coxswain because, as they say, they have to pack him "free freight." That's why they throw him in the water after they win a race! [Laughter] They're making him pay for all that free freight that they've been giving him. In '32 I saw the Olympics. Of course, they were down here and without exception that is the greatest finish to an athletic event that I've ever seen. We rowed against Italy in the finals and Italy had a big brawny crew and they used a very fast stroke. We used a slow stroke. That was the Washington idea, the Conabear idea, and certainly the Ebright idea. If we rowed thirty-two, thirty-four strokes a minute, we were rowing a high stroke. Generally, Ky hoped that he would be able to maintain the pace and the lead that he wanted by rowing not more than twenty-eight, but that's why you had to have that hard catch, among other things. You kept that momentum, even though you don't get as many strokes in in a minute. Well, in the last hundred meters of that race in the Olympic finals in '32, the Italian crew rowed what I understand crewmen had always thought was impossible, that it's impossible to do without losing the run on your boat. They rode as high as fifty-two against us in that last hundred minutes and we were in there, I think we got up to about a thirty or maybe a thirty-two against them. I could see, from what little I knew about crews, as they came into their last few meters, that the crew that went over on the catch was going to win that race. The crew that went over on the run wouldn't have enough momentum to do it. But the crew that went over on the catch was going to win that race and we were lucky enough to get it on the catch. We won by less than a boatdeck. Now, a boatdeck is, I think it's not more than four feet, if that much; maybe six feet at the most which is a mighty slim margin in a crew race. But we won on that. We went over on the catch. I was right at the finish line watching that. I could

Selvin: see them coming down whatever they called it in Long Beach at that time, the rowing course, and I could see that it was a close race. All the way down and a hundred meters from the finishing mark, I could see the Italians sweeps going faster than I'd ever seen in a crew race and I could see that it was going to be close and, as I say, I could see that it was going to depend on which one was lucky enough to go over on the catch and we did.

Brower: Isn't that amazing?

Selvin: That was a spectacular finish. That Italian crew was great, but we were just a little greater, luckier. Generally, athletic greatness is largely luck--not largely, but a good part is luck, in my untutored experience. I don't think I knew many people in that '32 crew. By that time, I was long gone from the campus. It had been five years since I'd gotten out of law school so it was a completely new college generation. But I knew quite a few of the people on the '28 crew which, as I say, was in college during part of the time that I was in law school, although I was never an undergraduate with any of them. No, I wouldn't have been because they would enter the fall of '24 and I graduated in the spring of '24. (I suppose technically in order to give due credit to the California English department I should say I was graduated.)

U.C. Students and the Press

Brower: When you were in the news bureau your relations with the press seem to have been good. What is the history of U.C. students and the press?

Selvin: That has a long history. Back in 1920, there was some thought in university circles that the legislative handling of the university's financial needs had not been entirely satisfactory because they had placed on the ballot by initiative for the election in 1920 something called Proposition 10*(I still remember that) and that was designed to make the university independent of legislative control of its finances by giving the university a specified percentage each year without legislative appropriation, a specified percentage of all the ad valorem taxes collected by the state. It was thought at that time that that would make the university financially independent. It was a hotly contested issue, particularly down in the valley, by the farm element. They didn't like it, not only because farmers are constitutionally conservative but, too, to farmers of that comparatively early day, why, the university was a frill and why should they have to pay for it, not realizing, of course, that they were already paying for it. It was going to be a close issue. Those

*Amendment 12.

Selvin: were the days before radio and television so all you had in the way of public dissemination was newspapers, and generally newspapers of a pretty sensational or muckraking type.

Skull and Keys had its annual running on the campus and the running in those days used to consist of a series of skits that were supposed to be funny, and once in a while they were. They were performed usually on Cal Field and the students would assemble in the bleachers, nothing that involved the Skull and Keys ritual or anything of that sort but it was a part of Skull and Keys initiation of its new members for that term. One of the skits that year (which I thought was funny; I certainly didn't think it was vulgar or obscene) was immediately picked up by the sensational press as being an obscenity of the worst sort and that word spread all up and down the state. This running came on not too long before the election in November with the result that Proposition 10 was defeated by a comparatively small vote and it was defeated by a heavy anti-vote up and down the valley where there were the farming interests and the gold interests. So Skull and Keys cost us that, and not intentionally so. As a matter of fact, I never could see anything wrong with the skit. Even today, looking at it from a somewhat broader perspective, I don't see anything wrong with that skit. But it horrified or professedly horrified the San Francisco press and from there on it spread out through the state.

The skit [chuckles]--in those days, as undergraduates I think we were required in our first two years to take physical education of some sort. That's one reason I went out for football because I could get a half unit of physical education out of that in addition to having some fun. In Harmon Gym you have to draw down your gym equipment--a shirt, shorts, socks, and a jock string. Well, you get them fresh and then when you're finished, you return them. Underneath the issuing window they had three holes where you were supposed to put the equipment: Shirts, socks, jocks. Well, the skit was called "A Dream of Co-Physical Education" and they had two issuing windows side by side: Men, Women. Three holes underneath each one. The men's holes, realistic: Shirts, socks, jocks. For the women: Shirts, socks, question marks. Now, that was the skit, "A Dream of Co-Physical Education." That was the first Skull and Keys running that I ever saw, and I might add, the funniest one that I ever saw.

Brower: It doesn't seem much to make an issue of.

Selvin: Oh, well--yellow journalists in those days--that's a good chance to run a headline.

Selvin: A similar thing happened. Part of the initiation into Pi Delta Epsilon consisted of the neophytes, together with the active members of the fraternity, putting out something called the Raspberry Press. Remember the Raspberry Press? Well, the Raspberry Press was always printed at Lederer, Street and Zeuss, and after the sheet had been put to bed so it could be printed there was always a party among the neophytes and the members that were there. The year that I went in we were putting it out and we had prepared for the party--somebody knew a bootlegger and we got some bootleg liquor, mostly gin I think, and we had it stashed away in the back of the LS&Z building, up against the fence, intending to pick it up after we put the sheet to bed and go on. Jim Loofbourow, who was one of the active members of that time (he's dead now), Jim couldn't wait so he sneaked out and started opening one of the cases to pick up a bottle of gin and for some reason George [H.] Brereton, who was one of the Berkeley student cops--

Brower: Yes, I've been in touch with him.

Selvin: Well, George came by and saw what Jim was doing and hauled Jim by the back of the neck, made him put the bottle back, sent Jim back into the LS&Z office and then confiscated our cache of liquor. The next afternoon, the San Francisco Call on the front page of its second section came out with a seven column banner: "UC Students in Gin Orgy." Now, gin orgy! Nobody had a drink yet [chuckles]. George didn't give Jim a chance to get a drink and nobody else did after. Now, that was a gin orgy and there wasn't a name in the story. They didn't have any names. George didn't know the rest of us who were inside. All he knew was Jim Loofbourow and from the fact that there was no name in the story, I guess George apparently didn't know Jim, so he didn't even have Jim's name or maybe he protected Jim by not using a name. George would do that. But that was it--"UC Students in Gin Orgy." That's a chance for a headline and a story, regardless of the truth. That's what happened with the Skull and Keys running, I'm sure.

Brower: Do you remember the beautiful color of the Raspberry? It was always printed on that beautiful raspberry paper?

Selvin: Yes. It was a scandal sheet and designedly so. We used to sit down there and short of the law of libel, which we didn't know very much about, I might add, print anything we could think up, any piece of gossip, any rumor that we thought would make a story. We'd write it up and stick it in there, sometimes masking the names, sometimes not. In that one issue, we got suspended for it--not because of the gin orgy; there wasn't a gin orgy--but because Helen Wills's family complained. What had happened, we had some space to fill and LS&Z printed the Daily Cal and the Daily Cal subscribed to an NEA feature service. Of course, Helen Wills was

Selvin: at school at that time and she was a national tennis champion. We found the mat that was part of NEA's service that had been distributed I suppose to all of its subscribing papers including the Daily Cal and that mat consisted of a two column cartoon, a square divided diagonally; in one corner a representation of Helen, in the other corner, a representation of Harry Wills who was a black boxer and who, it was claimed, could lick Jack Dempsey except that Dempsey would never fight him. That's the way the story goes. In any event, they had Helen up there (obviously Helen) and they had Harry Wills as black as it was possible to draw him and the caption written on it was simply "H. Wills." We printed that and the Wills' family, I was told, I don't know how truthfully or how correctly, had deep Southern antecedents and they were outraged and as a result of that, the society got put on probation.

Oh, that plus one other thing. Jim Loofbourow (the same Jim) he was writing this story. A gal, I don't even remember her name, it doesn't make any difference, she was an Alpha Phi, and there was a little gossip around the campus that every now and then at night she would climb out her window in the Alpha Phi house which I think in those days was up on Virginia Street and rush off to meet her boyfriend and they'd go out. Well, Jim made the mistake of referring to her as leaving the Alpha Phi house to meet her paramour [laughs] and that raised all hell.

So those two incidents, H. Wills and paramour, put us all on suspension that year.

Brower: Eventually I think the Raspberry was outlawed from the campus altogether.

Selvin: I thought it probably might have died of its own weight, but I don't even know if PE is still in existence, either nationally locally, but that was the Raspberry Press. We used to put it out and I remember the masthead would have the names of the neophytes and the custom had grown up of carrying nicknames for all the neophytes and usually they were obnoxious nicknames, not necessarily dirty but obnoxious, such as "Slimey"--that was my nickname--and they were alliterative. They were not our real nicknames. As a matter of fact, in my year, I remember Ernie Spiegel and I sat down and we made up the masthead. Ernie was the one who dubbed me "Slimey." I didn't do that myself! But anyway, we made up the masthead.

Brower: You'd enjoy an exhibit they have right now in the library of old Raspberrys and old Occidents.

Selvin: Is the Occident still being published?

Brower: No.

Selvin: Well, that's a pity, because its motto I always liked--"To sail beyond the sunset." Of course, I happened to like Tennyson, which is a reflection of my low taste in poetry, I guess, but that's where it comes from. It comes from Ulysses: "for my purpose holds to sail beyond the sunset, and the baths of all the western stars. . . . It may be we shall touch the Happy Isles, and see the great Achilles, whom we knew."

Brower: I like that.

Selvin: And something else--"that which we are, we are; one equal temper of heroic hearts, made weak by time and fate, but strong in will to seek, to strive, to find, and not to yield." Well, that's where that comes from, I guess.

Kappa Nu and Zeta Beta Tau

Selvin: One night, during an initiation, I thought the physical aspects of it had gone too far, particularly the tubbing as I recall it that required about three or four men to hold the victim down into the tub. I insisted that it be stopped. There was enough agreement to stop it as I recall it, and I went and got my badge and threw it on the table and told them there it was, they could have it, I'd be out of there as soon as I could leave. They refused to pick it up, they refused to accept it. That was simply the culmination of an attitude which was building up for quite a while. I never did think much of the real rough physical initiations, beyond a few jokes of one sort or another that don't involve any danger to the neophyte.

Brower: You're talking about fraternity initiations?

Selvin: Yes. I don't think that my one-night rebellion had any great effect because I moved out of the house the semester following that, I think, and I never attended any other festivities. But my vague impression is that it at least brought about a mellowing if you could call it that or softening in the kind of activities that went on.

I know I wrote an editorial type essay, a short one, that I submitted to Banter's Greek Exchange at that time which was published. Reading the newspapers from time to time and some of the incidents that have occurred during fraternity initiations since then it is obvious that my editorial had little effect on the collegiate public.

Brower: But don't you think that as compared with twenty years ago or thirty years ago things have improved in that respect?

Selvin: I think they have, but then I don't have very much firsthand knowledge of it. I haven't kept up the same kind of relationship with my fraternity and, of course, it's not in existence any longer, that is the chapter that I was in. I told you about those mergers that resulted in it being Zeta Beta Tau.

It reminds me, I went up to San Francisco once for a dinner that my fraternity, the Kappa Nus, were giving in my honor and I'm not trying to be modest, but I don't know why. There wasn't any particular occasion for it but anyway I was the guest of honor at this dinner and, of course, I was called on to speak. Some time before I got on my feet, somebody had told me that another merger had taken place and that we were now a part of Zeta Beta Tau. I remember saying at that time, that those of us there had reached a sufficient age of maturity to be able to listen to the truth which was that the foundation of Kappa Nu in California, the California chapter, was pretty largely a reaction to having been ignored by Zeta Beta Tau. I said, "You tell me now that we are Zetas. It serves the sons of bitches right!"
[Laughter]

Brower: That Greek Exchange then is a periodical?

Selvin: Yes. Banter had some commercial connection with fraternities as I recall it. I don't think he sold jewelry, and outside of the publication I don't know how he made his money out of fraternities, but apparently he got along some way or another. He did have a publication called Banter's Greek Exchange which was devoted to news of the college fraternities and the people who belonged to them. I don't even know how I found out about the sheet.

The Berkeley Campus after World War I

Brower: Would you go back to your undergraduate days? Were you aware at all of returning veterans from World War I? Did they change the character of the campus at all?

Selvin: No, they were not particularly prominent above the general run of the student body. We knew that there were some who were either in the SATC [Student Army Training Corps] or before that had actually served. Muggs [Merritt E.] Van Sant, for instance, I think I knew even then Muggs had been a Marine sergeant in World War I. He was an athlete in track and football. We knew that Muggs

Selvin: was a Marine sergeant. I guess I learned later that the two great institutional loves of his life were the university and the Marine Corps.

Brower: But the student body wasn't appreciably older, for example?

Selvin: No, there weren't that many who had actually served and most of them who had were in the SATC. They had spent the preceding year, 1918 and 1919, on the campus, marching around I guess, as we did with the ROTC. We griped, of course, about the ROTC and just after World War I there was a reaction. So far as we were concerned, we didn't want any part of things military including the ROTC. The excuse for compulsory ROTC always was that we were a land grant college and that it was mandatory under the act.

Brower: I never understood how they got around that because I grew up hearing that.

Selvin: It wasn't true. That was sheer rationalization--not rationalization--sheer imagination in order to justify their positions. ROTC was compulsory because the militaristic point of view predominated in the minds of the conservatives and the conservatives were in control in those days. But it wasn't true. I don't think any of us, although we had more or less mild demonstrations in opposition to ROTC, ever went to the lengths that they went to in the sixties. Our demonstrations, if anything, were few and far between and they generally consisted of nothing more than some vocalizing. But we didn't like ROTC and we certainly didn't like the compulsory part of it, that is most of us. There were some, of course, who went on through the whole four years and came out with reserve commissions, but they were comparatively small in number. I still remember what I think was the greatest one-liner that I ever read in the Pelican. This, of course, was during the days of President Barrow's administration. It said, "The only difference between California and West Point is that at West Point they don't drill as much" [laughs].

Brower: Was this in part because Barrows was General Barrows?

Selvin: Well, I suppose that had something to do with it but mainly we did drill a lot. In compulsory ROTC, as I remember, we had an hour twice a week and then the thing that usually pushed us over the edge was in the spring we had an all-day skirmishing situation of some kind. We spent all day marching out into the country and practicing skirmish lines and one thing and another and then marching back. One day a week--not one day a week, but one day during the term--one at a time we had to go up to the target range in Strawberry Canyon I think it was and undergo a course in firing. I didn't mind that personally. As a matter of fact, I was a pretty good shot being a small-town boy [chuckles]. I remember I got a pretty respectable score in that.

Brower: When you were in Utah then you had a gun and learned how to shoot it?

Selvin: Well, I learned. I never had anything but a hand gun of my own in Utah. But I had access to rifles. I learned. One way or another I got to be a pretty fair shot, as I proved I guess in my freshman year on the campus. I can recall that on the target range we had ten shots and I got ten bullseyes. The only trouble was that one of them was on the wrong target [laughter].

Brower: Did you hunt when you were in Utah or was this shooting bottles off fences?

Selvin: No, we'd hunt. There weren't big hunting expeditions. Around Tooele about the only thing that you could hunt conveniently were jack rabbits down on the prairie. But throughout Utah, particularly other parts of it, there was a good deal of hunting for deer, antelope, and of course, duck, wild duck, that sort of thing. But you had to go out of town for most of that.

Brower: Did you take just a minimal amount of ROTC then?

Selvin: Just what was compulsory; when two years were over, I never saw the uniform again and I never saw the drill field again except to watch others drilling.

Brower: About this time, after World War I, there was a sort of faculty revolution and I wondered if that was apparent to the ordinary students or if it was pretty much kept from them.

Selvin: Well, it wasn't apparent to me and I don't recall anything in the Daily Cal or anything of that sort about it. I wondered and some of us wondered why Barrows had quit as abruptly as it seemed to be. I know now that his leaving was the result of an inability to get along between him and the academic senate. But I don't recall any rumblings of it at all on the campus. It was kept pretty well under cover. To this day I don't know what really went on.

Recruitment of Athletes

Brower: What about your experience in recruitment of athletes? You recruited some black athletes, did you not?

Selvin: Well, I helped a little. My old friend the late Frank Storment, who for obvious reasons was called "the coach," was the leader in that field. Frank was a Phi Psi on the campus and developed in

Selvin: a way you'd expect a fraternity man in the upper-crust fraternities in California to develop as one to whom the condition of the blacks would make no appeal at all. But Frank was interested in the university and he was particularly interested in the university athletics and he came to realize sooner than most that you're not going to have any consistent success in athletics, college athletics, if you don't have a fair share of black athletes and so he went out of his way to recruit or try to recruit good black athletes but in those days and before any Affirmative Action programs, those kids had to be able to get into California and there were very few of them that could. But those who could get in were successful ones, Sam Williams, Jerry Drew--what's the name of the young fellow who went back to Washington, he was a lawyer--Thelton Henderson. Well, they were all kids that Frank "the coach" had recruited or helped recruit. I helped Frank with some of them but I was not nearly as active nor for that matter as successful at recruiting as Frank was, but Frank was--well, like so many of us Frank was a character in his own right. You had to know Frank to understand him sometimes [chuckles]. He could get pretty abrasive, particularly if you ran across fields in which he was devoutly interested.

Brower: Sam Williams, not Archie Williams?

Selvin: No, Sam. Sam was a football player. At the present time, he is president of the Los Angeles County Bar Association. Sam is an example of a principle I have often stated and that is that prejudice is not the monopoly of any one race or any one class of society. When Sam was a senior in high school here in Los Angeles he was an all-city quarterback, he was a straight "A" student, and he was a big, upstanding, handsome young man. He was really a pearl of great price, a great prize. A couple of undergraduates came in to see me in my office downtown and told me they represented the rushing committee of my fraternity and they had heard that I was interested in getting young people to go up to Berkeley and had I come across anybody that it would be worthwhile for them to rush. Well, I said to them, "I have heard somewhat unofficially that the fraternity has now gone nonsectarian, that you no longer have to be Jewish to be a member." One said, "That's right."

I said, "Then I think I have one ideal candidate for you" and I described Sam Williams--all-city quarterback, straight "A" student, so on and so forth, and I could almost literally see them drooling, they were so anxious to get to this great prospect that I had described for them. They wanted his name, address, and phone number and all the rest of it and I said, "Wait a minute, there's one thing more about him that you should know." They said, "What's that?" I said, "He's black. (At that time I probably said he was a Negro. Then it was not a sign of racism to call a black a Negro.)"

Selvin: So they immediately slumped, crestfallen at the disappearance of a great prospect. They said, "I'm afraid we're not quite ready for that yet, sir." I said, "That's the only prospect that I can think of. I don't know of anybody else that I can suggest to you." So they left and that was the end of that.

Sam went up there and I don't know whether he made a fraternity or not. I know he was elected to Skull and Keys, probably the first and only black that ever was, and then he married after Korean duty. He got a commission. He took ROTC and got an Army commission. He wanted to live in Los Angeles with his wife, went to USC Law School and became connected with a very good law firm in town in which he is now one of the senior partners, and at the present time he's the president of the Los Angeles County Bar Association, an office that I can't help but admire greatly because I was once president of that association.

Well, anyway, that was Sam Williams, that was Sam that my fraternity wasn't quite ready for.

Berkeley in the Twenties

Brower: What was Berkeley like when you were a student?

Selvin: A favorite student hang out through the twenties was a place called Barney's Beanery. It was on the east side of Telegraph Avenue between Bancroft and Allston as I remember, it.

Brower: Bancroft and Durant?

Selvin: No, the other direction, Allston.

Brower: Oh, that's right. Allston used to extend up there. Forgive me; you know, it doesn't anymore.

Selvin: The kind of a place it was is illustrated by the fact that on the little checks that Barney gave you if you ate or ordered anything there, on the back of it it had printed, "It's your fault. You ordered it" [laughter]. His malts, I remember, were delicious, and the principal dish he served outside of malted milks I think was chili. It was a favorite place. He had murals on the wall which consisted of face portraits of the leading varsity football players at that time. It was quite a place--and he didn't permit women in the place. Well, Barney left Berkeley, whether under a cloud or not I don't know [chuckles]. He came down here and he opened up a Barney's Beanery on Sunset Boulevard in Los Angeles and it was--except much larger and a much more varied and better

Selvin: cooked menu--more or less a replica of his Berkeley place. Barney was alive then, Barney Anthony was his name.

General [William F.] Dean when he was an undergraduate worked for Barney I think as a dishwasher or a waiter. When Dean came back from the wars with the Medal of Honor and all the rest, he was met by a welcoming committee at the harbor (I believe he came in by ship), who trundled him off in an automobile and were about to take him to the city hall where a big public reception and what have you was to be held on the steps of the city hall with the usual agenda of stuffy speeches and one thing or another.

Brower: This would be the Berkeley city hall?

Selvin: No, Los Angeles. So Dean accepted the ride and the program they proposed for him except that before he got down in the midst of all of the dignitaries at city hall he insisted on being taken to Barney's Beanery so he could say hello to Barney before he would say hello to anybody else [laughter]. That's one of the things that endeared him to me. I didn't know him except casually later, but I always thought that that was a mark of a real friend and a real gentleman. To heck with the mayor and the governor and all the rest of the people down there. He wanted to see Barney, the guy that had paid his wages when he was working his way through college.

Brower: Is it true that they used to drop crockery when a woman entered the Beanery?

Selvin: I don't recall that ever happening but I think that the crockery was heavy enough that you could pound on the table with it. I don't recall ever being in there when a woman tried to get in.

Brower: It must have been all right later because I remember that chili. It's the best chili I had ever. Barney's was right across from a little bowling alley. Was there a bowling alley there when you were there?

Selvin: I think so--Joe's Place. It was behind Joe's Place I think. Then another eating establishment opened up on the same side of the street, but a couple of doors nearer, a couple of houses nearer Sather Gate than Barney's Place.

Brower: The Varsity on the corner?

Selvin: No, the Varsity was down the other direction. That was at the corner of Bancroft and Telegraph, wasn't it?

Brower: Yes, I'm sorry. I thought that that was the corner you meant.

Selvin: No, this was the other way. It was called Lank's Lunchery. The fellow that opened that was a young student, Bill Spencer, who later became editor of the Daily Cal but at the time he opened the place--you see, when I lived at the Southgate that was right across the street from those establishments so I was practically Spencer's first customer. I went across the street when he opened. It was very successful so far as Bill was concerned. Bill became editor of the Daily Cal. When he graduated he went to New York and I don't know whatever happened to Bill.

I know Bill Furth, who had also been an editor of the Daily Cal. I used to see him in New York, but I never heard of or from Spencer since that time and I've often wondered what happened to him in New York. He was a very able young man and had considerable initiative as you can see, while he was still an undergraduate he opened this eating establishment. He ran it himself and it was quite successful.

Brower: Was it opposite Sather Gate?

Selvin: No, it couldn't be. Sather Gate faces south, doesn't it?

Brower: Yes, it does.

Selvin: These establishments are on Telegraph Avenue which runs north and south so Lank's and Barney's were on the east side of Telegraph Avenue so they faced toward the bay, toward the Golden Gate. Well, you couldn't see the Gate from down in the street there. Joe's Place, I think, was across the street--not Joe's--well, it doesn't make any difference who it was.

Brower: There was a little curved place on the corner of Allston right outside Sather Gate to the west, on the west side of the street.

Selvin: I don't remember that place. There used to be some kind of a restaurant on that corner there. I have a vague recollection of it. I think in my day it outriced me. There was a place down there on Bancroft, just a little west of Telegraph as I recall it (I've forgotten what they call it) on the other side of the Varsity. That's where the Varsity Candy Shop was.

Brower: Yes, I know the place you mean. The extension division later moved into it, I think.

Selvin: I've forgotten the name of the restaurant. The food was quite good and it was reasonably priced.

Brower: It was called Drake's.

Selvin: Yes. Some of us used to eat there and they always had a table d'hote dinner of several courses for a fixed price and they also served à la carte. After awhile I discovered that if you ordered everything that was on the fixed price dinner separately, you not only got larger portions, but the total was less than the price of the separate dinner [chuckles]. So from that time on we always ordered à la carte.

Brower: It seems to me there are fewer such restaurants in that area now.

Selvin: No, they're all hamburger type of things from what I've seen on Telegraph there. Of course, with the repeal of Prohibition quite a few opened up, I gather, on University Avenue that could comply with the mild restrictions so far as serving alcoholic beverages is concerned. But they're not right up by the campus. They're a mile away. They get away from that mild restriction now. For instance, the Claremont Hotel which is certainly not a mile away from the nearest point of the campus has had a bar for a long time. They got a license for that without any difficulty.

Brower: They got it on their Oakland side. They're partly in Oakland and partly in Berkeley.

Selvin: Here next to UCLA there are several places now serving drinks, although they didn't some years ago, and that I know are less than a mile away--I'm sure, are less than a mile away from the campus. Somebody told me once what the gimmick was. I've forgotten. I think they don't figure the mile by air line, they figure it by the nearest convenient method of getting there. Well, that involves considerable meandering in doing the measurement and so they sneak in under the mile limit.

Brower: Actually that rule must no longer be in effect in Berkeley. The Hotel Durant has a regular bar and the Faculty Club serves liquor, too, of course.

U.C. Students and Prohibition

Selvin: Well, I think it's gone by the board now but when Prohibition was first repealed that was a California provision. Berkeley during Prohibition had no speakeasy (which, thinking back on it, I always thought was strange) with one faint exception, Hill's Place, which had a soda foundation type of thing in front and pool tables in back. If you knew Joe, you could get him to take you to the back room and serve you a small glass of wine for twenty-five cents and that's the nearest thing to a speakeasy that I ever knew in Berkeley.

Selvin: The nearest one that got plenty of college trade was Al Jennings down in Emeryville right near the ball park.

Brower: I think Emeryville was quite a haven at that time.

Selvin: Yes. Well, Al Jennings Place was a horrible place. He served etherized beer, and it was terrible, and rotgut whiskey of some kind. The best places for drinking during Prohibition were in San Francisco. The place on the water front south of Market on Embarcadero was a regular old-time saloon with a long bar that ran wide open and you could get a glass of good beer, real beer, for ten cents and you had a limited free lunch. I think his free lunch consisted of frankfurters and beans that you could serve to yourself. I don't know that he sold anything else except the beer in the way of alcohol. I asked the fellow who ran it once how he got away with it so openly. He said, "Because I'm not bootlegging." I said, "What do you mean you're not bootlegging. You serve beer. It's real beer, isn't it?" He said, "Of course it is." I said, "Then you are bootlegging." He said, "No, I'm not. I serve you a good glass of beer at a reasonable price, don't I?" "Yes, you do." "Well, if I served you rotten beer or ether beer and charged you an outrageous price for it, that would be bootlegging. But I'm not bootlegging and so they leave me alone."

If you wanted hard liquor you could get some at the Fior d'Italia, I think, down on the Barbary Coast. Mimi's was our favorite because it was pretty exclusive in that Mimi had to look you over and decide that you were acceptable for the way in which he ran his establishment.

Brower: Mimi was a gentleman?

Selvin: Oh, yes, Mimi Emperor. He had been, I had been told, a star at La Scala opera in Italy. He was a big, huge man and he was a basso and he still had the remnants of a good voice. Well, you could go to Mimi's, have a few drinks before dinner, and they'd be good [chuckles]. You know, it was liquor you could depend on not killing you and the prices were reasonable and he served a good meal if you stayed for dinner. Then after he had weeded out the ribbon clerks and some of Mimi's true friends remained, he closed the doors (his doors were always closed anyway because it was a speakeasy) but he ceased letting anybody else in and Mimi would sit down and entertain the crowd by singing operatic arias and he was good; he was still good.

Well, Mimi's place closed as the result of some bootlegging feud. I never knew what that was all about, but while it lasted it was a magnificent place. It was in a private residence and tucked away somewhere on the coast there. You had to go down a

Selvin: dark alley to get to it. You really had to know where the place was to get to it. It wasn't visible from any of the streets down there. But the food was good and the liquor was potable. What was important to the college clientele, the prices were reasonable.

Brower: Was Izzy Gomez around at that time?

Selvin: No, he came later. So did the fellow who came from the University of Washington that had that place down some alley off the financial district there--Shanty Malone. Shanty Malone came later, I think. At least he came later so far as my experience was concerned. The first time I was at Shanty Malone's his place was decorated with athletic pictures and athletic memorabilia, a lot of it relating to Washington because Shanty had come, I think, from the University of Washington and a great deal of it from the University of California because when Shanty first got around there I guess we were at the height of our athletic prowess, a height that we've never regained since. It was an interesting place. But Izzy Gomez, the Hungry i, and all those places in San Francisco, they were much later. They came in, for the most part, after Prohibition I think.

Brower: Did you have any scruples about alcohol? Did you grow up in a family that objected to the use of alcohol?

Selvin: No, as far as alcohol was concerned it was always available in small quantities at home, not for the kids but Dad would take a drink once in a while. I don't think Mother ever did. But there were no scruples about it so long as you handled it properly. Moderation, that was always the great cry.

Brower: What about the business of breaking the law technically during Prohibition?

Selvin: I don't think we ever paid any attention to that. I certainly didn't think about it one way or another. If I did, I probably rationalized it by saying that it was no crime to drink, it was only a crime to possess it or sell it and if you just drank it and didn't carry it in your pocket you weren't violating any law. No, it gave us no qualms of any kind.

Brower: I wonder if my own somewhat relaxed attitude toward the law was affected at all by the fact that I grew up in a household that ignored Prohibition.

Selvin: Yes, it's certainly a possibility but, as I say, we gave it no thought [chuckles]. I remember I was arguing a case in the [California] Supreme Court at the time after Traynor had become chief justice, I think, but in any event he was on the court and

Selvin: my argument consisted of telling the court that a certain young man had not demonstrated the moral character necessary to be admitted to the bar because of a record of quite a number of arrests and convictions for minor crimes, but nevertheless crimes, most but not all of them incurred in the course of violent civil rights demonstrations. His theory of the situation was--of course, at that time all of the New Left thinkers would always throw Thoreau at you and his essay on civil disobedience, which if you read it doesn't go quite as far as the fanatics thought it went.

So I was making my argument and Traynor interrupted me and said, "Mr. Selvin, what would you have done with the students in our time when we used to go to some speakeasy such as Al Jennings and have a drink or two?" I said, "Your honor, I don't know about anybody else but as for me I blush for one of us." Traynor caught on so he went on to something else [chuckles].

Brower: He wasn't really in a position to bring up that matter, I gather?

Selvin: Well, that's the point I was trying to get over to him. There was nothing in the general mores of the times that made people feel that violation of the prohibition law was in any way bad. They didn't approve of gangsterism. They didn't approve of all of the things that are generally connected with Prohibition in the way of violence or mobster crime, but the mere act of selling it, possessing liquor wasn't thought to be bad. In fact, many thought it was a good thing.

Brower: I suppose it must have been regarded as bad in some quarters, and people who were very scrupulous about the law, the letter of the law, must have taken a different view.

Selvin: I suppose, but I think the people who were most stringent about observance of the prohibition law weren't espousing any theory of the supremacy of the law and the necessity of adhering to it in the interest of orderly society, but were espousing a moral doctrine which they wanted to impose upon other people who didn't see morals in the same way they did.

The same thing is happening right now with cigarette smoking. I used to be a heavy smoker. I'm not any more. The fact that cigarette smoke or smell doesn't bother me today may in part be responsible for my opinion, but I'm opposed to all of these laws restricting the use of cigarettes in public places, except in some places where there's a good reason for them, such as in an elevator. In a crowded elevator a cigarette can do damage. As a matter of fact, I lost a good suit that way once, somebody burning a hole right through my coat.

Brower: Not to mention your lungs.

Selvin: But generally speaking most cigarette smoking is being outlawed not because of a sincere desire to improve sanitary or environmental conditions but because people think there's something sinful and immoral about smoking, just as they do about drinking, and therefore their straightlaced views ought to be imposed on these people. Well, I don't agree in imposing my views on others. Let them have their freedom. I take my freedom and let them have theirs. I'm not going to give up my freedom because somebody happens to think what I do is not legally but socially or morally reprehensible. So I'm opposed to all of these restrictive laws, all that sumptuary legislation.

Brower: What is the meaning of sumptuary legislation? It's such a lovely word.

Selvin: Strictly I think it means something that appeals or is designed for satisfaction of the appetite, not necessarily carnal appetites, but human appetites and therefore it's legislation relating to things having to do with what you eat and drink and that sort of thing. Now, that's the sense in which I use the word. What it means strictly I'm not sure but as long as you brought the subject up let's find out.

[Reads from dictionary] "Sumptuary: designed to regulate personal expenditures and especially to prevent extravagance and luxury as in sumptuary tastes." The other definition: "Designed to regulate habits on moral or religious grounds." Well, that's the sense in which I intended it. I'm opposed to sumptuary legislation of almost every kind because I don't think one person's ideas of morality or of a good religion or anything else should be imposed on another.

III THE UNIVERSITY OF CALIFORNIA ADMINISTRATION, THE STATE, AND THE PUBLIC

Presidents of the University

Brower: When you review the university presidents you've known from the time you were a student on, how would you rate them? How do you think about them?

Selvin: Bob Sproul has to be number one, not merely because of the length of his tenure. I think the ability of any university president, particularly at Berkeley, to survive twenty-five years is phenomenal in itself. But it was under Bob and largely through Bob's leadership, his political and his financing ability, that the university came up to number one place in the country. So you have to give him credit for that, in addition to which he was just enough of a "jolly sophomore" type so that his relationship with the students were good.

Brower: That marvelous laugh! You could hear him throughout Cal Hall.

Selvin: Well, it's an old, old story which probably never happened and I don't know how prevalent it was or is, but when Campbell was president (that was when Sproul was comptroller) the story is that Campbell was having a high-level meeting in his office and Sproul was carrying on some kind of a conversation which filtered through the walls and disturbed Campbell's meeting. Somebody said, "What's Sproul doing?" One of his aides answered, "He's talking to Sacramento, Mr. President." Campbell said, "Well, tell him to use the telephone!" [Laughter] Now, I don't think that ever happened because that isn't typical of Campbell. I don't think Campbell had that much sense of humor.

Campbell, from the standpoint of his student body, I think was a complete nonentity. We knew and we appreciated his great scholarship, but he had none of that appeal for the students that Barrows before him had and for that matter that Sproul after him had.

Selvin: He gave me the impression of having spent so much time in solitude on top of Mount Hamilton looking up through that Lick telescope, at other worlds, that he really didn't know much about what was happening in the world that he was in. He was an unworldly sort of person. He was, for a man in his position, very unsophisticated it always seemed to me. I had very little direct contact with him, but I had some, not only in the talks that he gave at University Meetings, this, that, and the other. I can recall him appearing occasionally at a meeting of Golden Bear, for instance, and taking the floor once in a while and his comments then struck me as being sort of peculiar for a man who was heading a university of the caliber of California. He didn't seem to know what was going on. He didn't know what the world was like. But he knew what the other worlds were like, there's no doubt about that.

Brower: How did the choice of Campbell come about?

Selvin: I don't know. I think very likely (I'm just guessing, but having regard to the kind of board of regents we had then and the fact that Barrows left because, I now know, of an inability to get along with the academic senate) that he was probably picked for two reasons. In the first place he was sufficiently remote from Berkeley and yet so much a part of the university that it made him a logical choice, in addition to which he carried with him the aura of high scholarship that even Barrows didn't have and that befitted the post of the university president. In those days, unlike today, a university president was supposed to be a great scholar, not a money-raiser or a politician.

Brower: Of course, that changed in 1930 with Sproul because he wasn't--

Selvin: Well, that's right and I don't know, I haven't followed the thing throughout the country, but I would guess that the change generally in university circles as to the kind of man they want for the president is very strongly influenced, I think, by Sproul's success in California. When Bob became president, all he had was a bachelor's degree. Now, he may have gotten an honorary before he became president, I don't know, but he had no academic degree higher than a bachelor's degree and that was unheard of in top university circles. But he made believers out of the scoffers. I think the absence of a Ph.D.--

Brower: He must have had good relations with the faculty to have managed to last under those circumstances as long as--

Selvin: Well, Bob, until I guess time wore out his welcome, had a great knack of getting along with people and he got along with the academicians. The scholars respected him and the scholars had sense enough to realize that they couldn't go out and scholasticate without some money in the till.

Brower: What about relations with the legislature during those years?

Selvin: Oh, there were fitful attempts of establishing some kind of a liaison but they never amounted to much and the students as a whole (I'm judging them now by myself) were never too conscious of the importance of good relations with Sacramento. We just took for granted the fact that the money was there to keep the university going in the way to which we had become accustomed. Once in a while we'd have a legislators' day on which we'd invite them down to the campus, escort them around. Usually each legislator would have some student or a couple of students assigned to him to guide his tour through the campus. We had meetings, as I recall, at which we were told what to do in a general way. But there was no set program and certainly we were left pretty much on our own as to what to do with these fellows. A story was prevalent then after one of those meetings about Friend [W.] Richardson, the governor, who in appearance, actions, and thoughts would be the perfect stereotype of a deep down South governor except he had no accent. But he was a boor, in addition to which he was a thoroughly uneducated man as far as I could tell. He was escorted down to the University Avenue SP station to get a train back to Sacramento. They didn't come down in state automobiles [chuckles]. I'm not sure if the state had automobiles at that time. The story goes that he turned around to his escort, the student, fumbled in his pocket and took out a quarter and said to him, "Here, boy, here's a quarter. Go buy yourself cigarettes." [pronounced "seegareets"]

But that typified the relationship at that time. There were efforts to organize the students directly and through the students, their parents or friends out in the field to keep in touch with the legislature and help out with the university's budget and other problems, but they never amounted to very much. They didn't as far as I could see.

Regents of the University

Brower: How about the relations with the various boards of regents through the years?

Selvin: If I was typical of the mass on the campus, we were barely aware of the fact that there was a board of regents. Certainly, we never attended any meetings nor expressed any desire to attend them. They didn't seem to interfere with the day-to-day administration of the university as much as later boards, particularly boards under Reagan. They weren't that important

Selvin: in the daily scheme of things at that time. The only time I personally became aware of what the regents could do was when they took over UCLA as the southern branch (what is now UCLA), and realizing by putting two and two together and probably getting five as an answer that that was a bit of provincial politics largely on the part of Guy Earl who was the publisher of the Los Angeles Express--I think it was.

Brower: He was a member of the board of regents?

Selvin: He was a member of the board. That's about as much as I ever thought about the board of regents that I can recall.

Brower: In later years, except for the behavior under Reagan, you don't have any strong feelings about any particular board?

Selvin: I have strong feelings about people who followed Reagan's line on the board. I know one of the great disappointments--I had never asked anything of Pat Brown myself in the way of appointment in government of any kind. He had offered me a judgeship at one time but for personal reasons I declined. But I did get the word to him once that I had never asked him for anything, but before he finished his last term I did have a request to make of him and that was I would like to be appointed to the board of regents. There was a vacancy and as he told me afterwards, the vacancy had to go to San Diego for various reasons, important to the Democratic Party I guess and he appointed [DeWitt A.] Dutch Higgs who was a good friend of mine. I had known Dutch for some time and I thought Dutch would make an excellent regent. I'm sorry to say, and as I have told him since, he was a complete flop in my estimation. Dutch, who as president of the state bar, was a very sensible and liberal individual, liberal in his civil rights and political ideas, turned into one of Reagan's arch-reactionaries on the board, I always thought, and I told him so. But anyway, Dutch is sitting up there, I guess he's still sitting, in the spot I had hoped to get myself and that Pat told me afterwards except for the necessity of, I suppose, politics I probably would have gotten there.

Brower: Do you have any views on the current board, on Jerry Brown's appointments?

Selvin: No, I couldn't even put a name to the people he's appointed, except I'm sure they must either be black or Chicano or preferably feminine and one of the others combined.

Brower: That's not altogether true because there's an anthropologist, Gregory Bateson, and Theodora Kroeber (who has just left) who doesn't fit quite those categories.

Selvin: Aside from their general point of view with which I disagree, the appointments to the board since the [Goodwin J.] Knight incumbencies of course, you could expect anything of Goodie Knight, he didn't have any sense really. (You can see, as I said before, I really don't believe in the maxim "de mortuis....") There have been too few appointments to the board from our own family. We have more blankety-blank Stanford alumni on that board than Stanford has on its own board I think and we have damn few from California, certainly none under Reagan. I don't think Reagan appointed anybody who graduated from the University of California. Of course, Reagan didn't think that there was any good in the higher education system except in the private schools. Our state universities for him were just something that ate up taxes to no good end. But private universities, oh yes--the Harvards, the Yales, the Princetons, and the little schools like that jerkwater college that he came from somewhere up in Illinois, they're great; they were the backbone of the nation, private enterprise or something.

The worst influence on the board in the last ten years at least or more, are those arch-reactionaries from down the Peninsula who were connected one way or another with Stanford. They bought the Reagan point of view, the aristocratic point of view, that there's nothing in education except the private schools. Now, Reynolds from the Los Angeles Times is an old Stanford athlete, he's probably the most sensible one of the bunch. But there are a couple of them, one of them off the Stanford faculty and I think one from the Hoover Library who are the worst reactionaries on the board from what I've seen in the papers. I don't know anything about what goes on on the inside.

Brower: Of course, I suppose Roth fits the description of being an aristocrat from the Peninsula but he's liberal rather than reactionary.

Selvin: But he's not from Stanford.

Brower: No?

Selvin: I think he's from California and he was a Brown appointment I think, Pat Brown.

Brower: I'm sure he was.

Selvin: I think the board of regents, whether knowingly or not I don't know, couldn't have done a better job of bringing the university down to its knees than they have done on the pretext of improving the university. We're not number one today and we're not number one today in my opinion because of the Reagan appointees to the board of regents, coupled with the runaway legislature that became antiintellectual in the sixties.

Governor Ronald Reagan

- Selvin: Of course, Reagan is the prototype antiintellectualist. I'm surprised that the guy can read and I'm sure that he never reads anything beyond the daily Variety, that's the theatrical paper that comes out every day. The words "educated man" applied to him are a mockery.
- Brower: Would you rate him the worst of the governors?
- Selvin: Yes, because he's been the most active and most influential. There are other candidates who when it came to personal ability were even worse. Goodie Knight was one of them in my opinion. Goodie was a very engaging fellow. Well, so is Reagan.
- Brower: Was Knight less destructive than Reagan?
- Selvin: Yes. They knew nothing. They were very ordinary people; less than ordinary. Friend Richardson is my example. Of the governors, not that I have known but that I have personally observed, which goes back I guess to [William D.] Stephens who was governor when I first came to California, I think Richardson was the worst one. But he never did the damage to the University of California that Reagan did, because Reagan was more personable. Reagan had the advantage that Richardson never had of getting to the public through television and Reagan had a name.

[To prevent the former governor from filling] existing vacancies and appointive offices on the morning of the day that Reagan would normally have taken his oath at noon, Reagan scheduled a midnight ceremony, one minute after midnight on the day that Brown's term expired. I get the story that [he was] at the microphone with George Murphy, who at that time was United States senator and who had also gotten there thanks to television and midnight movies. He said to George, "Well, George, here we are back on the late show." [Laughter]

Reagan's ranch, I've never been there but I've seen some pictures. At the main entrance, which is a gate as I recall it, he had one of those old hitching posts that consisted of a blackamoor, a young black, and of course, a travesty on the race and something that I'm sure the blacks resent very much. Well, that was right there in front of his gate and when he was doing his first campaign a picture was taken of him standing in front of the gate and he was standing right next to this hitching post. I couldn't understand how in the world anybody with political sense would ever let his picture be taken like that.

Selvin: I knew some reporters at that time and I happened to be talking to one of them and discovered that he had been with the reportorial party at the time this picture was taken. I asked him, "How in the world was Reagan stupid enough ever to let his picture be taken next to that hitching post?" He said, "He didn't know it was there. We moved it over so it would get into the field of sight." But the Democrats, in their usual bright and alert way, never made any capital out of that picture although in my opinion they should have. But then my opinion on how to run a political campaign has never been accepted by the professional pols. They all think I'm crazy [chuckles] and they may be right.

Relationship Between the Governors and the University

- Brower: What about the relationship between the University of California and the various governors over the years. Do you have any views about that?
- Selvin: I have some very strong views on it. With the exception of Edmund G. (Pat) Brown, and I underscore the Pat, there hasn't been a governor up there that has been anything more than a "let them have as little as necessary to get along" type. I don't think we've ever had a strong friend--
- Brower: How far back are you going?
- Selvin: Well, I go back to Governor [William D.] Stephens, I guess.
- Brower: So you're including Warren in this group?
- Selvin: Well, no. Warren was too ardent a Californian (by Californian, I mean one attached to the university) ever to be either neutral or indifferent about the fate of the university. On the other hand, I don't think he was as actively a friend of the university and as actively engaged in giving the university what he and those who were running it thought it really needed as Pat Brown. Pat Brown I think is the best friend we ever had in Sacramento, and his son is no example. His son is worse than Ronald Reagan in my opinion when it comes to the university [chuckles]. He's not worse than Ronald Reagan in other things, but he's certainly tied him in a number of things.
- Brower: Neither of them has been friendly to the university and I've never understood why Jerry Brown should be quite so hostile.
- Selvin: By the time Earl got to be governor and, of course, his ambitions politically transcended Bay Area politics, he had become pretty enamored of UCLA, not only for the same reason that Bob Sproul did

Selvin: because this was where the votes were, but also because I think his children or some of them went to UCLA. So I think Earl favored UCLA much more than I should have liked to have happen. I am not adverse to them getting just as much as the state can afford to give them but on the other hand I want them to do the same thing for Berkeley which they don't do, and except in Brown's administration, haven't done and that goes back to even before--well, you see in 1920 I wasn't aware of it. I had just come into this state. I hadn't lived here and I didn't know what the political set-up was. I'm not even sure I know yet.

University Issues, '20s to '60s

Brower: What about the big issues in the university in the years that you were a student?

Selvin: I don't think there were any that surfaced or that we as students were aware of. We (students) were much less aware of what went on outside the boundaries of the campus than the students today are, or think they are, and times and college circles so far as they made any impression on me during that period seemed to be quite serene. There wasn't any great turmoil anywhere. I don't think Eliot was still president of Harvard, but Harvard was the cloistered, Ivy League school that it certainly isn't today. Yale, Chicago, Princeton, and the smaller Ivy schools. Michigan was well known all through the nation, I think; very few other state universities were, outside of California and even California in the twenties had not yet reached the pinnacle to which it later ascended.

Brower: Do you recall problems in the University of California in the thirties? The only one I remember is the excitement that occurred when Professor [Samuel Chester] May officially disowned Kenneth May as a Communist and there was a petition circulated.

Selvin: I remember May. He was in political science. He taught the municipal government end of it. I remember him with complete disfavor because in a course in which I thought I earned a better grade he gave me a "C" and that kept me from graduating with honors in political science, because every other political science course that I had was an "A" or "B" but that one "C" kept me from honors.

Brower: To move on, how did you feel during the oath controversy?

Selvin: I was certainly on the side of those who refused to take the oath. I believed in their point of view. I had the feeling, however, that they were overestimating either the intrinsic or the symbolic

- Selvin: value of an oath and that they were making a fuss about something that really wasn't terribly important. But I was glad to see them take a stand and I admired their courage in doing it. I also admired the resourcefulness of the Supreme Court of California in upholding the side that they wanted to uphold without coming out four-square to do away with loyalty oaths.
- Brower: How was that achieved? What was the decision that managed to do that kind of tightrope act?
- Selvin: They figured out some way that the problem had become moot. I've forgotten now. But they didn't really decide the principal question and that is whether loyalty oaths as such were unconstitutional. I think they decided that the question hadn't been properly presented.
- Brower: I guess the faculty based its objection chiefly on being singled out as a group. I think they felt that was the thing that was unacceptable, that they as a group were asked to do something that others were not.
- Selvin: I don't know. I never got into the inside of the controversy. Nobody ever consulted me about it. I read about it in the newspapers down here. Most of the stories I should imagine were slanted unfavorably to the faculty position. But I sympathized with the faculty position, thought that they were unduly martyring themselves, but felt sort of proud of the fact that they were.
- Brower: I guess the next big thing was the FSM movement.
- Selvin: That infuriated me. They had no support and they had no sympathy from me. They were obviously looking for a pretext of some kind or another. They didn't think any more of free speech than they thought of dynamiting the university and I'm sure that came into the minds of some of them. They weren't real believers in free speech. They were out to aggrandize themselves, get publicity, get known, and to, in their eyes, become a dynamic force in the community. They wanted to be martyred and they were wrong as they could be.

I'm a believer in the First Amendment, a very strong believer, and unlike most of the believers of the First Amendment, I believe in the First Amendment for the thought that I hate as well as for the thought with which I agree. They don't and my observation is that the so-called dedicated liberals and particularly the young variety don't believe in free speech for anybody but themselves. They don't want to be told by somebody else that they're a bunch of young punks and that they're wrong, this, that and the other things. Oh, no. They can tell anybody who's over the age of thirty

Selvin: what's wrong with them, but they can't be told and their refusal to submit to legitimate and required authority I think is wrong. Not submission, that's the wrong word, but acquiescence in the standards set by the law is at the bottom of a peaceful society. Without it, we'd have nothing but anarchy run rampant.

All you have to do is envision what would happen if a large and well-organized body of people simply decided not to obey the laws. We haven't got enough policemen, we haven't got enough jails to take care of that number of people, and without popular belief in and support of the law we don't have an ordered society. That's been proven time and time again, beginning with Watts down here and spreading out all over the country. Any time a sufficient number of people decide the hell with the law and they're going to take it into their own hands, society becomes helpless to a large extent so they have to sit there and watch the plate glass windows being broken and the stores looted and the houses burned, and that's what's wrong--regardless how strongly they believe in whatever it is they're demonstrating about, regardless how badly they may think they have been used. Sure, there's a lot that goes on in this world that it's hard to suffer gladly, but sometimes it has to be done if we are going to be able to exist, to enjoy the things that do gladden.

No, I have no use whatever for the FSM people and by the same token I have no use whatever for the press's handling of what was going on at the Berkeley campus. I can give you one instance that proves my point to my satisfaction. I was on the campus one day when some of these troubles were going on. At least, they'd been widely publicized. I don't think there had been any great destruction on or near the campus up to that time, but there had been a great deal of seething unrest apparently. I had been in Ray Willsey's office. I think he was the football coach at that time and it got to be almost noon and Ray suggested that we go out and get lunch. So we did.

The athletic offices at that time were somewhere up on one of the upper floors of New Eshleman, not Old Eshleman, and as we got down to the street and walked out and got into Sproul Plaza and the classes were letting out for the noon hour. People were hurrying to their houses or wherever it was they went to get something to eat. There were some speakers up on the Sproul steps with the microphone and Ray said, "Stop and listen." Well, [Mario] Savio was speaking. My outstanding impression of Savio--I thought to myself if somebody closed his eyes and stood there listening he would for the life of him swear that he was listening to Hitler; the same kind of ranting, raving, apoplectic speech. Then after he finished, he turned the microphone over to [B.] Aptheker. That's the first time I had ever seen her and she said something inane,

Selvin: I've even forgotten what it was except my impression was that it was pretty stupid even for a Communist sophomore. While she was speaking, frankly I was bored, so I looked over the crowd in order to make the best estimate I could of how many people were there and I think I made a pretty close estimate short of actually counting them head by head and I came to the conclusion that there were not more than five hundred people there, probably about three hundred, and most of them there in the same way Ray and I were there. We were on our way to lunch and we heard the microphone and just stopped out of curiosity. After her finish, somebody said, "We will now sing 'We Shall Overcome'" so, oh, maybe a dozen people right in front of the microphone joined hands and they sang "We Shall Overcome" and then the meeting dispersed.

I said to Ray walking out at that time, "Ray, I'll give you six, three, and even that the newspapers this afternoon or tomorrow morning will have headlines saying, "Three Thousand UC Students Riot." It was a very orderly meeting. There wasn't a sound from anybody except the speakers and those sounds were inane and there weren't more, in my opinion more than five hundred, probably around three hundred people there, and my prediction came out exactly. The headline over that story was "Three Thousand UC Students Riot."

Now, that's the sort of treatment the university was getting at the hands of the press and God knows [the press] has been favored beyond most institutions by reason of their incorporation into the First Amendment expressly, and who abused the privilege that they have under the First Amendment. Now, I'm talking as sort of an old-time kind of journalist. They've abused that privilege consistently and always. But that's what they do. It's the same thing as "UC Students in Gin Orgy" [laughter]. So that is the only first-hand observation that I ever had of the FSM movement.

Brower: Would you categorize the Vietnam protesters in the same way?

Selvin: I don't know. I think that the emphasis that you got about Vietnam in the paper depended on the editorial policy of whoever was making the editorial policy in the paper, or, more accurately, whoever was determining what he thought would sell more papers, what the popular sentiment was in the area in which the paper's situated. I thought that Vietnam was probably exaggerated out of proportion. I didn't know. I eventually arrived personally at the conclusion, because of my own war experience and knowing what it was like to be in the forward areas where the firing is going on, thinking that the general public at home didn't know you were there and didn't give a damn if they did. I thought there was a strong segment of that kind of attitude in the American public, so although I was opposed to being in Vietnam at all, as long as we were there I thought that the kids that were taking the brunt of it ought to be supported in one way or another. So I never did join

Selvin: in the constant campaign to pull them out and get out of there or forget about Vietnam, that it's simply an incidental little expeditionary war. It's a terrible feeling to be out where you know that any minute you can be shot dead, with a realization that the people for whom supposedly you are trying to fight really don't care that much, and that was my objection to the general popular attitude toward Vietnam.

Brower: I can remember that specifically in Korea. My brother was in Korea and nobody gave a damn.

Selvin: That's right. I know in World II I commanded a small ship in antisubmarine warfare, a vessel, and we were attached to the Caribbean Sea frontier. We were going down the Florida coast. I think we were on our way to Key West but I'm not sure and one of our radio channels had tuned in a Miami, Florida, broadcasting station, a radio station, and the program was being piped all over the ship. During the news part of the program, the lead story was how indignant the citizens of Miami were at gas rationing because they couldn't drive to Hialeah, which was a few miles outside of Miami, the horse-racing track. I ordered the channel changed. I didn't want my crew subjected to that. As a matter of fact, it did have a very definite perceptible effect on the morale of my crew. So I had some understanding of what the kids in Vietnam probably were going through and I wanted to see them supported. But I wanted them out of there too.

The University and Affirmative Action

Brower: To bring up a current issue at the University of California, how do you feel about the Bakke case?

Selvin: I'm not on the university side of that problem. I am not opposed, in fact I favor, so-called activist programs or whatever they are euphemistically termed--

Brower: Affirmative Action.

Selvin: Affirmative Action programs properly conducted in order to provide adequate opportunities for higher education to those persons who through no great fault of their own have been disadvantaged in some way, at least in a way that prevents them from attaining the grades and passing the examinations that are required for higher learning. I am aware that there is a strong school of thought among behaviorists that social or even economic disadvantage of the kind that is usually implicit in the present state of

Selvin: this country for racial minorities (I'm think particularly of the blacks and to a considerable extent the Chicanos) produces an inability on their part either of articulation or thought processes to adjust to the kind of examination that the predominant white majority has no trouble with.

I found that out (as I find out most things) in the course of a lawsuit in talking to some expert witnesses on that subject, and also because I had to make some investigation into it at the time I represented the state bar to oppose an application in the Supreme Court from law students who had flunked the bar examination and whose ill-informed position was that the bar examination was racially biased, which I satisfied myself it was not but I also satisfied myself, because of what the behaviorists told me, that it was of a type that people who belonged to the disadvantaged minorities might have difficulty passing. Well, I think that people of that kind should have something in the way of compensation--I don't mean monetary compensation--but some kind of preference for admission into those fields from which they are barred because of their personal difficulties engendered by their disadvantaged heritage and environment.

However, I don't think that that preference should be given along racial lines. To prefer on racial lines is just as inconsistent with what is supposed to be the dominant virtue of a free society such as we think we have in the United States as subordination or nonpreference along racial lines would be. I think that to quota in is just as bad as to quota out, and I can't help but think of the history of the Jewish minority in the days in this country before it had attained the not complete but nearly complete acceptance that it has now, when your professional schools (particularly law and medicine) had limited quotas for Jews. They were quotaed out of those schools, and in my opinion as a matter of principle that's no different from quotaing in the blacks and the Chicanos and the Jews. Quotas are wrong and there's nothing in a free society in my opinion that requires that representation in all fields of life should be in exact or even approximate proportion to the proportion that the people involved have in the general population.

If an Affirmative Action program based not on racial lines but on the basis of social or economic or political disadvantage that has resulted in handicaps that prevent those people from demonstrating their actual ability, if such a program was devised, I think if properly administered it would probably include all of those who are now included within the Affirmative Action program along racial lines but it would do so not because they were black, brown, or yellow, but because they were disadvantaged. Now, that's a reasonable criterion in my opinion.

Selvin: So I'm against the university's position in the Bakke case. I think the university--I'm not a behaviorist or a sociologist or whatever you want to call them--to be able to tell you how to figure out that kind of a program but it can be done. The behaviorists that I talk to say that it can and in looking for people of that kind you may exclude someone who is not disadvantaged because of the necessity of accommodating those who are and because of the limited number of places available, but at least they will not have been kept out because they were of the wrong race, in that instance the race having to be white. That's just as bad as keeping them out because the race happens to be black in my opinion.

Brower: Is it entirely clear that the university's position is that they want to be confirmed in their Affirmative Action program, or are they bringing up this issue in the hope that the decision will go the other way?

Selvin: Well, I don't know what is motivating the university's fight. There are a lot of people I understand, people interested in the general problem who didn't want the university to appeal this case, thinking in the first place that it wasn't a good enough record on which to raise the question and I suppose in the second place that maybe the university didn't want to have Affirmative Action forced upon it. I don't know. Certainly, in the course of this Espinoza case against the state bar I examined the college and law school transcripts of the people involved in that action. So far as law school is concerned, a half a dozen of them--or whatever number there was--were from Boalt and I was shocked at the absence of any scholastic or scholarly aptitude disclosed by those records, notwithstanding which they were taken into Boalt and taken in without any tutorial program in order to attempt to help them through the problems they were going to have at Boalt.

Brower: That seems to me to be the unfortunate thing.

Selvin: Now, I understand that at Stanford they had a tutorial program operated by the students, it was nothing that the faculty was involved in directly, and that it was reasonably successful there. [tape interruption for lunch]

I suppose that the university, having regard to political realities, can't afford in view of its relations or lack of relations with Sacramento, to take a position that is popularly unpopular (that sounds like a paradox and maybe it is) and maybe they are forced into an Affirmative Action program unwillingly. On the other hand, I can't believe that somewhere in that administrative hierarchy of the university there isn't a real concern and feeling for the disadvantaged elements of our society. If so, I'm certainly in favor of anything that will get those elements to develop to the extent of their true abilities, not the

Selvin: abilities they are able to demonstrate or unable to demonstrate because of their disadvantage. I do not believe that the mere fact of disadvantage entitles somebody to be at the University of California, not even perhaps at one of the state universities, and perhaps not even the junior colleges. But I think that if the fact of disadvantage is causally related to their inability to demonstrate their fitness for any one of the types of institutions that we have in this country, then I think that some allowance for that fact ought to be made but in a way that wouldn't defeat the very purpose of the program by putting these people in an environment that they would be unable to cope with and defeat it further by an unnecessary lowering of the overall standards of the institution.

We've got to keep the University of California educationally great and I don't think that that can be done by making it easier to get in there or by making it easy to stay there. But I do think that it ought to be made somewhat easier for those who can't get in there through no fault of their own because of society's unjust attitude toward them, but in that case admission has got to be followed with some kind of a program that will enable these people to adapt to a new environment and to cope with it just as they would be able to cope with it if they hadn't been disadvantaged in the first instance. But that has nothing to do with race except fortuitously. What it has to do with race is that most of the disadvantaged elements in our society are disadvantaged because of their race historically. We have to cope with that as best we can but in my opinion without elevating race to a constitutional criterion or classification. Once we do that we've opened up the box of troubles. If you can use race to bring in you can use race to keep out, and nobody argues about the latter--that's wrong. But to use race to keep in or to bring in is in principle no different. You're not bringing them in or keeping them in for the relevant reasons but for a reason that is irrelevant for the purpose or the activities of the institution.

That may sound illiberal on my part and not in keeping with my supposed liberalism but I think in a true analysis it is true liberalism.

Brower: The absence of a tutorial program at UC is hard for me to understand. I suppose it's money, but such a program seems to me the obvious approach to the problem.

Selvin: I don't think it takes a lot of money. At Stanford I understand the program is informal--formed, organized, and administered by the students in the law school. Now, Boalt is supposed to have a very liberal and socially conscious student body. Well, if they had, those kids instead of sitting around the recreation rooms

Selvin: that they have at Boalt they'd be spending their time helping one of their black compeers struggle with the Boalt curriculum. But they don't.

The trouble is that liberals who shoot their mouths off, these professional do-gooders--and a lot of these kids are just that (they don't get paid for do-gooding but they make a profession out of it)--really don't give a damn about what they are advocating. They just want to be in the limelight, they want to see themselves on television, they want to be heard, they want their name in the papers. They don't give a damn about those things. If they did, they would take the situation in their own hands at Boalt. They would form a tutorial program and carry it on and they wouldn't need a cent from the university and if they needed it they could probably get it.

I don't think it would take a lot of money, but it never occurs to them. They could go to the California Foundation and appear before the board of the foundation (I used to be on the board) make their pitch, submit their program, point out what they're doing to help the university. I think they should get money from the foundation, not a great deal but some and probably the university could find a few bucks they could throw in here and there. It wouldn't take one, two, three hours a week per student of private communion, a communion that perhaps could be supervised from the top by the faculty, who could tell these kids what to do and how to do it. It would be better than nothing and I understand that's the way they did in Stanford.

I don't know how successful it was at Stanford. But I'd rather do that (and this I'm sure will be considered treason), I'd rather do something of that sort than to bring some kid in with no grades at all into the four percent group because they can run fast or throw hard. We've got lots of blacks at the University of California that are there and in my opinion shouldn't be there and why? Because they're athletes and they're being paid to be there, not much but paid, and that's wrong.

IV WORLD WAR II

Enlistment

Brower: Could we go into your war experiences a little bit now?

Selvin: Well, yes, but all I can say, I was one of twelve million and I went in and I came out, fortunately alive. There was nothing great or glorious about it, but like most of the twelve million I was in something that was completely new to me and something for which I didn't consider myself fully equipped, being put in command of a ship even though a small one.

Brower: Why did you choose the Navy?

Selvin: I had quite a few friends here who were Naval Reserve officers and who had been called to active duty, so I thought that my chances of getting a commission--I wanted to get a commission and I did--would probably be better there. One of them I think talked to me about it and laid out a program for me. But basically I suppose I chose the Navy because the hardships of service would be somewhat less. At least you always had a clean place to sleep in and the food was generally hot and that sort of thing. [Chuckles]

Brower: Is there any equivalent in the Navy of the adjutant general's office where so many lawyers--?

Selvin: They had a legal department. They didn't have any legal officers as such, but they did have legal staffs in administrative capacity and that sort of thing. I made it a point on my ship not to let anybody know that I was a lawyer in civilian life because the minute the word went around the ship that you were a lawyer, you became the ship's chaplain. Every sailor that had any kind of a personal problem was immediately on you, he wanted advice, so most of them didn't know I was a lawyer. I didn't want any legal duties. I enlisted in the Navy to be a line officer which I was. If I

Selvin: wanted to practice law I didn't have to put on a uniform to do it and I'd get paid at a much better rate than I was getting paid in the Navy [laughs].

Brower: In what year did you enlist?

Selvin: In '42. It was right after, not too long but shortly after Pearl Harbor and then I was ordered to active duty after my commission came through and my commission was delayed for reasons that give the Navy no credit. It seems that my interviewing office at the procurement office didn't like people who had made the same unfortunate choice of ancestors that I had made and he held up my application, locked it up in a drawer in his desk. I had two friends in the procurement office, very close friends, both lawyers, and I got one of them and told him, "Look, I'm either in the Navy or I'm not and I'd like to know one way or the other. If I'm not, I can go back to work. If I am then I can go on to active duty." So he said he'd look it up. Then he came back and said that this guy had had my application locked up and hadn't sent it in, but he had sprung it and it was on its way to Washington.

Because of the delay my date of rank was six months or so later than it should have been, and toward the end of the war I had been selected by the selection of officers board and recommended for promotion to a full commandership. I was a lieutenant commander at the time. I was passed over, I was told later, because my date of rank was too late. If I had had the date of rank I would have had if my application had been promptly forwarded to Washington I would have come out of the Navy with scrambled eggs on my cap but I didn't [chuckles].

Indoctrination and Training

Selvin: Anyway, we went to indoctrination at the Chicago campus at Northwestern University.

Brower: The Navy didn't have an officer's training school that automatically gave you your rank?

Selvin: Oh, yes, they did. The younger fellows, they would come out of college. It's the ROTC course at California, for instance, of which the first commander was Captain [Chester W.] Nimitz, later Admiral-of-the-Fleet Nimitz. Sure, they come out at graduation with an ensign's commission and even during the war they had a speed-up program for the younger kids who'd get an ensign's commission. They were at Northwestern. They had a whole class of

Selvin: them at Northwestern, but they lived in a different part of the residence halls. We lived at Tower Hall in Chicago which is an old Chicago landmark. At indoctrination we studied navigation, gunnery, seamanship, and Navy regulations. Navy regulations, that's very important. I always thought it significant and to some extent an indication of the preoccupation of our military leaders in this country during peacetime, that the longest single chapter in Navy regulations dealt with ceremonies and honors-- how many guns you fired for this guy and that guy and when you saluted and when you didn't and all the rest of that stuff. That's the longest chapter in Navy reg's.

Well, we spent that time at Northwestern. We had a pretty good class. Most of us in my class were lieutenants, a few lieutenant commanders and a few younger fellows, ensigns. In fact, one of the few ensigns we had in that class was a kid from Los Angeles. I knew his father. He was the first, I think, in that class to get killed. He was just a young fellow, just a kid. We had some notables in that class. I remember Eddie Duchin particularly. Eddie's a remarkably engaging young man. I liked Eddie. The only thing with Eddie was that he couldn't understand navigation and I spent many a sleepless night sitting up with him trying to teach him some navigation [laughs].

Bennie Friedman, I remember, the great Michigan All-American quarterback. The same old Navy, it's always that way--Bennie wanted to go to sea. He didn't want any shore duty and he particularly didn't want any shore duty connected with football. So when his orders came through he was detached and ordered to the Great Lakes Naval Training Station to act as their head football coach. He was the most disgusted man in Chicago when those orders came in.

Brower: What was your commission when it came through?

Selvin: Lieutenant. I was asked that sneeringly by a regular one, a fellow by the name of [Lt.] Chipman. He was a three striper. He came from Spanish Fork, Utah, which is a little town even smaller than the town I came from. I knew the Chipman family and I knew of them. He had gone to the Academy, I suppose because his family probably knew either Senator [Reed] Smoot or Senator Sutherland and got an appointment, so all of a sudden he's one of America's aristocrats coming from this little village on the highway between Provo and Salt Lake.

We had to be interviewed before what we always called the "S.O.B. Board" when we completed our course in indoctrination. It was the selection of officers board and he was the president of the board, glorying in these three stripes and his scrambled eggs and his Annapolis class ring. So when it came my turn he

Selvin: said, "With what rank did you come into the Navy?" I said, "Lieutenant, sir." He said, "How come?" I said, "I don't know. I applied for a commission and it came out lieutenant. That's all I know." He said, "How come you came in as a lieutenant?" Well, I could understand his point of view, coming from the Academy in peacetime it would probably take him as buck ensign or anybody who came out as a buck ensign, it probably would take him as much as ten years to get up to two stripes and he was resentful, understandably so, but he didn't have to take it out on me. I wasn't responsible for the system. So he kept pressing that question. I didn't know what he was getting at.

Maybe he suspected that I had "PI" on my folder back in Washington for political influence. Maybe I did, I don't know. I've never seen my file although I'm entitled to see it if I want. So he kept pressing that question and I finally got a little displeased myself and I said, "I've been trying to tell you, Commander, that I applied for a commission and it came through lieutenant and that's all I know about it. Now, if you want me to guess as to why I got two stripes my best guess is that it's because in order to get those two stripes I had to give up an annual income greater than anything the highest admiral in this Navy gets." So that shut him up [laughs]. The income wasn't that big, but it was more than an admiral got at that time.

Anyway, we got through indoctrination. I was sent down to Inshore Patrol at Port Everglades. That's just outside of Fort Lauderdale. It's Fort Lauderdale's port as a matter of fact. I was on inshore patrol and a little yippie--it had been taken over or donated to the Navy; [they] put a fifty millimeter machine gun on it, and a few depth charges that are rolled off without any sonar gear or anything to tell you where the sub really was, assuming there was a sub there at all. It was makeshift but in the early days of the war we had no better way of handling the German submarines.

Well, after a short time at inshore patrol I guess the powers that be at that station decided that I really didn't know very much about ship handling and I didn't. I'd never been a yachtsman or anything of that sort and except for what I had learned at a seamanship course at Northwestern and that didn't involve any actual seagoing work. It was all classroom stuff. I didn't know anything about ship handling. I was a pretty good navigator theoretically at that time. I never had any occasion to make practical use of what I'd learned. So they sent me to the antisubmarine warfare school which was down in Miami, called popularly "The Sub-Chaser Training Center." I completed their course which was oriented pretty largely in the direction at that end of submarine warfare, the handling and use of sonar and the running of sonar attacks on submerged submarines, ship handling, and things of that sort.

Selvin: Then on completing the course at Sub-Chaser Training Center, the assignments came out and I was assigned to be the executive officer of a PC (literally "Patrol Craft"--a ship specially designed and fitted out to run down and fight submarines), and that was a ship that, as I recall it, was just short of two hundred feet long, carried a crew in wartime of pretty close to a hundred and maybe over a hundred depending on where you were, and whose wartime duties consisted of escort of convoy and whatever turned up in the course of escorting in the way of attacking submarines or defending yourself against submarine attack.

Caribbean and Atlantic Duty

Selvin: When I was executive officer and during shake-down, my commanding officer was detached and transferred to another ship and I was ordered to take command. I went ashore and protested the order. I told them I didn't want to be commanding officer. I didn't think I was fit to be commanding officer. I didn't know enough, I wasn't qualified. I said, "Let me be at sea for six months as executive officer of this coffeepot and maybe I'll be qualified to command. But I'm not qualified now." The answer to that was a very soft-spoken, "Don't you think that's for us to decide?" I said, "No, I know myself better than you do."

But anyway, I stayed as commanding officer. I took the ship down to Key West and reported for duty in the Caribbean Sea Frontier. In the short time that the ship was attached there, we didn't do any convoy work but I went out with a couple of killer groups after a sub was supposed to be in the water there somewhere, and that sort of thing. Also, I'd done some individual escort work. I remember I escorted a newly commissioned submarine down to the Panama Canal so that she could transfer and get into the Pacific. Along with another ship of the same class as mine, and a destroyer, I escorted a fast troop transport and we escorted her down to the Panama Canal too so she could transit.

Then I got orders detaching my ship from the Caribbean Sea Frontier and ordering me to report her for duty in the Eastern Sea Frontier, whose headquarters were in New York which I did. We sailed her up to New York and I reported her for duty and then our principal duty was the New York-Guantanamo convoy. The convoy didn't end at Guantanamo, it went on beyond. But when we got to the Windward Passage, just off Cuba, the escort was always detached or relieved by another escort and we went on into Quantanamo. We used to lay over there I think about two or three days during most of which time we spent training. (Let me hurry through with the rest of it.)

Selvin: Nothing very exciting happened in the Atlantic. We were there, I was on convoy escort or ASW (Anti-Submarine Warfare) in the Atlantic. I made one depth charge attack upon--I'm sure it was a submarine judging from our sonar readings and I'm reasonably sure that we damaged her if we didn't sink her but there were not enough surface indications so that I could ever get credit for a kill. But outside of that, nothing really happened.

At my request, for personal reasons, I was relieved of command and sent back to the Sub-Chaser Training Center for reassignment. While there the Battle of the Atlantic was won to the point where our ASW organization in the Atlantic was broken up and scattered. They had to send me somewhere else. I was asked what I preferred for next duty and I told them any new construction in either the eleventh or twelfth Naval districts. That was in San Diego and San Francisco, because I wanted to be home for a while. I hadn't been home for two or three years and they told me that the only thing they had available was an ATF, that was a so-called fleet tug. It was a big ship that was sonar equipped and therefore could use someone with my sonar background and they had an opening on that ship which was under construction in Alameda for an executive officer. I said, "I'll take it." Ever since then my wife has called me, "Tug Boat Annie." So I did. I went to Alameda after spending some time at home and then we shook down after the ship was taken out of the ship yard. We shook down at Terminal Island here and I stayed at home instead of aboard ship at night while we were shaking down.

Duty in the Pacific

Selvin: We were ordered to the Pacific and I'll cut the Pacific very short, although it was actually the most interesting part of my Naval career.

Brower: Then why should we cut it short?

Selvin: In any event we made three landings or invasions: Iwo Jima, Okinawa, and Ie Shima, with the Fifth Fleet. Everybody knows that Iwo was a bloody mess and it was, for the Marines and the Army, but not for the Navy. There was very little assault of the Navy on Iwo Jima. Okinawa was quite different in that respect. I know that at the radar picket line, which would be maybe thirty miles or so north of Okinawa itself, we lost something over thirty destroyers sunk by kamakazi attack and, of course, because of the nature of our ship, we were assigned mostly salvage or rescue operations so that we were always where the shooting was the heaviest because that's where ships were getting hit and we were instrumental,

Selvin: I'm glad to say, in getting, for instance, the Laffey into the Keramo Retto which had been occupied as the repair base during the Okinawa invasion. The Laffey was a destroyer and she had been hit by nine kamakazi and she was still afloat. But she wouldn't have been afloat if we hadn't gotten alongside of her and put all of our pumping equipment available in addition to a direct connection to two 6-inch lines that we had aboard ship and we kept her afloat. But where we picked her up to the Keramo Retto it was probably thirty miles or so and we towed her alongside to the Keramo Retto, keeping our pumps going and all portable pumping equipment that we had that we put aboard her and kept her afloat until we got her into the Keramo Retto and to the repair base and there they patched her up so that eventually she got to San Francisco on her own power. Things like that. We got the Laffey. I remember the Badger, which was probably hit by a suicide boat that tied up alongside her bow and exploded. We saved her and a couple of three others. The same sort of thing.

That's the kind of thing we were doing, and of course in the process of doing it we had to take Japanese planes under attack or they took us under attack. So we got fired on quite a bit. In any event, by the end of the war that ship (the Tawakoni was her name, it's an Indian name; the fleet tugs in the United States Navy are all named after Indian tribes, and the Tawakonis are a fierce, fighting tribe in the early days of Oregon I am told) by the end of the war, the Tawakoni which was technically an auxiliary, not a fighting ship, although of course we were armed, had shot down nine Japanese planes in self-defense largely. We were taken on by a kamakazi one day and we were on our way. I think that was the day we went up to get the Laffey. She had us drilled. There was no question about it. She was going to hit us at the bridge and if she did, while we were a fairly big ship, that was enough probably to sink us and certainly enough to kill a very large part of our crew including me because where she was going to hit, it seemed to me, was just at the point where I was standing. So we shot her down just before she hit us and then continued on up and got the Laffey and took her into Keramo Retto.

Then a task force of the subdivision of the thirteen hundred ships that were at Okinawa was formed to invade the island of Ie, which was north of Okinawa, closer to the Japanese home islands than Okinawa a little, and we went with that task force to invade Ie. At Ie we were taken under fire by a shore battery and we were unable to maneuver because we were engaged at the time in trying to pull a stranded LST off the beach. We had a tow line out to her and two ketch anchors out forward of us so we were in irons. We couldn't move and that shore battery took us under fire as I remember and bracketed us, that is their first salvo landing long; with their second salvo, they came down in range which is standard gunnery procedure and landed just aft of us. But her line of sight

Selvin: was good. She had us right on, with the range first long and the second time short purposely. All they had to do was halve the difference between the two ranges and they had us. But she never fired that third salvo. As nearly as I could find out, she was wiped out by one of the heavy cruisers that were in the bombardment force off the island. But in any event, that third salvo never came although it seemed forever while we were waiting for it. I certainly remembered all I'd ever learned about gunnery in indoctrination while I was waiting for that third salvo.

Brower: And none of it very comforting!

Selvin: We couldn't maneuver. I knew what to do had we been free and it's a very simple operation. You simply head for the place where the last salvo landed because they're not going to fire there again. If they missed you they're going to fire somewhere else, so you go to the point of the missed salvo. But we couldn't do it. So we escaped that one. Before that, at Iwo, after the flag had been raised on Suribachi, and that part of the island was supposed to be secured, we were at anchor having nothing better to do at the moment, right under Suribachi. We were very close to the island. It was a calm, peaceful evening, sort of dark. I wandered over, I still remember, on the port side of the ship (we were headed toward the island) looking at Suribachi, seeing what it looked like and trying to see if I could find any of those gun emplacements with which the whole island was honeycombed and I couldn't see any. Then I heard a loud ringing clang, just off the left side of my head and I made a quick turn and I saw a neatly drilled hole in the bulkhead against which I was standing. It was about eighteen inches away from where my head was at the time. Well, the holes and the size of the hole looked to me as though it was a twenty millimeter that had been fired off the island there and it landed even with my head, but about eighteen inches away, so that was my first instance of borrowed time. My time's been borrowed ever since then.

But when we were at Ie we always retired at night back around into the bight of a bay on the north side of Okinawa, for the night. I say "we"--all the ships present did except those who were still in the bombardment force. We had been in the Pacific by that time for quite a stretch and except for an occasional liberty at some atoll Officer's Club or recreation area, we hadn't been off the ship to speak of, nobody had. We were, I guess to say "bored" is the least applicable term, but anyway we were. So we had a seige of practical jokes all of one sort aboard ship and that is when an officer had the coding watch, which meant that he had to sit at the coding machine and decode the dispatches that came into the ship, which was in effect operating something that looked like a typewriter and it printed out the dispatch in the

- Selvin: clear after you punched the key corresponding to the coded letters and this thin strip would come out and the coding officer could see what was being imprinted on that strip. We had a seige of phony dispatches always relieving the coding officer at that particular time and ordering him back to the states. That was our idea, I guess, of a funny joke at that point.
- Brower: Who could originate that thing and make it pop up in the machine?
- Selvin: Oh, some of the other officers. I don't know. I was never a participant.
- Brower: But it was within the ship. It wasn't a job from somewhere outside?
- Selvin: Oh, yes, it just came out of the coding machine, that's all. They'd throw a phony dispatch into the pile and he'd start thumping away and it would take some doing because they had to encode the message themselves. But they did it. We retired from Ie for the night, but it was still--as a matter of fact, it wasn't for the night, I don't remember why or how now, except I know that it was the day that Ernie Pyle was killed on Ie which would make it, I think, the twenty-second of April, eastern longitude date. You were on the other side of the dateline there.

We weren't doing anything at the time for a change. It was the same as at Ie and I was stretched out in my room getting some little rest and the communications officer, a kid by the name of Taylor, came in and he had just been over to the flagship which was part of his duties, to pick up anything that the flag had for us in the way of orders or dispatches or this, that, and the other thing. He came into the room and accosted me somewhat profanely in telling me that I was the luckiest so-and-so aboard the ship. I said, "What's up now?" He said, "Your orders have just come in. You're going back to the States." I said, "Look it, don't you think that gag has worn a little thin on this ship? You've been doing it to everybody. Get out of here and let me sleep." He said, "No, this is serious. This is for real." He finally convinced me--and it was. I had dispatch orders from the chief of naval operations detaching me without relief ordering me to take the first available transportation to the States and report to the commandant of the naval district in which I landed and then the kid Taylor said to me, "Incidentally, I spoke to the executive officer of the flagship. [I don't remember her name.] They're going down to Okinawa this afternoon and he said that they'd be glad to have you come aboard and they'll take you down to the fleet anchorage in Okinawa and you can pick up some transportation there out of Okinawa to Saipan and then from Saipan you can get on your way home."

Ordered to the States

Selvin: So I did. I immediately packed a few things that I wanted to take with me, put my cruise box in, gave my orders to the captain (I was executive officer), who endorsed them and in an uncharacteristic fit of generosity, offered to let me use his gig in order to get over to the flagship, which I accepted. We started out to the flagship and she got under way practically on our way to her--I told the coxswain who was operating the gig to go alongside of her at the bow. She had put troops ashore when we first went into Ie so she still had her landing nets over the side. She was a big ship. She had freeboard of about sixty feet, I think. That means that up to the top deck from the water level, from sea level, was sixty feet which was a pretty good distance now that I think of it. I came alongside in the gig and she was still a special fleet detail so her first lieutenant was on the foc'sle and he hadn't secured yet. I called up to him and said that I had orders to come aboard. He said, "Well, come on aboard, anyway you can get up. It's all right" [chuckles]. I said, "Send a line over for more gear." They did and they hauled that up onto the deck and I got onto this landing net and while she was under way I climbed up fifty feet to the foc'sle. I couldn't do it today, but I did it then.

Well, after a series of typical Navy tribulations I got to Pearl Harbor. I landed at night so that the travel service office was closed. But I was there bright and early the following morning and told them that I had orders to return to the states and did they have anything going out either to San Diego or to San Francisco? They said they had a transport going to San Diego and she was leaving at 10:00 that morning, I think. I immediately rushed to the BOQ (The bachelor officers quarters) where I had stayed overnight, to get my gear. I got the necessary papers from the travel office and I went aboard this transport. She was a beautiful ship, big and roomy and clean and comfortable, excellent food, and I think I slept from Pearl Harbor until we sighted the sea buoy at San Diego. We landed at San Diego. While waiting for transportation to Los Angeles--in the meantime, of course, I'd phoned Mrs. Selvin and told her I was there--

On the train to Los Angeles, as I recall, I devoured three fresh vegetable salads. Oh, they were cold and delicious. We hadn't had any fresh vegetables aboard ship for a long time. That was wonderful. I couldn't get a drink though because it turned out it was VE Day and all the bars were closed [chuckles].

So I got home and after the customary four days, I think, you get "proceed orders," which mine were--proceed to such and such a place and report--unless otherwise specified you had four

Selvin: days after the time you got the order within which to report to the place you're supposed to be proceeding to. So I had four days from the time I landed until I had to go to San Diego to report. While waiting for my train in San Diego, I wandered over to the seventh Naval--not seventh (seventh is Key West)--to the eleventh Naval district. I never was able to remember whether San Francisco was the eleventh or San Diego but the two of them were the eleventh and twelfth I'm pretty sure. I went over to the headquarters just to see if there was anybody there that I knew. Looking over their personnel chart I discovered that the aid to the chief of staff for Naval personnel was Lieutenant Commander Kenneth N. Chantry, one of the closest friends I had in Los Angeles and as a matter of fact, the officer who had dug out my buried orders, my application, in the beginning.

So I made a mental note--well, I looked Ken up and, of course, after we had old home week and I told him what my orders were and I was supposed to report to the first commandant of this Naval district because that's where I landed and since he was the aid to the chief of staff for Naval personnel, did they have any billet that might be a good one for me and I didn't want it at sea. I told them I'd been at sea ever since I got into the Navy and I was a little tired of the ocean. I would like to have some good soft shore duty, preferably in Los Angeles so I could live at home. He said, "Come on in, I'll take you to the chief." He did.

He introduced me to the chief who was a regular as I recall it and we chatted for a while. Knowing that I had just come back from the combat areas, he was interested in what was going on out there and so forth. Then I told him my problem, which was to report to the commandant of the district in which I landed and that I was a little sick and tired of the ocean and also being shot at and did they have anything that maybe I could perform as my patriotic duty for the rest of the war, preferably in Los Angeles. "Oh," he says, "I think we can fix you up. You come in after you've had your four days at home."

Well, he gave me temporary duty at home. My duty was to stay at home near a telephone in Los Angeles, that's all. That was my temporary duty until I heard officially from them. I heard officially from them.

Return to Duty, Surgery, and Convalescence

Selvin: I was ordered back to New York to report to Pier 88 I think it was, the Navy Salvage Training School. Apparently, the bureau of personnel had decided that I hadn't had enough training in salvage work and, as a matter of fact, I had had no training in salvage work.

Brower: Except the actual doing of it.

Selvin: Yes. The plan apparently was that I was to go back to the Pacific later, this time in command of a salvage ship of some kind. At any event, I had to go to salvage school first. So at the appropriate time I reported to the salvage school in New York. I had to take a routine physical examination. I tried to avoid it, not because I didn't want the examination but I was sick and tired of all the folderol and all of the routine that you had to go through even frequently unnecessarily and I told them that I just had my annual physical. I was in good shape. "Well, we can't help it, commander." Standard operating procedure: you have to take a physical examination before you're admitted to this school.

So I did. I was examined by two young JGs, I'm sure doctors just out of medical school, and they decided over my protestations that they had to be wrong, that I had a double hernia. I told them, "There's been absolutely no sign of anything of that sort, no symptoms, no pain, no nothing." They were crazy. "Well," they said, "You have it." I said, "All right, if you were in my position, what would you recommend that I do?" One of them said quite pontifically (I had a hard time restraining my chuckles even then), "If you were my patient in private practice"--he hadn't even seen the day of private practice!--"I would advise an operation--"

I asked him what would happen if I refused to follow this recommendation. "Well," he said, "Then we'd have to survey you as unfit for sea duty." I said, "Doctor, you go right ahead and start writing that survey. I've had all the sea I want and you can survey me as unfit for sea duty because I'm not going to have that operation in order to get fit for sea duty." He said, "It's up to you." I said, "All right."

Then I started thinking what's going to happen if I refuse a simple operation, a comparatively simple one, as a result of which I am unfit for sea duty and I am qualified--my rating at that time was "D" which meant deck, qualified for all duties ashore and afloat, and if I refused then they'd give me shore duty, but the shore duty would probably consist of being dumped down on the most uninhabitable rock that they had somewhere out in the Pacific and I would rot away there for the rest of what was left of the war.

Selvin: So I changed my mind. I called the doctor and I said, "Forget the survey. Where do I go to get the operation?" He told me St. Alban's Naval Hospital in New York so I went there.

I reported and the first thing they did was send another doctor out to examine me. I think he was a lieutenant [chuckles]. I guess we went up the ranks, I remember. He examined me and I protested to him as I had to the others. I said, "I think this is just plain silliness. I don't have any hernias and there's never been any sign of anything of that sort." He said, "We can't help it." But my protests, I guess, were insistent enough so that he called, I think, a lieutenant commander into the examining room. That lieutenant commander was Jacobs, Dr. Jacobs. He agreed with the diagnosis and I still protested.

Then he called a three-striper in. He was Dr. Sullivan and he agreed with the diagnosis and I still wasn't convinced and I told him so. So then they called the medical office in command at the hospital. He was a four-stripe reservist and I found out afterwards that in civilian life he had been the dean of some well-known medical school. (He was the butt of the most prevalent hospital joke at that time. He used to drive around the hospital grounds in a little car which the nurses called the Mayflower and I asked a nurse once why they called that car the Mayflower and she said, "Because when you get in it you have to come across!" [Laughter])

Well, he definitely agreed. He was a rough, tough guy and he definitely agreed to the diagnosis and I again refused to be convinced but I was there for an operation and I couldn't help it. If they thought I had a hernia, well, I guess I had to have the operation. He said, "Here, I'll prove it to you." He took hold of my hand and he positioned my index finger at the appropriate spot down in my groin and he said, "Now cough. Did you feel anything?" I said, "No." "Oh," he said, "You're doing it wrong." Then he repositioned it and said, "Now cough" and I coughed. He said, "Did you feel anything?" I said, "No." "Well," he said, "it doesn't make any difference. You've got it." All right. I didn't feel anything as a matter of fact. I wasn't trying to get out of the operation.

Now, this is a ghastly episode although I can see its humor now. I was ordered to surgery the next morning. They wheeled me into surgery, into a room that was apparently under repair because there were piles of cracked plaster in a couple of the corners that they apparently had scraped off the walls in the course of renovation. The room was dirty and it was dusty. They decided they were going to give me a local anesthetic. Not a spinal, just a local so that I was completely conscious through all of this thing. I felt no pain, I have to admit that, although I could feel

Selvin: some tugging and hauling of things and they had a little canvas curtain in front of me so I couldn't see what was going on on the other side. Sullivan and Jacobs were the two surgeons and they're the two who had seen me the day before. The diagnosis was a bilateral hernia. Sullivan, I guess, had rank so he started in first and after an appropriate length of time I heard him say and sort of chuckle, "Take a look at this doctor. There's nothing wrong!" Jacobs looked over and he agreed, "There's nothing wrong." Oh, they decided that maybe I had a lipoma, which is a little too much fat and I heard him say, "Well, we'll reinforce the inguinal wall and he'll be stronger than ever down there and they sewed me up on that side.

Then a discussion started between Sullivan and Jacobs as to whether they should go in on the other side. They'd been wrong about the first side; what about the other side?

Brower: Were you in any shape to argue?

Selvin: In a way. Sullivan didn't think they should, but Jacobs thought they should. You see, Jacobs hadn't had a chance to do anything up to that time [laughter]. They were carrying on this discussion when I poked the curtain aside and I said, "Look, do I have anything to say about this?" One of them said, "No, commander, just relax." So Jacobs went in on the other side and found the same thing. So I had gotten a stronger than ordinary inguinal wall but I didn't have, as I tried to tell them right from the start, I didn't have any hernia.

Brower: There's something so dreadful about being in that totally helpless position.

Selvin: Well, there was nothing I could do about it. My first instinct was the correct one and that was to refuse the operation, but then that would have defeated what I wanted to accomplish which was to get off the sea if I could or at least to get into some good duty spot.

Brower: Did they ever apologize, those two men?

Selvin: Oh, no, they shoved me into a ward in the afternoon of the operation and by that time they had become obsessed with what was at that time a comparatively new postoperative procedure in abdominal operation cases and that was getting the patient out of bed within a very short time after the operation, so they forced me out of bed that afternoon and made me walk up and down the hall. I'd never been in so much pain in my life. I got back in bed. I saw one doctor during the time that I was in bed. He decided that one of the two incisions had become infected so they fed me penicillin or something.

Selvin: Then the time came for me to get out on a convalescent basis and by that time, I had learned how things were done at that hospital. If you had to go out on convalescent leave and didn't live in the vicinity and didn't have any friends with whom you could live, they sent you to a convalescent hospital, one of which was at Harriman on top of Bear Mountain. It was the old E. H. Harriman estate that he had built at the turn of the century which in those days cost four million dollars. Today the thing would cost fifty million, a magnificent place, and the word had spread about what a great place it was in which to rest and relax and how great the food was up there. So I arranged my plan of campaign.

I got called into the office of the executive officer at the hospital, as I knew I would (he, incidentally was a drunk) and asked if I lived in the area--"No." "Do you know anybody around here with whom you could live?" I said, "No." "Well, we're going to have to send you to a convalescent hospital." I said, "Look, commander"--the executive officer in the Navy is a commander regardless of his actual rank--"I've just come back from the combat area. I didn't have rehabilitation leave and I'm tired. Why can't I go home on convalescent leave? I can report for captain's inspection every Saturday morning at the Naval hospital in Long Beach which is just a few miles from where I live." "No, we can't do that." I said, "I don't see any reason why you can't. I've got to go on convalescent leave. You tell me you're going to put me in a convalescent hospital here. Why can't I do it on the coast? What's the difference?" "No, we can't do that." I said, "Well, all right." After arguing for a while and knowing I wasn't going to get anywhere I said, "All right, if you have to put me in a convalescent hospital at least let me settle for Harriman. Will you send me to Harriman?" He said, "Sure." He wrote out my orders and I went to Harriman.

That was a place of all places. On top of this heavily wooded mountain on twenty thousand acres of ground, was this palatial mansion of the original Harriman, E. H. Harriman, the father of Averell Harriman. I think Averell owned it at that time. His younger brother Roland Harriman, the captain, lived down at the foot of the hill in what in the high-and-mighty days was the servants quarters. So Captain Harriman lived in that. That was a palatial little bungalow of its own.

In this hospital (and remember it was built as a private home), there were no patients except officers and we were all ambulatory. When I was there, there were somewhere in the neighborhood of eighty-five patients. All of us lived in the Harriman home and those of senior status such as I had a room and private bath to themselves. None of the officers had to do more than double up. I don't think there was any room in which there were more than two patients and eighty-five of us were comfortably

Selvin: bedded down in that place, in addition to which the medical officer in command was Admiral [Charles M.] Oman. Admiral Oman had a Navy cross in World War I. He was the senior medical officer in the Navy at that time and he wasn't in very good health. He was pretty old, he had served in World War I, but obviously he didn't want to have this war go on while he was still alive without participating to some extent so they made him medical officer in command of this hospital. He lived in one wing of that house by himself and Mrs. Admiral Oman lived in the other wing [chuckles]. They were not exactly on cordial relations according to my observation. She lived in the part that the Harrimans, in the short time that they lived in the house, used for the family quarters and she ran the mess. They had all kinds of help--Navy cooks, stewards, and stewards mates and one thing or another and the food at that place was simply magnificent. The finest thing they used to make was the most wonderful popovers and they'd serve them at every lunch, every dinner, and it was just delicious. So the food was excellent.

There was not strict discipline. We were all officers and we were all on our own. We could leave the hospital any time we wanted. All we had to do was log out and go down the hill to Harriman, New York, to some little pub or what-have-you down there. Magnificent grounds--swimming pool, tennis court, and all the rest of it.

Brower: How did you pass the time?

Selvin: Mostly by lounging around on the grounds admiring the scenery and just talking and some card playing, not a great deal. Television was quite new then and they had a television set at the hospital which the Admiral guarded most zealously. As a matter of fact, he had a radio technician that was on the hospital staff, a sailor, in charge of that television set. He was the only one who could operate it. We used to watch that. Once in a while they'd have a baseball game or something of that sort. Then we'd go down the hill. One of the officers, Doug Guessford, lived in New Jersey before he went into the Navy and he was apparently well-to-do and very social in New Jersey circles and his home was not too far from the hospital. He had gotten his prewar car which was a Cadillac and he kept that at the hospital so Doug used to take us all through the country, primarily looking for good eating places and he discovered one of the finest I have ever seen.

I want to give you an example of what happened. Doug and I for a while were the only two senior officers in the hospital as patients, so there was a senior officer's table in the dining room and Doug and I, of course, sat at that table by ourselves in high state. Then a third patient came in who had enough rank to be a

Selvin: senior officer. His name was Wallace and he was a padre, he was a Catholic priest, a chaplain in the Navy. So Doug and Father Wallace and I used to spend a lot of time together. We had our three meals together and, if we weren't doing anything else or reading or something, we'd be lounging on one of the terrace's there behind the house and just talking.

When I first reported to the hospital at Harriman and introduced myself to the officers that were there then, they misheard my name (as frequently happens) as Sullivan. So I was called Sully by everybody in the hospital and I don't think anybody ever knew my first name. I was called Sully. So one way or another Father Wallace and Doug and I got onto the subject of the Catholic Church and something or another, and Doug said, "Father, in my parish--" and Father Wallace started laughing and Doug got insulted. He said, "I don't see anything very funny about that. Why do you laugh about the fact that I refer to my parish?" "Oh," Father Wallace said, "You'll have to excuse me son. I was a little confused. I didn't know that you were a Roman Catholic I always thought that you were a Jewish gentleman and that Sully here was was the Roman in the crowd" [laughs].

Brower: He got his signals mixed.

Selvin: So that's the sort of thing that went on up there at the hospital. I strung out my stay as long as I could. I was scheduled to go back to the Pacific one way or another after I got surveyed as fit for sea duty. The doctor who had been assigned to me was a young man and very friendly. I got to know him and I put my problem to him which was how to stay off of the ocean as long as possible. So he did what he could. He strung out my treatment as long as he could and he finally said to me one day, "I think we've gone as far as we can. I'm going to have to send your survey in pretty soon." I said, "What's your survey going to be?" He said, "Fit for all duties." I said, "Well, if that's what it has to be I guess that's what it has to be, but type it up on a slow typewriter will you?" So he said, "Yes."

Anyway, he stalled that survey off to the point where the word came through that the Japanese had surrendered and then it didn't make any difference. Another officer and I practically monopolized the radio waiting for a news account as to what the Navy directive on separation from the service was going to be and it came through one afternoon and it was forty-two points. You had to have forty-two points to be separated at that time. I had more than forty-two points on sea duty and combat duty alone. I still remember when we heard that news account, we both stood up spontaneously, shook hands, and said, "Say hello to a civilian!"

Selvin: I immediately went down to Admiral Oman. I had gotten to know the Admiral in the meantime fairly well. I never got to know Mrs. Oman very well. She was pretty snooty. She was a typical Navy wife.

So I went down to the Admiral and I told him that I had just heard a news report from Washington that the Navy had announced its guidelines for separation from the service and I qualified for immediate separation and I'd like to send in an application to the Navy personnel for separation. He said, "I can understand how you feel. After all, this isn't your life. This isn't your career. You want to get back to your own life. I think you're right." I said, "Thank you and I'd like to expedite it as much as possible."

He said, "I'll tell you what you do. Write your application and write in an endorsement for me." I had to send it to the bureau through him because at that time he was my immediate superior in command and he had to endorse it approved, disapproved, or what have you. He said, "Write an endorsement for me and I'll sign it." So I wrote an endorsement for him on the strength of which they would never have kept me in the Navy. "It was impossible" he said of that endorsement, "to consider anything but getting rid of me as fast as possible." [Laughter] I'm satisfied that that endorsement would have had Admiral King thrown out of the Navy.

So I got it finished and sent it down to him and he signed it and we sent it into Washington and I think by practically return mail, I had orders to report to a separation center at San Diego for immediate separation from the Navy. Well, I packed up, came home, went down to San Diego, and got out of the Navy and here I am.

But that's about my Naval career. I had three close calls with death in the Pacific. I had four years of largely boredom, particularly in the Atlantic.

Brower: But a lovely finale.

Selvin: Yes, yes--except for the operation. The only good thing about the operation was that it did get me in Harriman. That was really a--oh, they made a lot out of Harriman in that part of New York. It's about forty miles north of New York; it isn't really in the Catskills but it is almost in the Catskills, I think, and it had a number of large resorts of the type that I've read they have in the Catskills (I'd never been up to the Catskills) and the people who were luxuriating in those hotels while the war was going on made an awful lot out of these brave young heroes at the hospital. They thought that they were doing their duty to their country if they'd ask a couple of us over to have dinner in one of these hotels, where

Selvin: the food was not as good as that which we were getting at the hospital [laughs]. So we used to visit around the neighborhood that way with some of the people down in Harriman.

Harriman was not too far away from Goshen where, in those days, the Hambletonian was run. Good Times Park in Goshen was the heart of the trotting and pacing circles in horse racing in those days and the big race in trotting and pacing was the Hambletonian. So we were all invited to be the guests of the management at Good Times Park on the day of the Hambletonian, I remember that. We all piled into automobiles and went there, all rooting for Captain Harriman. He had a horse running in the Hambletonian and I regret to say he didn't place. I mentioned Captain Harriman earlier; Roland was his first name.

Brower: The one who lived in the servant's quarters?

Selvin: Yes. So I remember that was a very pleasant day at the Hambletonian and we were treated as though we were really heroes; one or two of those people there were, but most of us [chuckles] were in my condition, noncombatant casualties. It was a pleasant interlude, particularly after almost four years steadily at sea except for occasional temporary duty under instruction at shore. At sea in a Navy vessel is not exactly like being at sea in a luxury yacht, particularly if you're a commanding officer or executive officer and have onerous responsibilities for the safety of the equipment and the men, particularly the men.

V CIVILIAN RESPONSIBILITIES

Marriage and Family

Brower: Before we return you to civilian life, may we back up a bit and talk about your marriage?

Selvin: I don't know what good it will do for posterity to discuss my marriage. I have no objections in that regard beyond the fact that on Mrs. Selvin's side of the family I did not receive what you might call open arms, a condition created by religious differences, I guess.

Brower: It was that difference that made me wonder if there had been a problem.

Selvin: The problem existed from the standpoint of her mother, not her father, from the standpoint of part of her family. She had one brother and one sister by whom I haven't been spoken to since. [Chuckles] I've never spoken with either one of them. On the other hand, there was the sister, a second sister who's now dead, who was very friendly, and a half brother and a half sister and a stepmother who were very friendly--you know, the way you would expect in-laws to be.

Her father was the same way, although I think he had to bring himself to it in the beginning. I think he sort of had the same resentment that his former wife (I think they were separated at the time of our marriage) had. I suppose his acceptance of me was prompted as much as anything by first the birth of our son and his meeting my father. He took a liking to my father and the two of them, the grandparents, hit it off and that I think brought about the frame of mind on his part that maybe I didn't have horns either. I think I used that expression before.

Brower: Yes, you did but not in this connection.

- Brower: I was a little curious because I thought that your difference of religion might have made a bit of trouble on one side or the other.
- Selvin: Yes, her mother was quite indignant about the whole thing. So far as I know, she never addressed any communication oral or written to me. But her attitude became evident to me, aside from what Mrs. Selvin told me, by the fact that she never made any effort to see us after the wedding.
- Brower: But your own family didn't go through that?
- Selvin: No, no. My mother and Mrs. Selvin didn't hit it off but it wasn't because of religious differences.
- Brower: It's a very difficult relationship.
- Selvin: Now, why they didn't hit it off I'll never know. I never made any effort to find out. Maybe I should have.
- Brower: I think sometimes it's just a difficult relationship. I was always rather glad that I didn't ever have a mother-in-law.
- Selvin: Well, it's happened before. The uncle that I mentioned--the one whose store my father bought in Tooele--he had the typical orthodox Jewish (although he was not himself orthodox) attitude toward marrying a Gentile. He accepted with great reluctance as nearly as I could observe the social activities of his elder daughter when she was in high school. She was a very attractive girl and she had a very active social life. He stood it [chuckles] but not gladly. He suffered it but not gladly from my observation.

Then he had a son, Binks, who married out of the faith and he never would accept his wife. On the other hand, Binks's mother, my aunt, accepted her with genuine pleasure and they built up a very strong relationship that persisted even more strongly after Uncle Arthur had died and Aunt Betty was a widow. So I was on the sidelines and observed that situation, so what happened to me wasn't exactly news.

I've always--well, not always--but I have frequently maintained that religious or racial prejudice is not a monopoly of whites or Christians. I almost got thrown out of the Stanford Law School when I was making a talk there one day and during the question period the Stanford law students, showing an interest in affairs other than making money that was not common among Stanford graduates, were questioning me pretty strongly about race relations. I've forgotten what year I was up there but it was a time when the subject was uppermost in the minds of people who were (I hate to use the word concerned; it's a cliché) but anyway concerned about

Selvin: their country. They were pressing me on the subject of race relations, which had nothing to do with the subject of my talk which was at their request about how it feels to argue a case in the Supreme Court of the United States. Finally--time was getting short and I had to get out of Palo Alto, Stanford University's postal address I think, and anyway I guess I was beginning to get afraid that I would weaken under the barrage of questions I was getting--I wanted to bring it to an end so I told them a story (to illustrate the fact that race prejudice was not the monopoly of any particular race or any particular group in the world) about a third-generation Jewish family in the Deep South of the United States who, by the time of the third generation, grew up with all of the typical Southern stereotype ideas of race and chivalry and all the rest of the things that make up the magnolia romance. But every once in a while the Jewish head of the family gave some indications that he might stray off the Southern reservation so his friends would get together with him to keep him in line and their clinching argument so they thought was, "You wouldn't want your sister to marry one of them would you?" He thought for a minute and said, "No, as a matter of fact I wouldn't, but then I wouldn't want her to marry any Gentile!" [Laughter]

Brower: How did you meet Mrs. Selvin?

Selvin: There was a kid at Berkeley. He wasn't in my class. I think he was a year or so behind me. He came from Portland, Oregon. He went to law school, in fact, he went to Harvard Law and he came down here to practice. We ran into each other or maybe he looked me up; I don't recall. We shared a furnished bungalow, with a hired maid. We asked some people over, one of whom was she--my housemate had known her in Portland. He introduced her to me and that was the first time I ever met her. I decided that my fate had arrived, I guess, when I first saw her [chuckles] and I pursued her.

Brower: Did your children go to U.C. Berkeley?

Selvin: Well, my son has been institutionalized ever since he was six years old and has never had any formal education and as a matter of fact will never be able to live a life of his own. It's a great personal tragedy for him, not alone for his parents, because he's really a very bright young man, good brain. His intelligence has not been damaged by his emotional or mental problems whatever they might be. The doctors don't put a name to it. They don't know any more about it than I do. As a matter of fact, I think I know more than they do. He's the only child we had or have. So, he didn't go, but my brother and older sister went there and my younger sister got her bachelor's degree from Mills but she took a master's at Berkeley.

Brower: I have friends in Berkeley named Selvin and I thought there was perhaps some connection.

Selvin: It's probably my brother.

Brower: Dave Selvin, Dave and Sue Selvin?

Selvin: Yes, that's my brother and sister-in-law.

Brower: Oh, are they? I didn't know that. I've known them for years. We had children in nursery school together.

Selvin: Yes, and Steve, their son, is now on the faculty.

Brower: Yes. Steve's the one who went on in music?

Selvin: No, Joel's the guy that's on this--he writes a column for the [San Francisco Chronicle] on modern, so-called music. Joel, I think, is a bachelor. The middle one, Mike, is the one that's married to the black girl.

Brower: I had no idea that Dave Selvin was your brother.

Selvin: Sure, he was class of '33. He could have made a lot more of himself economically had he wanted to. I'm not being critical of him, but he's devoted to this labor union business. He gives it everything he's got and he's good. It's a good thing that he's getting as old as he is because I think his profession is being worn away from him. I don't think labor unions are what they used to be either in the public estimation or in their own estimation.

Brower: I wonder if he feels that?

Selvin: I don't know. I haven't had a chance to talk to him. We don't see each other very often. I should call him, as a matter of fact.

Our younger sister, the one who went to Mills, is in the hospital up in Canada but she's all right now, gallbladder operation. Her husband is a professor at the University of Toronto and I understand is the world's leading authority on Galileo. Now there's a specialty for you. I called him, well, as soon as I got the word that my sister was in the hospital. My informant didn't know which hospital, so I called Stillman--Stillman Drake is his name--to find out.

I had just been writing a brief and I had written a sentence referring to the well-known story of Galileo's excommunication because he believed in the Copernican theory that the planets revolve around the sun. As usual when I pull something like that out of the air without looking it up I wanted to check it. So,

- Selvin: as long as I had Stillman on the telephone I said, "By the way, was Galileo ever excommunicated for his heresy?" He said, "No, he was convicted of something called suspicion of heresy, but he was never excommunicated." I said, "Fine." So, I went down and amended my sentence.
- Brower: Handy to have something like that in the family for research.
- Selvin: It's funny I'd always thought that he had been excommunicated.
- Brower: I suppose the charge of suspicion of heresy is--
- Selvin: Actually, it was a civil offense, civil crime. It wasn't the Church that did anything to him. It was the civil authorities apparently.
- Brower: Oh, really? I have a feeling the Church's hand was in there somewhere.
- Selvin: Of course, the civil authorities and the Church in Italy in those days were synonymous, I suppose. Anyway, I found out what Galileo was sent over for. But, I was right that it was because he believed in the Copernican theory. As I told Stillman when I introduced the subject, "I've just written a sentence which I'm sure is plagiarized from something Mr. Justice Douglas once wrote." I said, "I'm equally sure that he plagiarized it from somebody else but I don't know who." I said, "The sentence being that time has shown that many of today's truths were yesterday's heresies and may be tomorrow's exploded notions." Then I said that the Galileo deal proved the point I was trying to make. In this particular part of the brief I was arguing that a guy who purported to be an expert on a certain subject, a branch or a field of expertise that had not yet been recognized, its truths had not yet been established because somebody said he was expert in this specialty, ought not to compel its acceptance by the court. The point of the Galileo story has not been lost on the courts. The courts have been slow to accept as evidence some new scientific discovery until time had confirmed it.

Digression on the Courts and the Law

- Selvin: You take the California court for instance. Ridiculous decision but I cite it as an example decision. They refused to hold that the Land-Steiner blood-grouping test could be conclusive proof of nonpaternity. Now everybody in the scientific field accepted that as being true. But the California court would not accept it as a true fact. It said it had to be shown by evidence, that if

Selvin: somebody got up and swore to the contrary the jury could decide to the contrary, notwithstanding the Land-Steiner blood-grouping test, which was stupid, but that's what the court held.

It happened to fit into the argument that I wanted to make in this case, so I cited that as an example of the commendable reluctance of the courts to join in the hue and cry when something new is discovered. Oh well.

Brower: I suppose it works both ways, doesn't it?

Selvin: One good thing about the profession of the law--a lawyer has to believe in his case as a case; he doesn't have to believe in it as an immutable principle or way of life. As a matter of fact it is considered to be, and should be, deemed unethical for a lawyer to express his personal opinion of the merits of a given case.

Brower: I would probably choke to death.

Selvin: Sure. Otherwise a lot of people would never be able to get an attorney of their choice because he'd say, "You deserve to be hanged." On the other hand, "There's a legal case that can be made on your side. I'll make it. I don't care. I may think you're the worst man in the world, but if there's something to be said in your favor it's my obligation to say it." That is something the general public does not understand. The most frequent question a lawyer is asked is, "How can you represent somebody that you know is guilty?"

Brower: That never seems a problem to me really. You'd simply do the best you can for them.

Selvin: Shouldn't be. Shouldn't be if you conduct yourself ethically and lawfully. Naturally you don't use perjured evidence. You don't let your man tell a lie if you know that it's a lie. You do whatever you can; you find in the law or the facts those that tend to favor your client's side of the case and you present them to the best of your ability. And that's it. You are not ethically permitted to say that "In my opinion this man is--or is not--innocent," as the case may be.

There's nothing new about that. Old Sam Johnson expounded that years ago in one of his discourses with Boswell. I always liked his reply to a critic. There is part of a horse's leg that's equivalent to our ankle, I think it's called the pastern, or something like that. Well, he misdefined it in his dictionary as being the knee of a horse's leg, and a woman accosted him with that fact and pointed out that it was completely wrong. "How did you come, Dr. Johnson, ever to make such a mistake as that?" He said, "Ignorance, Madam, sheer ignorance." [Laughter]

Return to Civilian Life

Brower: Did you resume your law practice immediately on your return from the service?

Selvin: Oh, yes. I rested for a while at home. I think I went back to practice too soon because I discovered that getting adjusted to the grind of practice was making me a very irritable and ill-tempered individual. I guess I was separated from the service in September and my separation leave expired in October 1945.

I think by the end of the year I was back at work. The last time I wore my uniform--and I was still on separation leave so technically I was entitled to wear it (once that leave expired I was no longer entitled to wear it)--I remember the last time was at the Veteran's Administration Hospital in Sawtelle where an uncle of my wife's, a man by the name of Cassidy, who had been gassed and shot up in World War I was spending his last days. He was in very bad shape--Owen Cassidy. He was a lovely man. I liked him very much. He died at the hospital there and Mrs. Selvin and I went to the funeral services and I went in uniform, of course. I thought that was fitting for Owen. He was always very proud of the fact that I was in the Navy during the war. In fact, he made a wallet for me at the hospital with the Navy cap emblem embossed on the leather. I carried that all through the war.

Brower: Had he also been a Navy man?

Selvin: No, he had been in the Army. But he was gassed in France. That's the last time I had the uniform on, although I tried the coat on the other day and I can still get into it.

Brower: You didn't remain in any kind of Naval reserve program then?

Selvin: No, I thought about doing it and as a matter of fact I did take a Naval reserve correspondence course. I completed that with merely a 4.0 grade and then I got tired, I got too busy, and gave it up. If I had taken it seriously, I think, stayed in, taken my two weeks annual active duty cruise, kept my studies up, over the years until I reached retirement age, I probably would have gotten up to a captaincy, at least I always thought I would [chuckles]. I don't know. But I decided, no, I wasn't cut out really for the military life.

Motivation for Service in World War II

Brower: You returned to the firm that you had been in before?

Selvin: Yes. That's an interesting thing. One of the senior partners of that firm, incidentally, is a California alumnus, Ed Loeb. He's the crew coxswain that I told you about yesterday. Ed really ran that firm. Ed's a strange individual. He's one of the kindest hearted men I've ever known. When I decided that I was going to get into the war, I was very restless. I didn't feel right to be back there being an air raid warden or something while the war was going on, particularly with regard to the Hitler situation in Europe. I went to him and I told him.

I said, "I'm going to get into the Navy. I've got an application for a commission pending and I think I can get one. When I go on active duty I want to make an arrangement with the firm for a leave of absence and for appropriate financial adjustment." He said, "What do you mean an arrangement? You're a partner, you'll still be a partner. Go ahead on active duty. I wish I could go with you." "That won't be right," I said, "No, I'm not going to go on active duty and draw what I've been drawing up to now, not being able to contribute anything to the firm."

After a considerable bunch of arguing on my part, I finally persuaded him to make an arrangement and the minimum arrangement that he was willing to accept was that they would continue my partnership minus what I earned from the Navy--that is, they would take credit for my earnings in the Navy and otherwise it would be just as though I were still there. Edwin insisted that he wouldn't take anything different from that.

Brower: That was very generous, wasn't it? But, also, he must have been anxious to keep you in the firm.

Selvin: Oh, I suppose that had something to do with it, but, no, Edwin was instinctively and naturally a very generous, kind, and understanding man, a miserable little so-and-so when things didn't go exactly right or when his own desires were being thwarted, but really one of the sweetest men I've ever known, the most thoughtful, the most considerate of other people, and that was a good example of it, as a matter of fact. He didn't want any part of any arrangement--"Go ahead and serve in the Navy. I wish I could go with you. You'll still be a partner, but go ahead. I wish I could go with you."

So I went. I'm glad I did. It has left me without any nagging feeling (that I'm sure some people have) for not having done or tried to do my part during what was a very serious situation in this country's history. I've always been proud of

Selvin: the fact that I was thrown into a wholly unfamiliar environment in a job that had nothing whatever to do with any talents that I otherwise might have, that I was able to fill it adequately. Well, I did my job and apparently it worked out. As I said, I didn't get any medals and my last commanding officer told me I should have had one and I told him that it would have been simple to take care of. All he had to do was to have recommended me for one. We shook hands and said good-bye and I left the ship.

Sometimes I was asked why at my age and with a two-year-old son I did what I did, and I often answered that question (and quite honestly, I think) by saying that a big motivating reason was that when somebody asked my son what his father had done in the war, I wanted him to be able to make a proud answer. Unfortunately, he was hospitalized shortly after the war ended and has been ever since, so I don't suppose he ever had occasion to answer that question to anybody.

Ambitions Foregone

Brower: You spoke once of personal reasons that deterred you from the judgeship and I think from the Supreme Court of the state--?

Selvin: Well, I just touched on it, Holmes's (my son's first name is Holmes), Holmes's hospitalization and medical attention was intolerably expensive and I wasn't a big money earner in those days. I was doing all right but nothing big and between the hospital and medical expenses and the income tax it was all I could do to keep my head above water. I couldn't possibly have maintained him in a private hospital, as I did, on a judge's salary and that's the long and short of it.

Otherwise, knowing what Pat [Governor Edmund G.] Brown had in mind, what he's told me about the situation since then, I'm sure I would have wound up on the Supreme Court of California and by now I'd be a retired justice of the Supreme Court and I would have reached what was always the pinnacle of my personal ambition. But I had to put that behind me and I did, ungrudgingly I hope, and that was it. That's all there was. As a matter of fact, I told Pat exactly that.

Brower: So it was the financial considerations solely?

Selvin: I was asked once by Stan Barnes and on another occasion by Bert Jenner (whose name may be familiar as the minority counsel for the Watergate Committee) who at the time he mentioned this to me was

Selvin: chairman of the American Bar Association Committee on the Federal Judiciary--I was asked separately by both of them if I would be willing to consider a circuit judgeship, a federal judgeship, and I had to say no for the same reason. Otherwise, sure, I would have considered it. I always wanted to be a judge. So that is the short and simple annal of the poor.

I always had an unorthodox reason for wanting to be on the Supreme Court of California. At the time when I would have been on it, I think, I would have been there along with Roger Traynor and Ray Peters and that would have made three of us from the same Boalt class [laughter]. That would have been fun. We would have controlled the court. The three of us thought very much alike, particularly on political and social problems, so generally speaking I think we would have wound up on the same side of any division in the court, and without consciously intending to be together, because we thought alike. We'd been trained in the same way in the law and we reacted in the same way because of that training I think.

All of us came from small towns in the beginning so that we grew up in the same kind of environment. Roger Traynor's father was a miner in Park City long before Park City was a posh skiing resort. I don't know what Ray's antecedents were. I think he came from the Bay Area although I believe it was from one of the smaller cities, not Oakland. But his background as I could guess it from him personally was undoubtedly a very modest one. So we grew up in environments that would tend to make us think alike. We were subjected to the same beginning indoctrination in the law and it would have been, in my opinion, a little strange if we hadn't thought pretty much along the same general lines.

Brower: Do you think your son's illness was a factor in your love affair with the university? Did some of the emotional force that would perhaps have been dissipated in children and grandchildren and more personal things--

Selvin: I have never had an explanation from any medical source, and I have never been able to figure out satisfactorily in my own mind, what really triggered that illness. I suspect that a major factor in it was my four years' absence at the time when he was from two to six, and I've always felt very guilty about that and yet I have no basis for saying so other than the fact, I suppose, that I was away and he got ill in that time.

Brower: That was, of course, true for thousands of children during that period--their fathers were away.

Selvin: I don't know how many others were affected as seriously as I think he may have been, but it certainly wasn't, from his standpoint, a very good thing to do, and while no doctor has ever confirmed it,

Selvin: I've always had a strong suspicion that if I had not gone away to the war maybe things would have been different. [Pause] But I don't know.

Brower: But you don't feel that your closeness to the university was somewhat reinforced because certain other avenues were closed?

Selvin: No, I don't think so. I married rather late. By the times Holmes came along I'd been out of college and law school sixteen years and I was very close to the university during that period of time and I don't think I'm any closer now than I was then. I get a little more attention from the powers that be now because I'm older and I do have some kind of a reputation that has drifted up there, particularly at Boalt. I can command more attention than I could when I was younger but, no, I've always been close to the university. As a matter of fact, it's one of the great frustrations of my life because I had always dreamt that Holmes some day would go up there and I hoped would find himself attracted to the law and that we could be together, but it didn't work out that way.

VI THE LAW: PHILOSOPHY AND PRACTICE

"The Hollywood Ten"

Brower: I would like to ask you about your role in the litigation involving the "Hollywood Ten"?

Selvin: The difficulty was that as a citizen and left free to my own choice I probably would have been on the side that the Hollywood Ten purported to advocate. I think they went at it the wrong way and did things that I wouldn't approve of even if I were on their side. But my own participation in the litigation as a lawyer didn't need to reflect my own personal beliefs. Indeed, a lawyer isn't entitled to personal beliefs as opposed to the beliefs that he must advocate in order to support his client's cause. I mean by that to support it legitimately, making such advantageous use of the law and the facts as were available to him.

Brower: But doesn't he have a degree of freedom in selecting clients?

Selvin: That's a hard question to answer categorically. The canons of ethics, I think they're called Standards of Professional Conduct now, have long provided that a lawyer may not turn down a representation proper in other respects because of matters personal to himself--personal beliefs or personal opinions or what have you. While that's an ideal standard and one that certainly isn't met by most if any of the lawyers in practice, it is a reflection of the proposition that the lawyer is an advocate. He's a champion of a cause or of a party. He fights for that cause with whatever materials are at hand and he fights legitimately so long as he doesn't manufacture evidence, lie to the court, or things of that sort, but presents the best factual case that he can and makes the best argument on the law that he can--he doesn't have to believe, as a citizen, in what his client is doing or is alleged to have done. I don't have to believe in murder if I defend a murderer or an alleged murderer. What I do have to do defending

Selvin: him is not to use knowingly any perjured evidence and not to mislead the court intentionally and not to make any argument that I know to be an unsubstantial one. [tape interruption]

When it came to the Hollywood Ten, there was a lawsuit and the motion picture producers had been sued for twenty-six million dollars by a group of people who from one point of view had misconducted themselves and who certainly were not entitled to get a judgment without an opportunity for the defendants to be heard. Unfortunately, as I've indicated before, most libertarians are not that broad minded. They're only interested in their side of the problem, and the fact that the Hollywood Ten were advocating (or thought they were advocating) sound and strong First Amendment principles and were fighting for a cause in which they deeply believed, led to the conclusion on their part and on the part of a lot of their supporters that there was nothing to be said in behalf of the producers. Well, there was something to be said in behalf of the producers. That's shown by the fact that in the course of that litigation, which stretched out over a period of ten years, there were thirteen appellate rulings of one sort or another in connection with that litigation, every one of which went in favor of the producers.

So they were entitled to be heard. They had a case to be presented, and the fact that, as a citizen or if I hadn't been professionally involved in the litigation I might have sided with the Hollywood Ten or might have believed that in general they represented a cause or a point of view that I wanted to prevail, was no reason why I should refuse, when offered the representation, to represent the people legitimately and to present the other side of the question, and there was another side although the "red hots" couldn't see the other side. In fact, they didn't want to see it, so they refused to see it. But we got the producers' side across in court. I don't think we ever got it across to the public. We, the lawyers, didn't try to do that. I don't know what the producers themselves did. I don't think they did very much themselves either.

Well, the writ in my own family circles was that my sister, who was much more zealous and one-sidedly dedicated to the libertarian point of view and who was herself involved in the motion picture labor-management roles, strongly sided with the Hollywood Ten and thought that it was something almost in the nature of treason for me to represent the other side. I could never make her see what the lawyer's role in that litigation or in any litigation is, but my father succeeded in explaining that to her in a way that she accepted and so that blew over very quickly although I imagine there are still some lingering resentments on her part that I had sold out the family or somebody by representing the producers in the Hollywood Ten litigation.

Brower: It's interesting that your father could do that, that his insights were sure enough in his relation with both of you to be able to make--

Selvin: Well, my dad was a remarkable man.* As a matter of fact, my (or what I hope is my) broad-minded and impartial attitude toward these things, the thing that keeps me from being so fervent that I can only see one side of any given problem, is probably an inheritance from my father or from his teachings or the teachings of his example. He was that way. He was a devoted liberal. But not so devoted that he could ignore the proposition that usually there was something to be said on the other side and whether you liked or didn't like what was to be said on the other side, it was just as much entitled to be heard as your side of the situation.

Brower: One of the reasons that I respect the ACLU is their willingness to represent Nazi groups, for instance, which however repugnant nevertheless have rights.

Selvin: Yes, they do a pretty good job of that. As a matter of fact down here, Al Wirin, who for many years was their [ACLU's] counsel was particularly famous for that. Now that he's dead (he just died a short time ago), why, the stories about him in the press are all along the lines of Al's adherence to the principle of freedom of thought despite the obnoxiousness of the thought to himself personally. The best illustration of that as it cropped up in the press is that when some interests, probably Jewish, probably instigated by the Anti-Defamation League, tried to get an injunction against the use of public property, I think it was a school auditorium or whatever, when Gerald L. K. Smith, who was a notorious bigot, anti-Semite, anti-Catholic, anti-Black, was going to deliver a speech there--and you could be sure that the speech would consist of that type of poison--the American Civil Liberties Union, represented by Al Wirin, opposed the efforts to get that injunction on the grounds that Smith was as much entitled to free speech as the Anti-Defamation League, I guess. He made his point, defeated the injunction, and then joined the crowd picketing the meeting.

Liberals and the Law

Selvin: In the libertarian group there aren't very many like Al. They're just as hidebound in their own views as the people whom they oppose. The best illustration (and I haven't seen it commented on to any great extent anywhere but I have commented on it to myself and some of my friends frequently over the years) [is that] the so-called liberals were up in arms over the conservative Supreme Court

*It should be noted that Sol Selvin served in the Utah state legislature for more than twenty years and was a member of the state senate at the time of his death. [Ed.]

Selvin: of the United States in the days when Taft was chief justice and people such as Sutherland and McReynolds and that group, were the dominating majority of the Supreme Court of the United States and when they wrote into the constitutional law of this country their own social, political, and economic preconceptions, most of which the liberal element disagreed with. [The liberals] produced a current of opinion that finally compelled President Roosevelt to propose what came to be called the court-packing plan. When enough vacancies came up so that New Deal appointees such as Black, Douglas, Brennan, and Jackson and some of the other people in that revolution--of course Roberts was a hangover but Roberts was sort of the in between. You never knew on which side he'd land--Douglas, Black, people of that kind changed the thinking of the court over to the libertarian side, they did exactly the same thing as the Taft court. They wrote their own preconceptions of sociology, economics, and what have you into the law. The only difference was that the preconceptions of that court were preconceptions with which the liberals agreed, whereas the preconceptions of the Taft court were preconceptions with which the liberals disagreed.

What the Douglas-Black crowd did was just as wrong in principle, in my opinion, as what the Taft-Sutherland crowd had been doing for years, imposing their view upon the law of the country. It happened that I disagreed with Taft-Sutherland. I didn't like it any better than the liberals like it. I happened to agree with the Douglas-Black line of thought, notwithstanding which I thought that what they were doing was just as bad in principle as what the Taft-Sutherland crowd had been doing. I found very few liberals who will agree with me on that.

Brower: Doesn't the Court always to a degree express the climate of its particular moment in history?

Selvin: Speaking in a very broad way, yes, I suppose it does. Peter Finley Dunne, who was the Will Rogers of his day, used to have a little daily squib in the paper. His character was a caricature Irishman.

Brower: Mr. Dooley wasn't it?

Selvin: Yes, Mr. Dooley. Well, at the time that the insular cases were hot news, the cases involving the extent to which the Constitution protected people in our possessions rather than right in the states, [people in areas] not part of the union exactly, he said, "I don't know whether the Constitution follows the flag but I do know that the Supreme Court follows the election returns," and that's true to a certain extent, yes. Of course, judges generally don't go out consciously to keep up with the prevailing trends. They do it more or less subconsciously because it seems to fit

- Selvin: into what they understand to be the mores of the time. They are aware that the law should be kept up to date, and to the extent that the law is made or at least interpreted by courts, that ought to be true there too. Whether they go at it consciously or simply because subconsciously they're led to that method of decision making, yes, they try to keep the law current. Unfortunately, what is public opinion at any time generally resolves itself down into: What do I think? Now, the minute the judge begins acting in that way, then he's starting to write his own ideas and his own preconceptions into the law and that's wrong.
- Brower: But how could a judge function without to some degree incorporating his view of what is right?
- Selvin: Oh, he undoubtedly can't because his own view, his own training, his own experience have all given him a point of view. He may not even be conscious of that point of view, but when he attacks any problem, particularly any intellectual problem, he approaches it from that point of view and consequently it's bound to have its effect on the conclusion at which he arrives. From reading the stuff that's written, for instance, by Cardozo, who I guess made one of the most acute and best known analyses of the judicial function and the judicial process of anybody, particularly of any judge who's ever written on the subject, I think that judges don't reason deductively or even inductively. They reason from a preconceived result back to the supporting premise, and how they arrive at that preconceived result is something that they may not even be aware of. We're all subject to that. Mr. Justice Holmes in the first paragraph of his famous book on the common law published in 1881, I think, says, "The life of the law has not been logic. It has been experience. Judges, in common with their fellowmen, share preconceptions"--and so forth and so forth--"even prejudices that they share with their fellowmen have had as much to do with the development of the law as the syllogism."
- Brower: I think it's too bad that scientists refuse to recognize the existence of that personal bias even in scientific thought. Objectivity is just an illusion.
- Selvin: Well, it's awfully hard to be objective. Of course, that's the argument that goes on in journalistic circles. Time, for instance, in the heyday of the Luce management, used to scoff at the possibility of anything like objective journalism so they went to the other extreme. They openly confessed that they weren't objective and they wanted everybody to know. Well, that is all right so long as you know the point of view from which the stuff is written and in Luce's case a good part of it was anti-Semitic.

Selvin: You argue a case before a judge in an appellate court and the judge in thinking about the case says, "That's a terrible result Selvin is asking us to come to"--not because there's anything illogical, not because there's anything wrong in the supporting decision, it's just a result that he doesn't like. He doesn't feel good in the pit of his stomach coming to a result of that kind, so what does he do? He takes the result that he does like and then he works back from that and Selvin loses another case. That's unavoidable. But the man of sufficient intellectual stature to be in a position of that sort, aware of that failing of the human mind, can control it to a considerable extent.

Now, just the other day I sent down a problem to one of our young people here to research. I wanted an answer and in sending down a memorandum stating the facts I purposely did not let her (it happened to be one of the young women here) know which side of the case we were on. I told her, "At the moment I want a scholar's answer to this question, not an advocate's reaction, and therefore I don't want you to know which side of the case we're on. She doesn't know yet. I've gotten her answer and it obviously wasn't influenced by the side of the case that she thought we were on because the answer was actually somewhat adverse to the side that we are on [chuckles]. But that's what I wanted. I didn't want her reaching for a result. I told her, "The time for advocacy in this case has not yet arrived now. When the conflict develops, the dispute develops, either in court or elsewhere, then will be the time when we try to reach the result that we want. Right now I wanted to know what the result probably would be." I want to know if there's any way, if the result is unfavorable, if there's any way of avoiding that result.

So there can be more objectivity in the thinking, particularly on the part of the people in positions of power, either political or intellectual, if they make the effort and if they know themselves. But I agree that there can't be complete objectivity because none of us writes on a clean slate. We've all lived, we've all had experiences, we've had joys and sorrows; they've all had their impact on us, and in one way or another they have formed us into whatever we are.

The Police Commission

Selvin: When I was president of the Police Commission, at that time the Police Commission had a lot of what you could call quasi-judicial functions. We had supervision of the licensing of somewhere near a hundred kinds of businesses in the city and the reason the Police Commission was given that jurisdiction is because they were

Selvin: businesses that tended more than others to develop police problems--pool parlors, dance halls, massage parlors, that sort of thing. So in passing upon applications for a license where the granting of it was doubtful because of something unsavory in the history of the applicant or in the conduct of the business, if it were a renewal application, or in hearing an application (probably by the city attorney) to revoke a license, you had to put yourself in the position as much as possible of a judge and I didn't have any great difficulty in listening to the evidence in arriving at the result more or less objectively. I don't think my personal preconceptions ever crept in to any damaging degree into what I was doing at the time, and yet the judicial process reflected itself there.

I can recall an application that before I got on the commission had been turned down, an application for an entertainment license in connection with a bar, I think it was, by an evenly divided vote. The commission was one member short at the time. That's how I got to be on that vacancy. So here were these applicants for the license. They were a couple of young Chinese men who were starting out in business and they were entitled to be told that they either could have a license or that they couldn't have and if they couldn't have, why. There they were, they were being led out on a string and unable to run their business in the way they wanted to run it because the commission was split. Well, I got the parties to agree that even though I hadn't been at the first hearing I could read the transcript and I could participate in the decision.

Brower: Yours could be the deciding vote.

Selvin: Now, I'll have to admit that when I read the record, a pretty strong feeling welled up in me in favor of these young kids, against whom nothing had been offered except that their father up in Seattle was a professional gambler, who were entitled to their chance to run an honest business, and ultimately I voted in their favor. But I don't think it was because of that. I think it was because of a logical conclusion that there wasn't any police problem, there wasn't any danger to the city seriously threatened by the fact that a thousand miles from here their father was engaged in what I suppose is an illegal occupation. He was a professional gambler.

The kids weren't associated with their father. So far as known, the father wasn't interested in their business. What difference does it make? Now, that's the ground on which I voted in their favor although I was glad to be able to arrive at a result in their favor on logical grounds. Now, if the grounds hadn't been so logical, whether my vote would have been the same, I don't know. I can see how it wouldn't have been, or I can see

Selvin: that starting out with the idea that these kids ought to have a license I could have reasoned back and maybe figured out a theory and made it logical. I don't know. But I didn't have to do that and I didn't have any trouble. I don't like gambling, professional gambling, for that matter I don't like personal gambling. I don't gamble much. But I don't dislike it for any moral grounds. I just don't like to lose the money.

Brower: Did the future bear out your judgment or do you know?

Selvin: I don't know. So far as I know there was never any complaint about the establishment when I left the commission. Well, I did hear once--I did hear in an indirect way--that's an example why public office is not as attractive to some people as perhaps it should be. These two Chinese were represented by a lawyer whom I didn't know, as a matter of fact. I think he was a professor at USC. Well, the boys from the time of the first turn-down until they came around on the rehearing where I broke the tie, they got themselves a new lawyer.

Now, I knew this new lawyer and he was a crook. That I knew. There's another sign that you can be objective. If I wanted to, if I wanted to let personal opinion enter into it, I would have done everything I could to turn down that license in order that this particular lawyer shouldn't be able to brag of an accomplishment. I didn't like him and I knew he was a crook and I'm about to prove it. So I went into the city hall one day for a meeting of the commission and going through the foyer of the lobby I saw the mayor and he said, "Come into my office Herman. I want to show you something." So I walked in and he hands me a letter. It was a letter from this professor who had formerly represented the Chinese boys saying that he had been reliably informed that in this case (in which he--he didn't say all this--in which he had unsuccessfully represented the kids) another lawyer had gotten them the license that they had applied for by bribing Selvin and two of his colleagues with five thousand dollars.

Brower: My God, what an unethical thing for that man to do.

Selvin: Well, he didn't know. I know what happened. I figured it out. I don't know, I wasn't there. But I can read between the lines. Well, the mayor laughed. I read it and I looked at it and he laughed. I said, "I don't think this is very funny, mayor." He said, "Nobody would ever believe that you ever took five thousand dollars or any part of it." I said, "That isn't the point. I don't like this sort of thing." He said, "Forget it. It will never see the light of day." So I went down--by that time the commission had assembled and was ready to start the meeting, four of them sitting there and I walked in and I said, "I've just been

Selvin: up to the mayor's office. I don't know which two of you it is, but two of you owe me \$1,663.67 [laughter]. Then I explained what had happened. Now, I know what happened because--as a matter of fact, later the same lawyer was convicted of grand theft and sent to San Quentin for doing exactly the same thing that I figured out he had done in this case.

Brower: Are we now talking about the USC professor?

Selvin: No, his successor. When his successor came in, he asked his clients for five thousand dollars, telling them that it was necessary in order to fix the commission and to fix me. They gave him the five thousand dollars believing that that's how they got the license and they told the USC professor I'm sure. Now, long before this same lawyer had gotten into his later troubles I figured out that that was what had happened, because I knew him and also I knew how those things were done I suppose. Later he did the same thing except in the later case I think the fee was \$10,000 and he had told his client, I think, that he needed \$7,500 of it to bribe somebody, but he went to San Quentin for that.

Brower: There is always the ethical question of who is worse, the briber or the bribee.

Selvin: Well, he went to San Quentin for that. As a matter of fact, I knew the lawyer that represented him when he was indicted and I said, "How about so-and-so. Do you think you've got a good defense for him?" The lawyer and I were very good friends and he knew that he could trust me, even though he didn't violate any confidence or break any privilege by telling me. He said, "I'm not sure. But I'm working on it." I said, "I don't know what actually happened, but I know your client and I think I know what happened and I'll tell you what happened and you don't have to confirm it because, after all, what you know is privileged. I think what happened was that he put the bite on his clients for a fee justifying it on the ground that he had to bribe somebody" [chuckles]. This guy looked at me. He didn't say anything. He said, "You might be right, you might not." I said, "I know that." But that's what happened and later after he was tried and convicted then the story came out, so my guess was correct.

Brower: Did you ever have any contact with the USC professor in that connection?

Selvin: No. No, the mayor--

Brower: Took care of that?

Selvin: Yes.

Brower: How is the USC law school?

Selvin: It's much better than it used to be. It's quite good now. As a matter of fact, I'm on something called the Advisory Council to this law school. It's something like a board of visitors. It's not particularly active and I've done very little, but I've been down there enough--

Now that you mention that you are so fond of Justice Douglas, I commented that he was awfully hard to get to know in order to be fond of him. But that reminded me of someone who was even more difficult in that respect. It was Dean [Erwin Nathaniel] Griswold who was later solicitor general of the United States. He was a Morrison Lecturer at one annual meeting of the state bar of California. That was the year after my term on the board of governors had expired so at the banquet following his lecture I was at a table next to the table of the active governors with whom Dean Griswold was sitting, and at the table at which I was sitting the people were all past governors of the state bar and during a lull in the activities, Sterling--Graham Sterling [chuckles] (no wonder I couldn't think of his last name, using Sterling as his first name)--Graham Sterling who was then president of the state bar came over to my table and he said, "Come on over to our table and sit next to Griswold. We have run out of subjects of conversation with him and he's just sitting their glowering.

I said, "All right, I'll do my best." I moved over and sat down next to the dean and I tried every gambit that I've ever heard of or known by way of starting a conversation, to get nothing out of Griswold other than an occasional grunt. So I finally gave up and I walked over to Sterling and I told him, I said, "Look, I'm going back to my table. This son of a bitch is your problem, not mine. I'm leaving," and I did [laughter].

The Constitutionality of the Death Penalty

Brower: Were there civil rights cases that you took an active interest in? Your practice is not essentially a civil rights practice?

Selvin: No, the only civil rights work that I've done as such has been simply either on my own initiative or the initiative of some organization in which I've acted without compensation because I believe in the principle. When I work without being paid I've got to believe in the principle involved in the case. I can't say that I've done a great deal of it. I have done a certain amount of criminal work by court appointment, not because I've wanted it

Selvin: but because, aside from the fact that it's any lawyer's duty to take an appointment of that sort, I was interested enough to see if I could accomplish anything.

I was appointed by the court and I did argue the first case in the modern era before the Supreme Court of the United States that the death penalty was unconstitutional. I lost that case. Then, later the Furman case came along and the two swing votes in Furman that declared the death penalty unconstitutional came from two justices who had voted against my position in the McGautha case--that was my death penalty case--and voted in favor of the unconstitutionality of the death penalty on the grounds that I had argued in the McGautha case. I've never been so mad in my life as I was when I read that opinion because if those two votes had gone my way in my case I would've been a footnote in history instead of that vote going to Tony Amsterdam.

Brower: Don't you suppose, though, you can feel privately that it was a delayed reaction?

Selvin: I've never been able to explain what to me was an obvious switch. It just didn't come in time. That happens. You take--I argued a case against Joe Ball in the Supreme Court of California involving a constitutional question. It wasn't a civil rights question. We were representing the vested interests. He represented Richfield Oil Company. I represented the Southern California Gas Company. There was a constitutional question in that case and I was arguing that the constitutional theory upon which Joe's case depended was old and had long since been outdated by modern developments in constitutional law. The Court didn't see it my way and decided the case in Joe's favor.

Ten years later Ray Peters--incidentally, I might add that the opinion that the Supreme Court disagreed with me on was written by Roger Traynor who was also one of my classmates--ten years later Ray Peters, another classmate, wrote an opinion in which he expounded the constitutional theory that I had argued in the Richfield case. He said, "As a matter of fact this question was raised in the Richfield case and the court agreed with it, but found it unnecessary to decide it." When that decision came down in the advance sheets I cut it out and I sent it to Joe Ball with that paragraph circled and a note, "You see, Joe, as usual ten years ahead of my time." [Laughter]

In the death penalty case I argued against Dean Griswold, whom I mentioned earlier. He was solicitor general in the Supreme Court of the United States. Griswold, when he'd been dean at a private law school was a typical Harvard libertarian in the Frankfurter tradition, if nothing else. When he became solicitor

Selvin: general, and he was a Republican appointee, he became a little less than the liberal dean that he had been. But he had been requested by the court since my case was a state court case to express the views of the United States on the subject of the death penalty. So he did so, appearing, reading (as solicitors general usually do) a prepared argument that had been written up for him by some of the bright members of his staff. While he was at Harvard, I got the impression from the stuff he had written and that I had read that he was, as I was, a great admirer of Mr. Justice Holmes.

His argument on the death penalty leaned rather heavily on the proposition that the death penalty was a traditional and old method of punishment and one that had been accepted throughout the ages and shouldn't be thrown out at this late date. Part of my reply to that argument, and I'm sure that it offended Griswold, and it wasn't a personal reply, my reply was to quote something that Mr. Justice Holmes had written one time that "It is revolting"-- I remember the quotation--"It is revolting to have no better reason for a rule of law than, thus it was in the time of Henry IV." Griswold stopped me after the argument and very indignantly told me he hadn't said anything about a death penalty being supported on the grounds that it was supported in the time of Henry IV or anything of that sort.

I said, "I know, Mr. Solicitor, I know what you said, I was quoting Mr. Justice Holmes to the effect that age did not lend glamour to a rule of law or words to that effect," and I broke off the conversation. I didn't want to get into a hassle with him there but obviously my thrust had hit home as it was intended to, and that was a perfectly legitimate reply I thought.

Brower: The whole subject of capital punishment seems to be very much in the public mind now. Our public television station had a discussion last night about the death penalty.

Selvin: I still think it's unconstitutional all down the line. Of course, one of the questions I was asked when I argued McGautha, and of course it turned out, "If we should agree with you, Mr. Selvin, wouldn't that simply result in mandatory death sentences for all of these crimes? That would eliminate the uncertainty that you are complaining about." "Well," I said, "perhaps it might. But, that's the future. It's today and Mr. McGautha that we're talking about, Your Honor." That was about the only answer I could make.

Fair-Housing Legislation

Brower: Am I correct in thinking you had a good deal to do with the fair-housing legislation?

Selvin: Well, I had something to do with it. I handled both in the Supreme Court of the state of California and the Supreme Court of the United States the litigation that had declared Proposition 14, the proposition that would have invalidated the fair-housing legislation, unconstitutional. It was the California fair-housing constitutional amendment that prohibited any law that would in turn prohibit discrimination in residential housing because of race, religion, or place of origin. That was declared unconstitutional both by the California Supreme Court and the Supreme Court of the United States. But before I got into that-- Off the record, who listens to these things afterwards, hereafter?

Brower: Unless you want to have something sealed they're available to any serious scholar who wants to go to the Bancroft and listen to them or to read the transcripts. So, if you want something sealed we could do that or I can turn the recorder off.

Selvin: Well, I was going to explain how I got into the fair-housing legislation situation.

Brower: Would you have any objection to its being in the transcript?

Selvin: I suppose not because the principal character whose violation of Supreme Court customs I wanted to protect is now dead.

When the constitutionality of what was I think section twenty-five or twenty-six of some article of the state constitution--that was the proposition that invalidated fair-housing legislation in effect or at least permitted racial discrimination in the sale and rental of residential accommodations--was before the Supreme Court I was having dinner at the home of a justice of the Supreme Court who had been a classmate of mine at Boalt and who was one of my very closest friends and who never was a bit diffident in discussing legal problems before the Court with me, so long as I wasn't in the case in which those problems arose.

He told me that evening that he was not satisfied with the briefing in the fair-housing legislation case. [Paraphrasing the justice] Could I give him the name of a lawyer that might do a good job and that the Court might ask to file a friend-of-court brief on that question. I said, "Sure, why don't you get Joe Ball? There's a great lawyer." He said, "Would Joe do it?" I said, "I'm sure he would particularly if I asked him." Ray said--Ray Peters

Selvin: was the judge incidentally--Ray said, "Will you do it?" I said, "Sure." I said, "When I ask him if he will do it do you have any objections if I ask him if he'll let me work with him on the brief?" Ray said, "Why the hell do you think I brought the subject up in the first place?" [Laughter]

So, the result was that Joe said, "Sure." I had made certain that I would be on the brief by broaching the subject to him, by telling him in advance that I would be glad to do as much work as he might want from me to help out in the job of writing the brief. So, Joe immediately gave me the assignment of writing the brief. [Laughter]

Well, it went back even before that. Governor Brown--that's Edmund G. (Pat) Brown, not Edmund G. (Jerry)--had appointed some kind of a committee or commission on fair housing. He had put both Joe and me on it. As far as I know the commission had never done anything. There was a matter then pending in the Supreme Court that at least tangentially involved the constitutionality of this same proposition that I've been talking about. I once suggested to Joe, I said, "Joe, why don't you and I write a friend-of-the-court brief in this case that's pending in the Supreme Court?" I said, "We both feel the same way on the subject and we ought to do our part if we can." He said, "Sure, let's do it." So we did. We wrote a brief and incidentally the two of us paid the cost of printing the brief. I still remember it cost us each \$500. And we filed that brief. So, the brief that we later wrote in the case that directly involved the constitutionality of the legislation was really just a rewrite and an amplification of that first brief.

Then, after the California Supreme Court had held the permissive legislation unconstitutional--that is, the legislation that would have permitted discrimination--unconstitutional the matter was taken to the Supreme Court of the United States. I got a telephone call from Al Wirin--Al being an acronym of his first two initials A. L.; his real name was Abraham Lincoln Wirin. Al Wirin was at that time the legal counsel for the Southern California chapter of the American Civil Liberties Union.

Al said, "Herm, what do we have to do to get you into this fair-housing litigation?" I said, "You've asked the wrong question, Al. What you should be asking is what do you have to do to keep me out of it." So anyway he said, "Go ahead." He said, "The ACLU [American Civil Liberties Union] will pay the cost of the brief and you go ahead and write the brief." Then, I asked for permission to get Joe Ball along with me. Al wanted a couple of people in it. He wanted to be on it too.

Then the case came on for argument in Washington. Up until that time--[laughter] I'll be snide--Wirin hadn't exhibited a great deal of enthusiasm for the proposition. But, when the case was

Selvin: scheduled for argument in Washington he called me and wanted to share the time. I said, "You can take all the time if you want. Actually, probably, it's an ACLU case." "No," he said, "I just wanted to share the time." I said, "All right."

So, we went back to Washington. At that time we were permitted an hour a side; now you only get a half hour back there. I think Al argued for about fifteen minutes, I argued for the rest of the time, and the decision came down holding the legislation unconstitutional and that was that.

In the Supreme Court of the United States, the solicitor general too had been invited by the Court to express the views of the United States on that problem. The solicitor general at that time was Thurgood Marshall who is now justice of the Supreme Court. Thurgood Marshall, as I think everybody today knows, is a black and he was the man who argued the school integration case, Brown against the Board of Education of Topeka, Kansas.

So Marshall appeared, like Justice Griswold in the death penalty case, with a prepared argument written for him by a couple of the bright boys on his staff and he started--well, he read it. Before Marshall was called on, my turn was taken and I had made my argument. I had developed a particular argument that I called "Purposeful Repeal." There was a little more to it than that, but anyway that was a part of the argument I had briefed. But Al Wirin implored me not to make that "Purposeful Repeal" argument in my oral argument. Well, I argued with Al about that. I thought it was a pretty good argument but it wasn't an essential one and it was in the briefs anyway and in order to keep peace on earth, I guess, I promised Al that I wouldn't make the argument unless I was asked the question by the court that called for that argument and if so I would answer the question as fully as the court would permit me to do.

Al said, "Of course, but don't invite a question."

"I won't invite a question. I'll keep it out of my argument unless I am asked."

I was interrupted by Mr. Justice Abe Fortas and he said, "Mr. Selvin, if section 26,"--I think it was, of the constitution by that time--"if section 26 were nothing more, as Mr. Pruitt" [Samuel O. Pruitt, Jr. a mighty fine man and a brilliant lawyer]--he was the fellow on the other side--"if it were nothing more, as Mr. Pruitt argues, than a repeal of the Unruh Civil Rights Act, would you still be here?" I said, "Yes, your honor, I would and I'll be glad to tell you why" and I proceeded to tell him why. That was my "Purposeful Repeal" argument.

Brower: I don't understand the phrase exactly.

Selvin: The argument was that an act that is nothing more than a repeal of an existing statute generally couldn't be unconstitutional, but if the repeal is done for the purpose of clearing the way to some unconstitutional activity, then the repeal is unconstitutional, or at least the state is so involved in the activity that the activity becomes unconstitutional even though it's private activity rather than state activity and it was a good argument, still is I think. But I answered Fortas's question and then I finished my argument. Then Wirin got up for his fifteen minutes and Fortas asked him what he asked me: "If section 26 were nothing but a repeal of the Unruh Civil Rights Act would you still be here?" Wirin said, "No, your honor" and that's all. Fortas didn't pursue.

Then Marshall got up, the solicitor general--the solicitor general is very seldom interrupted by the court, I think for two reasons. In the first place, he holds a high office in the hierarchy of the administration of justice in the federal system. In the second place, and I think probably the real reason, they know that as a matter of fact the solicitor general picked up the written argument that had been prepared for him in his office and came over and it's probably the first time he knew what the argument was while he was reading it to the court, so that to stop him to ask a question wouldn't get the court any real information.

Brower: He's required to take up the official position of the Justice Department?

Selvin: The solicitor general is next in line to the attorney general in the Department of Justice and his function is to supervise the government attorneys and the conduct of litigation in which the government is interested. His office handles all appeals in the Supreme Court of the United States in behalf of the government.

Brower: I guess I don't understand why he's always reading a prepared statement. Is it because he presents the official Justice Department position?

Selvin: He's a busy man and I suppose they don't have the time to get deeply involved in the facts of the case. Usually by the time the case gets to the Supreme Court of the United States it's built up a pretty substantial record, a long one, a lot of facts to get assimilated, a lot of law to digest and one thing and another. I suppose it's just a matter of time, plus the fact that the young fellows who work in the solicitor general's office

Selvin: are pretty much the cream of the legal crop fresh out of law school. They're really bright and they do a better job than the solicitor probably would do [chuckles]. I don't know that it's always that way, if they always read, but the only two times that I've seen the solicitor general in action in my cases, in each case it was a different general and in each case he read his argument. Archibald Cox was the solicitor general in another case of mine, the one in the death penalty case.

Brower: That was Cox?

Selvin: Oh, wait a minute, no. Cox argued a case while I was sitting there waiting for my case to be called, but Griswold was in the death penalty case and Marshall was in the fair housing case.

So Fortas stopped Marshall and he said, "Mr. Solicitor, if section 26 were nothing but a repeal of the Unruh Civil Rights Act would you still be here?" I don't think Marshall even appreciated the significance of the question but he said, "No, your honor" and went on, finished reading his argument. I saw Wirin and Marshall down together out in the hall after the argument was over and I said, "Before I leave I just want to tell you two s.o.bs. one thing and that is that you have proved that I have been right for a long time in one rule of conduct that I have." They said, "What's that?" I said, "I can take care of my enemies, but God save me from my friends. Couldn't you s.o.bs. have made a better answer than an unequivocal "no" to that question of Fortas's? You could have argued around it. You could have shot around it as they say in the movies. You didn't have to cut me up into little pieces and leave me on the courtroom floor the way you did."

Anyway, we won the case and the court didn't have to say anything about "Purposeful Repeal" [laughter]. But it's a good argument. I reread the brief the other day for some reason or another, including the "Purposeful Repeal" argument and it still reads to me as a good argument.

Brower: In Marshall's case, it was probably just unfamiliarity with what the situation was.

Selvin: Well, either that or he'd been brainwashed by Wirin. Wirin, because of the ACLU connection, had had so many civil liberties cases that he knew those people well, and I wouldn't be surprised if Wirin walked into Marshall's office one Sunday and gave him the score on my case.

It was in that case--I had casually said to Al, I guess it was the day before the argument, that I had been somewhat puzzled and in fact that I was somewhat resentful about the fact that

Selvin: despite all the work and time that I had devoted to the fair housing cause in the courts, including personally financing part of the expense involved, I had never heard a single word not merely of appreciation, but a single word letting me know that they were aware of the fact that the litigation existed and what I was doing in it from any of the so-called leaders of the black community. That wasn't going to stop me from arguing tomorrow or whenever it was, but it puzzled me and to be frank about it, I resented the fact. I was spending my time and some of my own money, not much, but a great deal of my own time and effort to bring about a result that I thought would be beneficial not only to the black community but to the community as a whole and I didn't expect thanks. I didn't expect anything except the recognition or awareness of the fact that I was doing it.

Brower: Even Rumford made no--?

Selvin: I've never met Rumford. Oh, Rumford, yes. I knew Rumford-- the assemblyman, right.

Brower: Because the fair-housing act is known as the Rumford Bill.

Selvin: Right, well, that was the civil rights act that section 26 was designed to annihilate among others. Well, Al didn't say anything particularly when the next morning I walked into the courtroom of the Court in Washington, Marshall came over to where I was sitting and handed me two telegrams. This was in the days that you could send a telegram instead of a mailogram. I opened them. I think I told you this story, didn't I?

Brower: No, I don't think so.

Selvin: One of them was from a man whose name I recognized because it was the name of a well-publicized black minister in Los Angeles who, if you would believe the newspaper articles, was a real leader of the black community. The other one was from the then executive director of the American Civil Liberties Union. Each of the telegrams was of the "Go team, fight 'em" type, the kind that when we were sophomores we used to send to the football team when they were on the road. So I read them. Al was sitting there in the courtroom and I took them over, handed him the telegrams and I said, "Al, just whom do you think you are fooling?" [Laughter] He didn't say a word.

I might add that when the decision came down and the case was won I didn't hear from either of those gentlemen, as well as anybody else.

Selvin: To show you that prejudice is not a white monopoly, after that decision had come down my wife happened to be at a social function in the afternoon. A group of people were standing around discussing that decision. In that group was one black woman who didn't know my wife obviously, as will appear, and whom my wife didn't know. They were discussing this decision and someone happened to mention the fact that there was something a little praiseworthy perhaps in the fact that I had undertaken that somewhat arduous representation without any compensation in order to accomplish the result that I believed in, at which point this black woman commented, "Oh, he's just another kike glory-seeker," at which point my wife discreetly left the room.

Brower: You'd think she'd have popped her one.

Selvin: Well, my wife isn't Jewish, or she might have. But, no, she decided that--the fact of the matter is she left so that she wouldn't. She didn't want to start anything there. Well, I've never liked that story, but it's true. As I say, it illustrates the fact that prejudice is not a white monopoly.

As a matter of fact, today the most virulent and the most vocal anti-Semites in the country are the blacks--or blacks, I won't say "the blacks." They're prejudiced for the same reason that most prejudices of that kind arise; they've got to have a whipping boy too.

Brower: It sometimes seems to me that my Jewish friends are less tolerant of the black situation--I mean, they seem to have the feeling that "we were discriminated against and we conquered this, so why can't they," without an awareness of the historical difference in the two situations.

Selvin: Not only the historical but the outstanding fact that they're skins aren't white. It's a little difficult to overcome that. It's a little difficult to become assimilated or at least accepted without self-consciousness when your skin is black or yellow or red as the case may be. So I appreciate that certainly. I don't kid myself; I to quote, or to paraphrase, Holmes, "In common with my fellowmen have my own prejudices and preconceptions." I have some of my own that I try to keep under control but I don't always succeed.

But that proposition on fair-housing litigation as I say went through the Supreme Court of California and up to the Supreme Court of the United States at which I spent untold hours of time, and it has brought me nothing in the way of recognition that I had anything to do with it.

Brower: That's hard to understand.

Selvin: Technically and nominally my clients in that litigation were a Mr. and Mrs. Mulkey. I never met the Mulkeys. I never even had a postcard from them about this case or about the results we got them. I suppose the reason is that the case was prearranged, I'm sure, by the American Civil Liberties Union. I didn't have anything to do with that. I think that the Mulkeys probably consented to let their names be used and consented to go down and try to rent the apartment and possibly forgot all about it from that time on, but that was all done before I ever got into it, if it was done at all, by Al Wirin.

Brower: In the obituaries of Al Wirin was this case ever referred to? Was this litigation ever referred to?

Selvin: I didn't see any.

Brower: I just wondered.

Selvin: I didn't see any. Generally, about the only cases they mentioned specifically was the case of the Los Angeles Times contempt, which would be mentioned in the Los Angeles Times report and the Gerald K. Smith situation. But they did mention broadly his activity in civil rights cases, and he was active in that field and knowledgeable in the law of that field. But Al was inclined to be a bit arrogant, more so than some of his friends liked, and certainly more so than the eulogists knew or realized. Al used people. As general counsel of the ACLU, or of the southern California chapter, for which he was paid--I don't know how much he was paid, but whatever it was it was an annual sum which I'm sure was something more than a pittance. I don't suspect that it was very much, but whatever it was that was the job and that's what he was paid for and if he wasn't being paid enough he didn't have to stay in his job. But he would get volunteers in response to his request to take over some of those cases on a free basis and appealed to their civic duty, or that they were in a pro bono publico situation, which is fine if there were people who wanted to do it. But what Al was doing, and never really came out flat on the table and said so, was really sluffing off his work and his responsibilities for which he was getting paid and the volunteer who was doing it as a public or civic duty got paid nothing.

Integration of the Los Angeles Bar Association

Brower: In our earlier interview on Walter Gordon* you spoke of playing a part in integrating the Los Angeles Bar Association.

Selvin: Yes, I had something to do with that. There were others along with me. It wasn't all my doing. In fact, I'm not even sure that it was my original idea.

When I was senior vice-president of the Los Angeles County Bar Association, which under the system then in vogue meant that the next year I automatically would be president, a few of us set out to do this--not a few of us, the officers: the then president, Dana Latham, myself, senior vice-president. I think Clarence Runkle was immediate past president. I'm not going to call this roll. They're all dead except me.

Brower: What was your role exactly?

Selvin: The only thing that I really contributed was the Machiavellian touches that enabled the proposal to go through. I had come to the conclusion that the reason previous efforts to eliminate the color line (which had never existed legally but existed realistically simply as a matter of course of conduct) had failed when submitted to the membership for a plebiscite was because it had always been sponsored and submitted by that group of lawyers whom I privately called the "red hots," lawyers who were suspected of being Communists. I doubt very much if any more than one of them was, but at any rate they had strong leftist leanings and their sponsorship, given the temper of the times in those days, was enough to put the kiss of death on any proposition, whatever its intrinsic merit.

So I suggested in the planning that we did in advance that there ought to be no publicity and certainly there ought to be no talking to others outside of a small group of Bar Association officers who were planning, because the minute it became public property if there was any time left the "red hots" would take it over and it would be their proposal and they would kill it in the end. But if we could keep everything secret until we submitted it to the Bar Association and submit it then as a board of trustees

*On November 19, 1976, Mr. Selvin was interviewed about his recollections of Walter Gordon for the Regional Oral History Office of The Bancroft Library. The transcript of that interview appears in Volume II of the Walter Gordon Memorial Volumes. [Ed.]

Selvin: proposal, sponsored by the board of trustees, and with a ballot at the same time we submitted it so that nobody had time to climb on the bandwagon, I was convinced that it would pass. I knew a lot of lawyers and so did they and I didn't think lawyers, most of them, the majority of them, believed in the color line, and it turned out that way. The proposal for integration was submitted, nobody knew it was coming until it was actually in the mail and the vote was quite overwhelming in favor of doing away with the color line.

Brower: What happened after that?

Selvin: After we had broken the color line, so called, and my term started, the question came up of the speaker at the first meeting over which I would have to preside. I asked Stan [Barnes] if he had any suggestions. At that time Walt [Walter Gordon] was chairman of the California Adult Authority, having been appointed by Earl Warren. (Earl always took good care of the Old Blues, particularly if they could run fast or throw hard.) [Laughter] Stan said, "How about Walt Gordon?" Well, I said something to the effect, "He'd be wonderful." I said, "But do you think he would come?" I was thinking of--I didn't say so--the history of the Los Angeles Bar Association and its years of overt discrimination. Stan said, "I don't know." I said, "I think he would, Stan, if you'd ask him." Stan said, "I will." And he did and Walt said yes.

Walt came out and I introduced him. I don't remember what I said except that I'm sure that I went back to my freshman days on the campus and probably even beyond that by hearsay to the time that Walt made Walter Camp's third All Americans and that sort of thing. He made what I can only describe as an excellent talk, although I can't tell you what he said. I've heard too many Bar Association speakers to be able to distinguish one from the other in that regard.

Walt was the first black man--in those days we could call them a Negro without self-consciousness--who had ever been at a meeting of the Los Angeles Bar Association, let alone address it. That was the first meeting of my term as president and I've always considered it to be the one real accomplishment of my term because it put the quietus on the color line that up until then had been accepted by everybody without too much protest--by almost everybody.

After the integration by-law had been submitted and adopted and while we still had no applications from any black for membership in the association, we got an application from John Aiso, a Japanese lawyer, a very good one, a fine man, later an excellent judge. He was a colonel of the [442nd] regimental combat team, composed of Nisei, during World War II. I was coming down from a meeting of the

Selvin: board of trustees of the Los Angeles Bar Association at which John's application had been approved, and just as I came out on the street I ran into him. He was walking down the street. I told John, "We just approved your application for membership in the Los Angeles Bar Association. What the hell took you so long to get around to making it?"

"Well," he says, "up until now I didn't think you'd have me."

Brower: Did you have many minority applications for membership then?

Selvin: Well, after that first application from John, we did get--oh, to those who feared there would be an influx of black lawyers into the association and that the social side of the association would be impaired, I always used to answer their argument, not on any high level of equality but pragmatically, I said, "you've got nothing to be afraid of. I'll tell you all that will happen. When this thing first goes into effect we may get one or two applications to test our good faith. If we take those people in, that's the last you'll hear of it. There isn't going to be a big influx. They'll come along, applications will come along in the same proportion from blacks as they come in from whites and you're not going to have any big problem." Well, that's the way it turned out. There isn't any problem, as shown by the fact that Sam Williams [a former black athlete at the University of California, Berkeley] is now president. [tape interruption]

Education for the Law

Brower: There's a young woman in our office who is studying law firms in California. (In particular, she did research on Bronson, Bronson & McKinnon.) There are some questions which she would like me to ask you. May I do that?

Selvin: Sure. I knew both the Bronsons. I met McKinnon. I knew McKinnon slightly. I knew more about McKinnon than I knew of them directly. McKinnon was a good, devout professing Roman Catholic and some kind of an expert on the natural law which, of course, is a strong Catholic preconception, particularly those who have read, or who have professed to have read, St. Thomas Aquinas.

Brower: These questions don't deal specifically with them, but about the background of your education at Boalt, about areas of specialization and extracurricular activities. I think we've really pretty well covered that.

Selvin: You mean at Boalt?

Brower: Yes.

Selvin: At Boalt in the dim, dark days of the twenties, the curriculum wasn't all that broad or that specialized. We didn't have all of the dozens of specialty courses that they have now. I think as much of a specialized course at that time that I could call to mind would be the course on bankruptcy law and maybe admiralty, a couple of things like that. We didn't have all the tiny little pinpoint fragmentations of the law that they have now in the curriculum, so there wasn't anything in the way of specialization particularly. There was no way to specialize because in any given field there was probably only about one course available anyway and today you can have several.

Brower: I think that answers the question. She writes, "Can you compare the curriculum and teaching techniques of law school then with what you know about law schools today?"

Selvin: I'll get to that in a minute, but on the subject of extracurricular activities in Boalt in my day, except for the comparative few of us who were on the law review and published it--wrote for it and published it, and solicited articles for it from others--and a very modest intraschool moot court system, there wasn't any. We didn't have any papers, we didn't have meetings of the students, or anything of that sort. We simply didn't expect and didn't ask for any part in running the school or prescribing what the curriculum should be or what the standards for graduation should be.

Maybe we were meek. Maybe we didn't know what was going on in the world. But we accepted the fact that there were gradations of power or rank or whatever you want to call it in this world and that one of the classifications or one of the relationships in that regard was teacher status and we were the students and being the students we didn't think that it was any part of our right to be the teacher or part of the teacher, or tell the teacher how he should run the course. So none of that entered into our thinking. We were a much different breed of cat than the modern generation, no question about it and I'm not holding any brief for our generation beyond saying that we liked ourselves.

So far as teaching methods are concerned, I've seen very little of the inside of a modern-day law school classroom, but I saw quite a few of them in my day. In my day, with the single exception of Captain Kidd's courses, the teaching method was exclusively the case method, the old Langdel's contributions to the law teaching from Harvard (I think it was Langdel). So it was the case method.

Selvin: We would sign up in class and in advance we would have been assigned a certain number of pages of cases in the case book that we used to be prepared on and somebody would be called on by the professor to state the first case that he wanted to talk about that day. "Stating the case" simply meant giving a brief as briefly as possible but a complete summary of the important facts and a statement of what the court did with those facts, at which point the professor then by the Socratic method of questioning you, or others who might have volunteered, to precipitate a discussion about what the case meant, what it stood for, how sound it was, what its effect would be in other situations, and by the time you got through with the day, run through half a dozen cases of that sort, you had learned some law. It was more important, perhaps, that you had learned how to analyze the case and the principles for which it stood and how to apply those principles to some kind of concrete circumstances--and that was the case method.

There was an occasional exception. I said that the Captain's courses were different. The Captain didn't use his case book except in criminal law. But in business law he didn't and he didn't in evidence either. (I don't believe he did in evidence.) He used to assign either specified cases to read or else dictate a problem of some sort that you had to look up on your own and then be prepared to recite on the points of law involved in that problem. The method was an effective one I thought and still think. It focused your attention on the way the law was made in the courts and how it was developed. The focus sharpened your analytical abilities and gave you a method of analysis that you could continue to use from that time on in your practice in law, probably. It sharpened your ability to think and speak on your feet (while you didn't stand up!) in the discussion that went on in class.

Launching a Law Career

Brower: Another question is, "After World War I, what was job-hunting like for you and some of your other law school classmates? Who got jobs and why?"

Selvin: In that era--of course, I graduated in 1927--it was not customary for a law firm to come onto the campus and interview third-year students or any students for that matter with a view to offering employment to those who passed their own subjective standards. Generally, either through family connections or other, you got a job in a law office if that's what you wanted to do by going to the office, getting admitted to the office of the senior partner or the managing partner or whoever, and applying. You either got the job or you didn't.

Selvin: My own personal experience I don't think is typical. I was fortunate. Through college friendship I was put into touch with the man who was a partner of what at that time was the third largest and certainly one of the most prestigious law firms in Los Angeles. He was an Old Blue from California and through his brother-in-law, who was one of my closest friends in college, had gotten to know me (or to put it the other way, I had gotten to know him). In the meantime, one man whom I knew at Boalt and in college too, who came from Southern California and graduated, I think, two years before I did had found employment with that office; and one of my classmates had worked with that office in the preceding summer, so that I was quite familiar with the office and I knew some of its personnel, in addition to the partner who later hired me. He came up to Berkeley in the fall semester of my third year, that would have been 1926, for a Big Game.

He came over to Boalt and I ran into him--or he ran into me. Maybe he looked me up, I don't know. But in the course of visiting with him, he asked me if I would be interested in practicing law in Los Angeles and I said, "Yes, I would be interested." That didn't commit me to anything. I didn't really want to go to Los Angeles, but I also was realistic enough to realize that at that time, San Francisco, so far as law offices were concerned, was pretty much a closed city. If you didn't come to one of the bigger or better law offices, fortified by family or business connections with that office, your chances of getting into it weren't very great and I had no connections of that kind with any law office in San Francisco, so I wasn't barring the possibility of good employment in Los Angeles if nothing else showed up.

He told me that he didn't know but by the time I graduated there might very well be an opening in the Loeb office in Los Angeles and shortly before graduation if I would drop him a note, he would let me know whether there was any possibility. Naturally, I dropped him a note at the earliest time that I thought would be decent and got back a response that when I finished taking the bar examination, to come on down. I remember that I got into Los Angeles after having completed the bar examination in San Francisco.

I got in on the fifteenth of August 1927, and the reason I remembered the dates so precisely is that until California went off the semester system and to the quarter system, our fall semester always opened on the fifteenth of August or as near thereto as Thursday or Friday or whatever it might be of the week came. It was a very good system because that way we could go home for Christmas vacation with our finals over, everything, and we didn't have that specter of having to come back and take finals after Christmas vacation. Also, that meant that in the spring vacation we finished

Selvin: in the middle of May instead of the middle of June so we had some spare time while the other kids were still slaving with their finals. Well, that's how I remember I entered and came to Los Angeles on the fifteenth of August, and I came down and went to work and I've been here ever since.

Employers, Colleagues, and Clients

Brower: What were your first impressions of your employers and colleagues.

Selvin: Where, down here?

Brower: Yes.

Selvin: I was very much taken and impressed with Joe Loeb, the elder Loeb, who intellectually was a brilliant lawyer. I discovered later he had some personality defects that I think prevented him from realizing to the fullest his abilities, but intellectually he's a great lawyer. He was a very kindly individual, very hospitable. I had some magnificent dinners in some of the finest clubs in Los Angeles, I remember, as his guest.

Ed Loeb I didn't meet and didn't even get a glimmer of recognition out of him until after I had been in the office for six months or more. He was away on a vacation, I think, in the South Seas when I first got there and when he got back apparently nobody took the trouble to introduce me to him and he didn't take the trouble to introduce himself. He didn't know who I was for a long time and I had no contact with him.

When I got to know him, I developed a great admiration for the man. He had a lot of personality temperamentalness. He was one of the best intuitive lawyers I've ever known. He was not what you might call a learned lawyer. I don't think Edwin knew a lot of law as such, and he certainly would never take the time or trouble to research a question if he could find somebody else to do it for him. But he had a remarkable instinct for the law and he could intuitively come up with the right answer without knowing a doggone thing about it so far as actual documentation was concerned.

Irving Walker I met from the start. He was a handsome, courtly, dignified Virginian--no, actually, he was born in Kentucky he used to claim--but educated at the University of Virginia, so he had a slight case of a Southern accent left. He was one of the finest gentlemen that I have ever known and at the time of his death (and I think he was in his eighties) he was certainly one of

Selvin: the most respected and the most admired men of the Los Angeles bar. Everybody that knew him was a great admirer of his and I was too and I spent a lot of time with him because by the time I got married we moved out to the West Los Angeles area and he lived in Belair and he used to pick me up every morning, drive me to the office and back at night after work. I only had one car at that time and my wife had that one. I think he was a fine man--a great sense of humor, a very courtly gentleman, and a great all-around lawyer. There wasn't anything connected with the practice of the law that Irving couldn't do and couldn't do well--try a case, write a contract, prepare a will, negotiate the contract, mediate some kind of a dispute. He was just a great lawyer in addition to being a great gentleman.

He was the first recipient of the Shattuck Price award, one of which you see on my table there, and I think the time that that was awarded to Irving he must have been pretty close to the age at which he died, which was eighty-one. So that gives you an indication of what the younger generation thought of him. He was always a center of attraction, particularly when he went East sometimes, because he rolled his own cigarettes with Bull Durham, and the Easterners couldn't get over that spectacle. They delighted in watching it [chuckles]. I personally feel that it was an affectation.

Brower: How large was the office at that time in terms of numbers of people employed?

Selvin: My recollection is that when I went to work there we had twelve lawyers and we were the third largest office in Los Angeles.

Brower: How did you feel about your colleagues? The people on the same level with you who were not your employers?

Selvin: At the firm?

Brower: Yes.

Selvin: Three of us had been at Berkeley at the same time and we were quite close friends and to this day two of us are. One of us is now dead. I don't think there was anyone else except the three of us to start with. There was one other fellow who had been at Berkeley. He didn't stay there very long. He came from a wealthy Los Angeles family. He didn't need to work and I might add, didn't. But I liked him. He was a pleasant, genial kind, but sort of stupid I always thought, and certainly affected and stuffy. But we got along all right. On the whole the personal associations in that firm were very good.

Selvin: There was Earl Adams from Stanford who later became quite a crony of Nixon and who I think had as much as anyone to do with the origin and administration of what I've always called the Nixon slush fund, the thing that first brought Nixon into newspaper dominance. Of course, the thing that first brought him into legal prominence, I guess, was his conduct at the committee hearings investigating the Hiss-Chambers dispute, although I don't know whether that was before--I guess that was after his famous campaign against Helen Gahagen Douglas because that was the time when the man who, down to the time of this other man's death, was a close political but seldom-mentioned colleague of Nixon's. (He had a Jewish name; what the devil was his name?) I knew the guy and he was the fellow who thought of the idea of printing those handbills on pink paper that people say had as much as anything to do with the defeat of Mrs. Douglas. Murray Chotiner, Murray Chotiner, I knew him as a lawyer, slightly. I had some dealing with him after Nixon became president. In fact, I telephoned him at the White House once about something that I was trying to get from him. It was nothing illegitimate, but in the wrong hands could have been made to appear somewhat sinister, only to be sternly told never to call him on the White House telephones, so I didn't.

Mr. Chotiner was a typical political crook. He was in politics I think for what he could get out of it and his idea of what to get out of it was to be a bagman, I always thought. I can't prove it, but he's dead now so I guess I'm safe in saying it. But even if I hadn't know anything about him, his close association with Nixon would never have endeared him to me because I insisted from the days of the Pasadena slush fund down to the time that he resigned from the presidency that Nixon was a crook, and what made it worse, he was a cheap crook.

Brower: When you first came into the firm, what kind of clients did you have?

Selvin: The Loeb office at that time probably had the strongest representation in the entertainment and motion picture field of any firm in the country, and it had a pretty mixed bag of clients. So far as the motion pictures are concerned, we represented Metro Goldwyn Meyer, Lowes Incorporated, Warner Brothers, First National, RKO, Sam Goldwyn, Universal Pictures, the Producers Association and so on. We also represented at that time the Los Angeles Stock Exchange, and we also represented the Llewellyn Iron Works now a part of United States Steel but which at that time was the largest fabricator and erector of structural steel in the city and also made and installed elevators, strangely enough.

Brower: Who handled what in the office?

Selvin: There wasn't any hard and fast departmentalization and there weren't any hard and fast allocation of clients to certain attorneys. Most of the motion picture clients were there because of Edmund Loeb. Edmund Loeb as a young man had gotten to know Carl Laemmle, Joe Schenck, Louis Meyer, and people of that class, who at that time were just about as young as he was and who were just getting started in the motion picture business and so Edmund became their lawyer. Some people of my age or older may remember a series that used to run in the Saturday Evening Post, I think written by George Randall Chester, and the series revolved around a very bright and astonishingly successful young movie producer called Izzie Iskovitch and he had an older and very wise and sage lawyer (who in that series I think was called Stern) who guided Izzie Iskovitch through all of the mazes of the motion picture business. Izzie Iskovitch was Irving Thalberg and Stern was Eddie Loeb. There no question about it to my mind, or I think to anybody else's mind if they know them. So the motion picture business was largely Edmund's.

The Los Angeles Stock Exchange was Edmund's because a stockbroker who was very influential in the Exchange at that time by the name of Abe Morris was Edmund's personal stockbroker and they had a great liking for each other and I'm sure that at the late Morris's instrumentality, Edmund got the representation of the Stock Exchange.

The Llewellyn Iron Works, I think, came to Irving Walker. Irving Walker, of course, was California Club and high Los Angeles society and by that I don't mean movie society. He was in what would then be called the West Adams crowd or today the Belair or even the Hancock Park crowd. So he used to get business of that kind.

The firm did varied kind of business and I got thrown into the litigation end of it quite early so that I cut across the whole board. I tried cases for Llewellyn, I tried cases for the stock exchange, and practically all of the motion picture companies at one time or another, and for a lot of other people.

Work Load and Training

Brower: What were your first impressions of the amount and kind of work that was expected of you?

Selvin: Well, I didn't have any time to form any impressions because I was informed when I got there that there were no time limits or schedules in the Loeb office. I would be assigned work and I would be expected to get that work out as promptly as was consistent

Selvin: with a good result and that was true whether I had to work nights, weekends, holidays, or any other time. There was no such thing as time and a half, and that was true. I think I went along there for years before I ever had a weekend on which I didn't do some work or a holiday on which I didn't do some work and that's stayed true practically to the present day.

That's still true here. I just developed that kind of a habit and there it is. I feel at loose ends if I'm not actually working with a definite objective in mind. I think a large part of that is not only due to the habits that I acquired in the Loeb office, but also it's an analgesic that keeps my mind off my son's troubles. So I still do it.

Brower: Were you given any kind of training when you came into the office?

Selvin: No. I was turned loose in the library. The first thing that I did, I was given a state of facts by George Cohen ('17) and asked to submit an opinion on the law applicable to that state of facts. I don't think that I have ever been so on the verge of complete collapse as I was that first week, because the more I studied and the more I thought about the problem involved in that set of facts-- I couldn't even figure out what the point was! I didn't know where to look for an answer in the cases and I was really getting hysterical about it. I was on the verge of hysteria or collapse because I was getting nowhere and it didn't seem to me that that was a very good omen for success in the legal profession. I couldn't even tell you what the point was! I didn't even know what subject in the indexes to look under.

But I did as much as I could, more or less aimlessly, just leafing through this, that, and the other thing. Somewhere, while looking up a highly unrelated--or what I thought was a highly unrelated--subject, I got a reference to a case that I started reading. In that case there was one sentence having to do with a principle of contract law that we had never been taught in law school and that I had never known anything about, something called "practical construction." I've always had a reactive rather than a creative mind. I can read one word of a sentence and react to it in a way that will trigger a whole train of thought that will be the answer to my problem whereas I couldn't sit down and do that a priori.

So when I read this one sentence about constructive interpretation, it seemed to me that there was a clue to my problem and I immediately ran it down and it was a complete answer. So I turned in my memorandum and George complimented me on it, that it was a very good job and so on and so forth, and from that time I sailed on. But nobody ever sat down and tried to explain things to me or teach me anything about the practical practice of the law.

Selvin: When I got thrown into litigation, Milt[on H.] Schwartz, who was the head of the litigation department and who incidentally is an old California yell leader from the class of '01 and a very enthusiastic and loyal Blue--I remember seeing Milt at a bleacher rally up in old Cal Field before a Big Game one year while I was still at school, I think. I'm not even sure that I was in law school yet. He came back with some other old classmates whose names were familiar to those who were steeped in California history and at that bleacher rally he led an Oskie, I remember. Well, Milton was the head of the litigation department. He would have me prepare cases for him: interview the witnesses, get things lined up, research the law, and give him the necessary memoranda from which he could try the case, and then I would sit in on the trial with him. After I had done that a couple of times, why, he'd let me take over a witness or two in the course of a trial and then gave me a case to try by my self and from that time I was off and running, as they say in the horse races.

Effects of the Depression

Brower: How did your other lawyer friends survive the depression? It probably had less effect on you, given the nature of your clientele.

Selvin: It didn't seem to have any serious effect on the firm as such. The picture business wasn't too hard hit and of course the picture business was the backbone, although far from all, of our representation down there. So we didn't seem to be hurt much by it. Some of the individual partners who fiddled around with the stock market on a margin, of course, were hit personally. Edmund I know was and I'm sure that Edmund never recovered financially from that time on. But the firm as such didn't seem to be particularly hit.

Effects of the Revision of the California Corporate Law Code

Brower: Did the rewriting of the California code on corporate law affect your firm?

Selvin: That took Joe Loeb out of circulation for months because he was on the committee that rewrote it [laughter]. Beyond that, I don't know except that corporate law might be involved in some cases that I tried. I never had anything much to do with the corporate field. I'm sure that it must have simplified a lot of problems in the

Selvin: corporate field, particularly by the elimination of shareholders' liability, by the elimination of limited corporate terms. In those days the corporation was organized I think for fifty years or less. I think fifty years was the maximum. Now they have perpetual existence. It modernized the law of corporations in a lot of respects, particularly with respect to authorized directors' liability. As I say, it eliminated shareholders' liability. Shareholders' liability may have been eliminated before the new corporate law. I don't remember.

Brower: Did your firm grow as a result of growth in your clients' firms?

Selvin: No. No, unfortunately it did not, and I've always attributed the fault to Edmund. Just as he was responsible for the presence of most of that business, he was also responsible for its dwindling away because he neglected to service it the way he should have and to keep up his personal relations with those who controlled the business, and most of that business did drop away before I left there.

Specialization in Law

Brower: Apparently, this business of specialization of law firms is relatively new. It was not always that way, but, more and more, certain law firms became known for a certain kind of--

Selvin: Well, I think that's true. You take when I started, the big three of Los Angeles--O'Melveny and Myer, which is still the largest firm in Los Angeles; Gibson, Dunne & Crutcher, which I think is still the second largest; and Loeb, Walker and Loeb, which is the third. Now, the successor to Loeb, Walker and Loeb--Loeb & Loeb--is still in business and it's a good-sized law firm. I think it has fifty or sixty lawyers. I don't think that it's generally considered in the top three as it was when I came here but I don't know. Certain firms do get established [as experts in special fields]. You take O'Melveny and Myer, the opinion is rife in Eastern legal circles that an opinion for a bond issue, for the validity of a bond issue or stock issue, by any lawyers other than O'Melveny and Myer is no good, so they get all of that type of cases, or practically all of it, in Los Angeles. I can't say that Gibson, Dunne, and Crutcher has a reputation for being a specialized firm of any sort. They're a big firm and have their fingers into a lot of things, practically everything but patent law, I guess.

Loeb has no great entertainment representation anymore, as I know it, although that was primarily its reputation in the days that I was there.

Selvin: What was then Latham Watkins, which is now a big firm practicing all kinds of law, started really as a tax firm specializing in tax law, and while they're still considered to be among the top tax firms in the state, at least in the city, they're certainly much more than a tax firm today. The same thing can be said of Irell and Manella here in Beverly Hills. They started out as a tax firm, with a great reputation as a tax firm, but now they're spread out into a lot of things.

You take my firm, a few years ago its reputation was primarily as an entertainment law firm. It still has that reputation but since then, consciously and by effort, it has spread out into other fields and I think now we have a pretty fair reputation as being a good litigation firm.

Move to a New Firm

Brower: Why did you leave Loeb, Walker, and Loeb and join Kaplan, Livingston, Goodwin and Berkowitz?

Selvin: [Chuckles] After the Loeb's got elderly and they were less efficient as lawyers than they were before, there was considerable feeling on the part of the younger partners--and that's not an unusual experience; practically all law firms have suffered the same experience at one time or another--that the Loeb's were deadwood and how to get them retired one way or another, and they [the younger partners] started out with what I always thought was a definite, deliberate design to accomplish that fact.

Over the years I had had a number of opportunities to make other professional connections that financially would have been much more remunerative for me than my connection at the Loeb office. The Loeb office, unfortunately, was never a big money-maker and never netted as much even from the money that it made as it should have because it was very inefficiently managed from the standpoint of business management, and that's because Ed Loeb was a tyrant and a dictator and he just ran the doggone thing himself. Ed was a lot of things that were good but one thing he wasn't was a businessman. But he never knew it and never realized it and never would admit it. So we never made the money there, neither the firm nor its members, that should have been made and I was feeling the pinch because of the great burden of medical and hospital bills that I had to pay. On top of that, as the older men dropped out--they finally retired Joe and Edwin anyway.

Selvin: I had stayed on at the Loeb office, turning down, as I said, several legitimate offers of other connections that would have been much better financially for me. Because of my loyalty to the Loeb's, I had always thought that I had achieved the standing that I had at the bar simply because the Loeb's gave me opportunities to show whatever merits I had that a young lawyer normally didn't get as early as I got them. So I stayed on for that reason.

I know, I suppose, there was a certain amount of inertia involved in it--picking up and shattering a connection of long standing isn't an easy thing to do. But by the time all the old-timers had dropped out and I found myself up at the top of the totem pole as the number one in the firm, from the standpoint of longevity at least, I found more and more difficulty in getting along with the young Turks, as I called them, who were running the firm and with whose idea of how to run a law firm or how to practice law, I didn't agree. So I was quite unhappy there.

In addition, the financial pinch was getting worse and worse because I had these tremendous medical and hospital bills. When they finally retired the Loeb's, I went to the fellow who had taken over as managing partner and who, incidentally, was a nephew of the Loeb's and with whom I didn't get along at all. I told him that I had had these other opportunities that I had turned down on account of what I considered to be my obligation to Joe and Edwin and I felt that obligation had now been fulfilled and since Joe and Edwin were no longer active in the firm, I wanted him to know that I was no longer turning down any opportunity for another and more favorable connection that might come to me and I wanted him to know this. He said, "All right."

I was having lunch at Perino's one day with the same George Cohen that I talked about, who at that time was no longer with the Loeb office (he'd left the Loeb office and had opened his own office in Beverly Hills), and Martin Gang, who had started at the Loeb office at the same time as I had. Martin and I both came together. Martin had left the Loeb office very early and had been very successful. He made a lot of money and achieved an enviable professional reputation. Martin was always more of a go-getter and certainly a hell of a lot better businessman than I ever was. Martin, who had never learned how not to be impertinent I think, said during the lunch, "How much are you drawing down at the Loeb office?" I told him. He said, "Good God, that's a crime?" I said, "Can you get me anything better? If you do, I'll take it. If you can't, I'll stay here." George said, "I can." He said, "Why, I can get you a place with a good firm where you'll make four times what you're drawing at the Loeb firm, at least." I said, "George, you're my agent. I'll even pay you an agent's commission if you can do that."

Selvin: He said, "I don't need any commission but I'll do it" and he did. He came and told me that he had talked to Lee Kaplan. Lee was very much interested and would like to meet with me and I said, "Sure."

I met with him. Lee and I had a five-minute discussion. I was willing to come; he was willing to have me. What did I expect in the way of drawing? I told him. He said, "That's satisfactory." What did I want about firm name? I said, "Naturally, I'd like to have my name in the firm name but that isn't essential. I've managed for forty years without my name in the firm name. I guess I could continue a few more years. But if it's feasible, why, I'd like to have my name in the firm." So he said he'd think about that and take it up with his other partners.

So here I am and the last name in the firm name is Selvin.

Brower: Does the existence of the name in the firm name imply a partnership and the omission of it imply you aren't?

Selvin: Not necessarily, no. The omission doesn't but the presence of it does, definitely. Incidentally, at that time I came out here the firm's office was down there on Canon Drive up the street from the restaurant at which we ate yesterday. Across the street from the office at that time was a gas station and my first day in the new office I was told that the firm had a charge account at that gas station for the partners and said that I could use it. (That reminds me, I've got to stop and get some gas on the way home today.) On my way home, I stopped at the gas station, had them fill my tank, and I said to the fellow, "Charge it across the street." He said, "You mean K., L., G., and B. [Kaplan, Livingston, Goodwin, and Berkowitz]?" I said, "No, I didn't. I mean K., L., G., B., and S. and I'm the S. of the B.S." and he laughed and charged it.

Brower: What year was that, that you went from one firm to the other?

Selvin: 1967. I'd been at the Loeb office for forty years.

Relation of the Commercial to the Legal Community

Brower: Are there any peculiarities of the Los Angeles commercial world that affect the legal community?

Selvin: Oh, yes, very much so, particularly that part of the legal community that happens to be Jewish. I don't know that it's a peculiarity of Los Angeles. I suspect the same thing happens on account of the Pacific Union Club in San Francisco, and I know

Selvin: the same thing happens, for instance, in Pittsburgh, with the Duquesne Club there, which is a posh club there. The California Club is the leading downtown social club in this area and all of the important professional and business figures in Los Angeles who are not Jewish belong to that club. The only Jew that they have taken in, notwithstanding the fact that in the beginning they were organized by a group of men of whom about half were Jewish, is Dr. Brown, who was president of Cal Tech and is now in Carter's cabinet. So the only Jew they've ever taken in is Brown, who says he's an Episcopalian, and is president of Cal Tech. On Sunday I read in some column that without those qualifications, don't apply [chuckles].

But that is the Los Angeles city establishment, not only politically but economically. The city's economic structure, the city's political activities, are run from the big table in the center of the dining room at the California Club where all these people meet once or three or five times a week and hash over the things that are going on. That's where Los Angeles policy, both in business circles and in political circles is made by the people who have the power and the money to control. Nobody in that group is Jewish regardless of how much money the Jew may have. So we are in that way excluded from any part in what is the real operation of this city and that is at the bottom of the drive that's been going on for some time to force these clubs, or at least to get them to agree, to drop their discriminatory practices, not because anybody wants to go down there and consider himself a snob and associate with Buff Chandler or somebody, but because they want to have their fair share of running this city and they can't do it from the outside.

Now to that extent, and I think the same thing is true in a good many cities. I know it's true in Pittsburgh, with the Duquesne Club. I understand there's something comparable to that in Detroit. Certainly it's true perhaps to a lesser extent in San Francisco with the Pacific Union Club. San Francisco is in a little different position too because the people who run the city economically don't necessarily run it politically because they probably live over in Marin County or some place. Incidentally, in Los Angeles that's "Marine" County, according to the commentators [laughs].

But that's the main thing that I see. The center of power in the city is down there in that group, the elite they consider themselves to be, and maybe they are, I don't know. I know quite a few of them; I know some of them I wouldn't put in my elite but anyway, there they are.

Brower: That's interesting in the light of a question I have here: What was the attitude toward the involvement of firm members in professional associations, in civic organizations, and in social clubs?

Selvin: I think most of your bigger or better firms encourage their members or their associates and employees to participate, as fully as is consistent with a busy and heavy professional schedule, in civic and club activities and professional activities. We try to encourage it here in the office but I find the young lawyer out of law school today to be a different breed of cat from what they were in my day. I know that's the old cry of the guy who's lived out his physical allotment when he thinks of the younger generation. But the kids that are coming into this firm from law school and they come from the good ones; we recruit all over the country and the people we have here come from Yale, from Harvard, from Stanford, from Boalt, from UCLA.

Hiring and Training New Lawyers

Brower: How are new lawyers hired?

Selvin: What we do here is substantially I think what most big firms do nowadays. We have a small hiring committee. Every year the members of that committee interview at one or more law schools. Many of those law schools schedule those interviews and publicize them on the bulletin boards. I noticed that was the thing at Boalt and they set up definite schedules for the people who want to be interviewed. So they do the interviewing with two thoughts in mind so far as this office is concerned. They're looking for people whom they might want to employ right away, although that's not the way now because of the other. They're looking for second-year students whom they can employ during the summer. That way we establish, first, a connection that will do us good in the third year when they come in the third year and, second, it gives us a chance to size that person up and that person is given a chance to size us up. So they are so-called summer interns.

We have, on the average, maybe ten or twelve summer interns. Then when those summer interns become third-year, I guess I should say, people, because some of them are women (I won't say persons. I refuse to substitute persons for the suffix man) we go over our records of opinions, facts, and what have you about their conduct as second-year people. Perhaps we'll review them again and then extend them an offer of employment. There's a great deal of competition for the good people.

Brower: What are your standards?

Selvin: I don't entirely agree with the standards, but generally speaking as far as this firm is concerned, the candidates must be from one of the leading law schools. Now, that doesn't mean the five or

Selvin: six, which will include Boalt incidentally, but they've got to be up in the area of top law schools, not night law schools or that sort of thing--Harvard, Yale, Michigan, Chicago, Stanford, Hastings, Boalt, USC, UCLA, schools of that sort. They've got to come from a school that is a recognized full-time school with a full-time faculty.

In other words, a school whose graduates can be expected to have devoted full time to the job of studying the law and to have studied under the guidance of people who are eminently qualified to teach. They've got to be in the top brackets of their class scholastically. They don't necessarily have to be on the law review, because ordinarily at most schools, election to the law review depends on scholastic standing, but being on the law review doesn't hurt. It helps. But they've got to be reasonably personable in their show-up for their interviews, with a personality that at least isn't abrasive if not pleasing and engaging, and by the manner of conducting themselves in answering questions and discussing things that come up in the course of the interview [they must] show a reasonable intelligence and ability to think about things. Now that, broadly speaking, is the criteria that we use.

Brower: Is there a training program?

Selvin: We have--well, maybe it's formalizing it too much to call it a training program. I think we spend more time in partners' meeting talking about how to train these kids than we do training them, but there is, yes, there is supposed to be. When they come in and finally go to work as an associate, after they've taken the bar so they've got that off their minds, they're assigned what is now called a supervising partner. When I first came here he was called the big brother and I wanted to throw up every time I heard that term, it's so damn condescending anyway. So I think largely through my grunts at partners' meetings when people started talking about the big brothers they gave them up as the supervising partner now, whose job it is to supervise and direct that fellow's work generally. Check what he's doing, consult with him about his problems, advise him in any way that the supervising partner thinks is suitable or in anyway that the youngster wants and, in other words, just keep a hand on the fellow.

Then I think twice a year (I suppose every half year) the associates are reviewed. First, the partners in the particular department in which that associate has been working, working primarily, will get together and pool their ideas and impressions and observations of the associate. Then that will be repeated by every department at a general meeting of the partners when all of the associates are reviewed. That review will result in any one of I guess about three conclusions. Number one, he needs or at

Selvin: least should have training or supervision in this particular little field or branch of his field and somebody will be assigned to see that that's done. Number two, he is partnership material. Number three, it doesn't look as though he would be partnership material, maybe we should begin to let him know gradually so that he can make other arrangements so he isn't caught flat-footed when the time comes to let the ax drop.

So that's about the way it's done. There's no formal training as such and there shouldn't be. They've had all that in law school. They're probably tired of it to begin with. In the second place, in my opinion you can't learn to be a lawyer by being told how to act. You've got to act--Holmes said that too. He said, "One becomes a lawyer, soldier, merchant, or whatever by being one. Life, not the parson, teaches conduct."

So I believe in that. I believe in what I call around here the swim-or-sink theory and the reason I call it that is because I always illustrate what I'm trying to get at by one of my wartime experiences. When I took the ship of which I became the commanding officer over my protests, out of shake-down to report for duty at the Caribbean Sea frontier. I was one officer short and sent word over to shore, the beach, that I needed one officer and they sent me an ensign out of the pool, a young ensign who came from Pasadena, California, incidentally, and I knew his uncle in college. His uncle was a great Little Theater actor at Berkeley and later, along with several others, became part of that show which later all through radio had such a long run--"One Man's Family."

Anyway, this kid came aboard. He was a fresh, eager appealing looking youngster who had never been to sea in his life. He had gone through the sub-chasing training center and that's it. So he came aboard and I told the exec, "Better give him a watch. He's a watch officer. Let him stand a watch." So the exec like a damn fool put him on the midwatch which starts at midnight and lasts for four hours. We were on our way then to Key West which meant on our routing instructions, required us to stay very close inshore for two reasons. In the first place, there would be submarines out, farther out. There could be and at the moment we weren't fighting submarines. We were trying to get down to Key West. But the main reason was that if you got too far away from shore, you were bucking the gulf current all the way down and it ran against you at about three and a half knots which meant that it took three and a half knots off of your speed all the way going down.

From Miami to Key West close in it's a dangerous route because a lot of keys and rocks, coral reefs and one thing or another jut out from the shore and can't be seen from the surface. In peace time it's no big problem because they had red navigation lights which would become visible when you were too close in and you could

Selvin: pull out, pull away. But in wartime all those aids to navigation were shut down so we had to go down there by feel and by God and by radar. So it really was a dangerous stretch of water.

Ensign Gillies (that was his name) came up to the bridge to relieve the watch a few minutes before midnight which was proper. He had read his Naval Watch Officers Guide. He knew the formula. I was on the bridge purposely because I knew that he had the midwatch. He asked the right questions of the officer of the deck whom he was relieving--course, speed, other ships present, so on and so forth. Then when he had gotten all of the information that he felt he needed, why, he then, strictly in conformity with the Watch Officers Guide, he saluted and said, "I relieve you, sir."

The minute that sentence is spoken the old officer of the deck is no longer responsible for what happens to the ship, but the new one is. The captain, of course, is responsible regardless, twenty-four hours a day, seven days a week. So anyway, he had relieved the watch. So I sat there on the skipper's chair for a while and just sort of was watching how he acted and how he was treading the bridge and looking at his radar scope, looking at the compass or one thing or another, giving his orders to the helm. Finally, I stood up and said, "Gillies, got any questions on your mind that you think I might answer that would be a help to you?" He said, "I don't think so, sir." I said, "Then take her, goddamn it, she's yours" and I walked off the bridge.

Brower: What a moment that must be for a young man.

Selvin: Oh, he told me afterwards he was never so scared in his life as he was then. I did it purposely. He didn't know until long afterwards that I had never left him. As a matter of fact, I stood that watch with him. I went back through the after door into the radar shack and I stood that watch with him on radar, watching the radar scope in the shack that was just aft of the bridge. I could be on the bridge in two steps if anything went wrong and take over quickly and, of course, watching the radar scope was even better than watching with the naked eye in a very dark night which this was. So I stood that watch with him. But from that time on he was a confident, self-assured and good watch officer and if I'd stayed with him that first watch, I don't know what kind of a watch officer he would have made.

I believe in that same theory with the associates here. I tell them, "You get in there and you swim or sink." Now, I say, "When you throw somebody into the water in the swimming pool and teach him how to swim that doesn't mean that you don't have to have a lifeguard handy in order to help out if necessary. The fact that I'm always available if necessary but I don't want to be bothered with it."

Changes in Recruitment and Training

Brower: In this matter of recruitment and training, have there been any changes over the years?

Selvin: Well, over the years since my time it's quite different, nothing of the sort that I described as going on today took place in my time. I don't think we ever saw a representative of any law firm on the campus interviewing, seeking out possible associates for their office. The greatest change in late years is more one of attitude, I think, than method. The candidates (I can't call them applicants because they don't really apply for the job; they come around and wait to be invited) are much more stridently vocal about their rights and what they're going to get out of it, particularly in the way of compensation. Compensation has gone up tremendously because the Eastern competition, the big Eastern law shops, recruit the same students that we do and they offer pretty big salaries particularly because living expenses are generally higher there than they are here.

So we in the West have to compete with the Wall Street firms and, even making due allowance for the value of the dollar, I think I can illustrate the change by showing that when I went to work I was the second highest paid man in my class in the Loeb office. I got twenty-five dollars a week. The highest paid man in the class was Adrian McCalman, now dead, who through family connections, got a post with Simpson, Thacher, and Bartlett in New York, one of the big Wall Street firms and he got Simpson, Thacher, and Bartlett's starting wage, which in those days was twenty-one hundred dollars a year--\$175 a month. So you can see, the East Coast [salary] was higher. I got twenty-five dollars a week. Most of the people in my class either got nothing or simply desk space free in consideration of doing some of the work of the office whose desk you were using or maybe fifty dollars a month or something of that sort.

Today, to get a graduate of a good law school, and Boalt was in those days, in the upper bracket of his class and I was certainly (I know I was at least in the upper tenth because I made Coif), today a person such as that could turn up his nose at anything less than \$17,500 because he knows he can get that or more in other places without any problem. So you have that difference in salary. You have the difference in the attitude of the person to be employed. There was a time, not so much now, I find that the people coming out of the colleges today are a little bit less demonstrative about their interest in things civic or political than they were particularly in the sixties. In the sixties almost the first question that the interviewer was asked--the interviewer was interviewed more than the other way--was how

Selvin: much time off do I get to work for the poor? Well, when asked that question, my response was, "How much time off do you think you ought to have?" He'd say, "Twenty hours a month," or whatever it was. "Now, I assume that you would then agree to a corresponding deduction from your salary wouldn't you?" "Oh, no." "Then," I said, "You're not asking to work for the poor, you're asking me to work for the poor."

Well, that gave rise to what is now a tradition in the office, the annual Selvin lunch for the summer interns. I take them down to Perino's which, when this thing started, was the poshest place in town and the food was very good. Old Alex Perino was still in active command then. It's still quite good and quite expensive. The first time I did that I invited all of the summer associates to meet with me down at Perino's and we'd have an elaborate and tasty lunch. I would be asked why, what was the occasion for something of this sort? I'd say, "The main reason for it is that I wanted you young people to see some of the rich for whom we have to work in order to be able to let you work for the poor." [Laughter] But anyway, that lunch goes on; it's still given. I'll be giving it in June or so. So that's the way it goes.

There's a great tendency, sliding off now I think, for the interviewer-interviewee relationship to be reversed. The student is the interviewer. He wanted to know about the office and what its salary plans were and this, that, and the other thing. Right now I read the other day a long communication from something called the associates' committee in this office, I guess they're a trade union now, in which they listed--they weren't demands but they might as well have been--a lot of things that they wanted. Among other things, they wanted to know what the partners' drawing accounts were. They wanted to know how much money we were making and how much we were taking in and what our expenses were and all the rest of it.

My only comment on that, I wrote back to the guy who had to answer to the associates. I said, "In all of this list of concerns"--oh yes, that's what they called themselves, the Concerned Associates Committee--"In all this itemization of concerns I find not a single one relating to concern about improvement of the office but only of improvement of their own personal situation." I said, "Personally I think concern is a two-way street" or something equally fatuous. But that's what's going on now.

Almost every office of comparable size or larger, went through exactly the same kind of experience that we have, including this list of demands on the part of the associates. The first time, we got one of those list of demands it was sort of belligerently worded. (Incidentally, the leader of that revolution is now one

Selvin: of the partners and the most conservative young man you'll ever find in your life.) This was at the time when there were always demonstrations and there were always lists of demands. When I saw one of the leaders of this particular demand, I said, "I read that list of your demands you sent into the management committee the other day. There's one demand you forgot to make." This fellow says, "What?" I said, "Amnesty" [laughter].

Brower: Did he laugh?

Selvin: I don't know whether that scared him or not. I didn't mean to scare him but I just thought it was funny because at that time and in those days, that was number one on every list of demands--amnesty and then they went on to the stuff they wanted [laughs].

Brower: That would give him pause all right. What about the role of women? Have more women been coming into the firm?

Selvin: Oh, yes, very much so. That's true generally in the practice of the law. Even though we were a small class in the twenties in Boalt I think we had only two women in the class. I don't think we had more than a handful of them in the whole school. Today at least half of the student body are women and they are being taken into the profession with open arms, and hired and accepted, and they're being active and there's no discrimination, at least in this office, and I don't think in any other office either as to assignments or kind of work or pay or anything of that sort, or chances of promotion. Now, we've had no woman who's been here long enough to reach the stage of consideration for partnership but I don't think there will be any problem when that time comes and it will be coming soon I think.*

The same thing with blacks. We have had three blacks in the office but for some reason it hasn't worked out. All three of them had to leave. One of them, incidentally, I think is going to be here next week. He's coming in to see me. He and I are very fond of each other. He used to work for me at the Loeb office. He left to take a government job in legal aid for the poor or something of that sort in Washington. So he didn't leave because of any inability to make the grade. The other two left voluntarily, but I suppose they left voluntarily because they began to sense that maybe they weren't cutting the mustard. Now, we have made a determined effort to get some blacks into this organization and to treat them as we would have treated any other associate. So far we've been unsuccessful.

*Mr. Selvin has added to his transcript here, "P.S. It has come." [Ed.]

Procurement and Retention of Clients

Brower: How have clients been brought into the firm and retained?

Selvin: You know, that's something that I don't understand. I've never understood how a lawyer goes about the job of getting business. Of course, in the old days--it's beginning to fade now somewhat, particularly with the development of the so-called public law centers and the legal clinics--solicitation of business was a heinous crime, a professional crime. You just sat back and waited for the business to come to you. I know of no way of stimulating the procurement of that business, other than to make yourself well known that by word of mouth people get to know of you or get referred to you. In my own case, most of my business comes from other lawyers over the years, largely because of that very active professional association work and also because of the word of mouth that goes around the profession about the people in it, I've acquired a certain kind of reputation and I find lawyers, when they get into the field in which I hold that reputation, referring cases or clients to me.

Brower: Could we define the field in which you hold that reputation?

Selvin: It's largely appellate practice although generally litigation, but I think I'm better known as an appellate lawyer than as a trial lawyer although in the beginning I considered myself a trial lawyer. I became an appellate lawyer more from necessity. My good friend [Stan[ley N.] Gleis says that's the only reason I became an appellate lawyer, because I couldn't win them in the trial court.

Now, I can't tell you where the business of this office originated. I know that Lee Kaplan is responsible for the bulk of our entertainment business. How he cultivated it, stayed within ethical limits, I don't know. I'm sure he stayed within ethical limits. But the business is here. One thing leads to another. Take the entertainment business. There's such a thing as an agent or a manager; he represents them in the business end of entertainment getting them employment, contracts, and negotiating deals. He may represent anywhere from one to fifty or a hundred big people--stars, directors, actors, actresses, writers. Well, one way or another, probably through personal association, you start doing work for that agent. He starts sending his contract people to you for their personal law work.

I'm right now engaged in a lawsuit involving a law firm and consequently I have been taking a deposition of one of the partners of that firm and been finding out some of the inner secrets of that firm. They started out primarily with the representation of what at that time was simply a music booking agency but it later

Selvin: developed into a tremendous agents agency and they had tentacles extending through the whole entertainment industry. They gradually acquired one of the Loeb office's old clients, Universal pictures for instance, and that sort of thing.

Now, the office that represented that agency, also found many of that agency's clients coming to that office for their reader work. The result is that right now they have a tremendous reputation and it's a very profitable and remunerative association, all developed in large part from one client, which itself was a very big organization and had the kind of patronage that it could in effect send over to the lawyer.

There's a great deal of that. You take the Title Insurance and Trust Company downtown. Through its job of land titles and escrows and land deals and that sort of thing, it obviously comes into contact with a great number of people and a great deal of business of that sort in which you need lawyers. Now, it can refer that business, wherever it wants. Whoever has a steady line of referral with a title insurance and trust company has the background of a very profitable practice. On the other hand, if the brother of a senior partner of a law firm happens to be the principal stockholder of the title insurance and trust company you know where that business is going and O'Melveny and Meyer was made largely on that business.

Certainly, in the ten years that I've been in this firm our gross has increased every year. I suppose the number of our clients has. I don't know. The net hasn't increased as proportionately. It never does, because your expenses go up in a proportion that's different from that of the increase in revenue. That's particularly true as you get more and more lawyers into the organization. In this firm (in whose administration I have requested not to have any part because I don't like business administration) the administrators, who are very good businessmen in my opinion, very good executives, go at the job of running the law firm as they would a big commercial business. From the standpoint of gross receipts that come in during the year--I'm not going to name any figures or even any number of numbers--but it's very large. It's not a little business. It's not a papa-and-mama grocery store.

They take the job seriously. They ride herd on the billings as the work is done on the receipts, as the billings go out, and that sort of thing and then for each coming year, before the end of the preceding year, based on what has been done and based on what they conceive to be the prospects for the future, not only in the community at large but also in their own personal connections, they will make a projection of what they think we will be able to do the following year or at least what we would like to do or like to try to do the following year and generally we make that projection and sometimes we exceed it. So that every year there's been an

Selvin: increase. That has been due more to careful internal administration than any solicitation of clients or any big influx of clients, although we do get new clients and we lose some old ones for one reason or another. That's the way it's done. Even a small law office is a business organization. It's got to be run on business lines. You just can't keep your money in a dish or a drawer in your desk and reach into it as you need it.

Social Issues and the Practice of Law

Brower: There are some questions on my list dealing with your attitude toward your career and your profession, both of which I think we've gone into. What about the social issues involved in practicing law, especially corporate law?

Selvin: It's a popular misconception in my opinion to speak of anything called corporate law. Corporate law, simply speaking, is law dealing with the organization and administration of corporations. What I think most people mean by corporate law is that branch of the civil law, which doesn't include criminal law, that deals with business or commercial transactions of a general sort even through the persons involved might not be corporations. What was that question again?

Brower: What are the social issues involved in practicing law, especially corporate law?

Selvin: Well, I pontificated on that subject in connection with our discussion I think of the Hollywood Ten case. The social issues are the problem of the voter. They are not the problems of the lawyer as such. You're not going to cure social problems by riding herd on the lawyers and making them refuse to represent people whose social views disagree with those of the lawyer or disagree with those who are trying to press their views on the community. Lawyers have a specific and precise field, and you're not going to improve the welfare of society in general by regulating the lawyers in that respect.

Further Comment on the Police Commission

Selvin: When I was on the Police Commission (and I think this is analogous) we had some racial difficulties--difficulties in the sense that there were elements in the community who were protesting what they thought we were doing, or not doing as the case may be, in the

Selvin: police department. Particularly one of the things that was being hotly discussed with us was the promotion of black policemen particularly into the detective field. There wasn't a black detective, they claimed at that time. There was, but anyway, they claimed there wasn't and they thought that the blacks were being discriminated against in that field and in any event they were not being promoted as fast as some people thought they ought to be. The fact was that we had blacks in every important administrative position in the police department up to the rank of watch commander--immediately beneath the top hierarchy of chiefs and deputy chiefs, which at that time was the top position in the department. So as I said, they weren't made watch commanders because they were black and they weren't kept from being watch commanders because they were black so that there wasn't any problem in that. But in any event, the discussion sooner or later would get around to the question of racial prejudice in the department generally.

My answer to their complaints of that kind--and I don't mean specific complaints. If they were specific complaints I tried to get the facts and answer them on the facts, but this general complaint that the police department was racist or whatever--was that we had umpity-ump thousand policemen in this city (I've forgotten, it must have been around five or six thousand at that time. It wasn't enough then and it certainly isn't enough now.) and I said to them, "In the very nature of things, they're bound to be more or less representative of the community from which they are drawn. Racist prejudice exists in that community and it wouldn't surprise me in the least if we had individual members of this police department who are racial bigots. So what do we do about it as police administrators. We do two things and I don't see that we can do any more. When they go through the police academy before they acquire probationary status as policemen they take two courses.

One is a course that is specially designed to eliminate any racial prejudices that the individual may have by trying to explain to him why and how racial prejudices arise and so on and so forth. We hope to eradicate it or at least to minimize it in the individual by that course. The other one is a course in the police problems raised by racial prejudice and how to handle it. Those are the two courses that everybody who's a policeman in this city takes before he gets out of the academy. I don't know of any more than we can do until you so educate the public at large that there is no racial prejudice in the public at all. Then you won't have any racial prejudice in the department. But don't think for a minute that you can solve the racial problem by clearing it up in the police department. You can't. That's just one small part of the whole picture. And I think that's true.

Brower: What were the years that you were on the Police Commission?

Selvin: I don't remember. I think in the early fifties, the middle fifties.

Brower: For about how long?

Selvin: Four years. I resigned when the mayor who had appointed me was defeated for re-election. We all resigned at that time but I would have resigned anyway. I was getting tired of it, not from the standpoint of the work that we did, but in that position, particularly because of our licensing powers, you left yourself a sucker for any cheap crook on Spring Street who wanted to make a quick hundred dollars.

The prime example, I remember--we had a city councilman at that time--he was a drunk and a crook, and I knew it and the chief of police knew it, but there wasn't anything we could do. We couldn't prove it. We violated a couple of his constitutional rights, I think, by stashing a couple of officers in the closet of a room in which he was meeting with an automobile dealers' association, trying to sell them on the idea that maybe he could cure their problems with the Police Commission if a certain amount of money would be forthcoming, except the certain amount of money never came out of his mouth, but he was clearly hinting at it. Anyway, there wasn't enough to indict him. But we knew he was a crook. He's dead now which is a good thing for the city. He was chairman of the fire and police committee of the city council.

In our licensing procedures on that commission, we had thousands and thousands of holders of business licenses who had to get them from us or get them renewed from us. The procedure was that at every meeting--the Police Commission met once a week for an afternoon--we would find on our seats what was called the "the calendar" as distinguished from the agenda. The calendar was a list of all license applications up for granting or renewal as the case may be and every week there were hundreds of them on that list. It was obviously impossible for us to discuss each one of them seriatim or even in groups or to do any investigation into them. So the system that had been going on for some time, and it worked very effectively while I was there, was that our staff investigated each application as it came in and unless something suspicious turned up or something that the investigator thought warranted further exploration by the commission it was put on the list without a star. If it was something where they thought the commission ought to look into it further there was an asterisk opposite the name of the applicant.

So the first thing after we approved the minutes of the last meeting was for somebody to move the adoption of the calendar except for the starred cases. Now, that meant that all those licenses had

Selvin: been granted, and the few starred cases that were left we would set for hearing and we would have a hearing on them. Now, this councilman knew that. He knew that it was entirely pro forma to get a license renewed if it wasn't a starred case. Being a chairman of the police and fire committee of the council he had access to that calendar. As a matter of fact, anybody could have it. It was a public record, I think. But every once in a while I would see this councilman sitting in the audience and before or after we'd approved the minutes of the last meeting, he would get up and he would say that he "just happened to see the name of an old constituent of mine on the calendar this morning. I thought I would drop in and tell you that he's a fine citizen," et cetera, et cetera.

Now, what that guy had done, he had taken a look at the calendar and he could see that it was not a starred case. So he knew what would happen. So his client got the license, of course, when we approved the calendar and he would go tell his "old constituent" that he had succeeded and for that, I am sure, that guy got a hundred bucks. So you make yourself a sucker for every cheap crook on the street. I told the chief of police and he used to sit next to me when I was presiding. He was general manager of the department. He always sat with the commission. I said, "You know, I wish that s.o.b. would come up in a starred case once in a while and I'd take care of him then." He said, "You'll never see him in a starred case." I said, "I know that, but I still wish he would." You see, in an unstarred case no influence at all was needed, even if you assume his influence would work if needed. No influence at all was needed and he knew that, but for that, I'm sure, he got at least a hundred dollar bill from his constituent. He was a crook and a cheap one too.

He used to leave city hall at the end of the day, and maybe before the end of the day, and go across the street to the Redwood Room, which was a very favorite watering hole among people who had to frequent the Civic Center. He would go over there and get stinking drunk and the police department--more out of compassion, I suppose, than anything, and there was also a certain desire to protect the citizens--instead of letting him drive home, would put him in a police car and take him home. I found out about that and I told Parker. I said, "I don't give a damn about this guy and what a danger he may be to the public. The next time I hear of him being taken home drunk in a police car instead of to the county jail and thrown in the drunk tank, there are going to be some changes made in the Los Angeles city police department." Bill laughed and said, "Aye, aye, sir" [laughter].

Advice to Prospective Lawyers

Brower: How would you answer a young man or woman who asks you today if they should become a lawyer?

Selvin: Well, I'd be tempted to say, "Take a good look at me and see the answer to your question. It's a good way of engaging in a misspent life." But I don't mean that. No, I am devoted to the profession. I always have been. I think it's a necessary one. I think we are unjustly maligned.

I would be inclined to tell them two things and I have told [such young people] two things. First, if they were just going to college that as preparation for law school, forget the poli. sci and the econ. and get into the English department and luxuriate in the beauties of the English language. The second thing is that when you get to law school and for the rest of your life as a lawyer expect that you're going to work in a way that no slave ever worked on a plantation. You're going to have to do it in order to be successful, and I don't care how brilliant a person you may be.

Rewards and Penalties of the Practice of Law

Brower: What are the special rewards of the law profession?

Selvin: The satisfaction of having helped people even though you might get paid for it, that's the greatest satisfaction and I don't mean to be sententious or pontifical but it's true. The other reward, particularly for those who in the great American tradition are competitors, is the business of competing and fighting and sometimes winning. That's a satisfaction, but then that's compensated for in part--if not overcompensated for--by losing. As old Clint Evans, my dear friend and enthusiastic athletic coach, used to tell his kids, "Go out there and do the best you can. If you lose, be a good loser but doggone it don't lose!"

Brower: What are the pitfalls of the law profession?

Selvin: [Pause] A tendency to take the easy way out, to forget the rules of ethics and go solicit a little business, things of that sort, to try to get a break in a case maybe by fudging a little bit with the court on the truth. All it comes down to really (and I've said this, I think, in talks I've made to young lawyers), there is nothing mysterious about professional ethics. Anyone that ever went to Sunday school and paid attention to what he was taught there

Selvin: would have no trouble with professional ethics because all they're designed to do is to keep the lawyer from doing the wrong thing, the wrong thing morally or professionally in his relations with the court, the client and for that matter the community.

But I think that the greatest pitfall is giving into despair, the tough times, the troubles, and taking the easy way. The extreme example of that, of course, is the lawyer who goes south with some of his client's money, and at the time he's fully expecting to be able to repay it before anybody finds out it's missing, but it never is repaid in enough time. When I was on the board of governors, the disciplinary jurisdiction of the state bar, the jurisdiction rested in the board of governors and most of our disciplinary cases had to do with mishandling of client's funds either by comingling them with private funds and thereby turning up short, perhaps even unintentionally, or by intentional pilfering. Those are most of the cases and I think in most instances they were simply due to troubles that had befallen the attorney and the inability to withstand the easy way, out or what he thought would be the easy way out. So long as the lawyer is scrupulously honest, he may not eat very well from time to time, but he won't be in any professional trouble.

Brower: What do you feel are your own special talents for law?

Selvin: Of course, being an old trial lawyer I would say that that's a question that assumes facts not in evidence. But I don't know. As a matter of fact, it happens that I'm a litigation lawyer, a trial lawyer, an appellate lawyer. I'd say probably number one is a certain clarity of mind. I'm a good analyst. I can get down to the heart of a situation. I can think about it logically and distinctly I think. That's the biggest advantage. A willingness to work hard and I do work hard. A willingness to subordinate personal preference and personal gain to the interest of the client. That's a hard thing to do sometimes. But I'm really sincere about that. If the choice has to be made, and sometimes it does, between the welfare of the client and your own personal welfare or your own personal convenience, for the conscientious lawyer there can only be one choice in my opinion. Things of that sort.

Brower: This is an equally unsupported question, but what do you feel are your shortcomings as a lawyer?

Selvin: Well, this will surprise you and everybody else when they ever hear or read of what I'm about to say: lack of confidence in myself and my own ability to handle situations.

Brower: But it doesn't manifest itself, so how could it be a shortcoming?

Selvin: I'm continually plagued by doubts of my own ability to handle situations. I see other lawyers doing things that I can't believe that I would be able to do if I were in the same situation, and yet when the situation arises apparently I can but I'm just not sure that I'm as good as I have been told by some people that I am. I don't disbelieve it. I'm not going to say that. I'm not going to be falsely modest and I'm not going to say that I don't like to hear that kind of thing. I do. But I'm not entirely sure it's right. I can never rid myself of the notion that there's a little bit left yet that I haven't gotten around.

Brower: Maybe we should put that up with the special talents instead of considering it as a shortcoming.

Selvin: Well, I don't know. Well, that and number two, I'm a procrastinator by nature. I think that's the worst tangible thing that I can put my finger on. I work under pressure but the pressure results from the fact that I put things off until I have to work under pressure to get them done [laughs]. That's a very definite fault and one of which I am conscious and I regret to say one in respect of which I am doing very little.

Brower: My husband practices what he calls "creative sloth." He prunes the trees if he has to write a foreword, for example. He procrastinates by doing totally other things that are not required.

Selvin: I don't do it quite that definitely but that's the way I procrastinate. I keep putting off the thing I have to do and putter around with other things and the reason I'm fooling around with these other things, I know, is because I don't want to get to the thing that I have to do.

Then there's another--this is not a conscious reason for it and I'm not going to pretend that that's why or how I do it--but I do happen to believe, at least in this instance, in the power of my subconscious. If I can let a problem stir around in my mind without my being aware of the fact that it's stirring, I can wake up the next day and wonder why I was so troubled by the problem. It all seems perfectly clear now and the reason for that is that while I've been asleep my subconscious has been at work at it and figured it out and I believe that that in my case is true to a considerable extent, and sometimes I purposely put off the day of decision until I've got the thing straightened out better than I had at the time.

Brower: [Pause] If we had made a sort of summary statement to the taping so far, what would it be? Do you think of things that you would like to say that we haven't touched upon?

Selvin: Do you mean relating to the profession or just life in general?

Brower: Well, either/or.

Selvin: I don't have the capacity or the talent of Mr. Justice Holmes, for instance, of wrapping things up into a spicy epigram or aphorism. I wish I could, but I can't. I have a lecture that I give once in a while on how to write a brief or how to argue a case in an appellate court and I tell them, because it is so frequently unobserved, that the first thing they should do is to go to the rules of the court for which they are writing the brief and write a brief that will conform to those rules, because those rules govern not only the content but the format of the brief and may be refused filing if they fail to comply with the rules.

The next rule with which you ought to familiarize yourself and keep uppermost in your mind is the Golden Rule. Now, what I mean by that in the context of writing a brief is put yourself in the position of the judge. He walks into his chamber. He sees on his desk a stack of papers three feet high consisting of the reporter's transcript and the clerk's transcript and the briefs. Now, he's got to sit down and figure out how he wants to decide that case and write an opinion supporting his decision. What would you want in the form of the organization of the first brief if you were that judge in order to guide you through that maze that you've just seen on your desk? If you stop and think about that for a minute, you'll have no trouble organizing your brief in a way that will do the most good to the court and the most good for your client.

That's the Golden Rule: Do unto yourself. That's good Old Testament as well as New Testament I might add. That's the thing that I say. It's too doggone preachy and it's too facile, too glib to be acceptable these days, I guess. But I think it's true. What it gets down to is an attitude of unselfishness toward communal life. Selfishness can kill a good basketball team, in fact, can keep it from being a good basketball team, and selfishness can kill a lot of other things in this life. You're going to suffer some slings and arrows of outrageous fortune in the process of administering the Golden Rule.

VII MISCELLANEOUS REFLECTIONS

The Death of Andy Smith

Brower: You speak of selfishness killing a basketball team. Why did you pick basketball? Don't you think selfishness can ruin a football team, and has?

Selvin: Yes, but each individual player doesn't have as much opportunity as on a basketball team to do that. On a basketball team, any one of the five men at any time can get possession of that ball and the minute he forgets that he's got four teammates and he tries to pull that ball up in the direction of the basket and sink it, he's being selfish instead of passing off. In football you don't have that same opportunity spread so equally among the eleven men out on the field.

Brower: I guess I was thinking of the alleged business of fraternities not letting outsiders have the ball in games. Whether that was ever true or not I don't know.

Selvin: Well, things like that have been true. Andy [Andrew Latham] Smith died in a hospital in Philadelphia after the Penn-Cornell game. Andy was an all-American at Pennsylvania. Strangely enough, and I only discovered it the other day, I never knew this before in the year that I was born, he was an all-American then at Pennsylvania in 1904. He always went back after the big game (of course, in those days you went by train) to the Penn-Cornell game, which traditionally was held on Thanksgiving and since the Big Game was on Saturday, he had time by taking the train Saturday night or Sunday morning, to get back to that game. He got a cold after that game that developed into pneumonia and he was put in the hospital and, of course, that again was before the miracle drugs. Pneumonia had a high mortality rate in those days, much higher than it does now. He died from it in the hospital. I've always felt that he was killed as much by the realization that one of his players had double-crossed him as he was by the fact that he had pneumococci in his lungs.

Selvin: That year there had been a lot of dissension on the team because Sigma Pi, as I remember it, and Sigma Chi each had an outstanding man who was a logical contender for the captaincy and the result was that nobody was elected captain from either of those groups. Tut [Talma W.] Imlay was the compromise candidate and the team was never the same again after that. But in this particular year two of the Sigma Pis, Jimmy Dixon in the back field and Snook [Charles N.] Mell (who was a no-good little so-and-so, and I've always thought so ever since my freshman year) playing on end. Dixon hadn't been playing up to his usual standard all year and it bothered Andy. I used to be out at practice all the time. I think Andy spent more time trying to figure out why the plays with Dixon that worked so well the year before weren't working this year. He stopped practice for a half an hour at a time. He'd kneel and squat there with his assistants and with the team up around him talking about it and suggesting that, that, and the other thing, trying to figure it out.

Finally, it got to the point where he had to bench Jimmy, and he announced on the morning of the Big Game that Dixon would not start. We went into the game. On the first play of the game, Dick Hyland (Stanford had possession of the ball) went around what would have been our left end on a wide end sweep, and that was Snook Mell's end, without a finger being laid on him and he went forty-two yards for the touchdown. Later, Snook admitted that he hadn't even tried to stop Hyland. [Mimicking dramatic tone] His heart wasn't in the game because Jimmy was sitting on the bench. I think that killed Andy Smith. Andy didn't want to live. I've always thought that. So those things happen.

Andy was just a young man at that time. He was an All-American in 1904 and he was probably twenty-two at that time. In '23, sure, he was in his early forties. I wrote him, from Tooele, I had gone home for Christmas holidays and I got a letter from his brother saying that Andy was too sick to write but he had read my letter to Andy and Andy had smiled faintly and wanted him to write me and thank me.

One evening Dad and Mother and I (I don't know why anybody else wasn't there, I guess maybe they were visiting relatives in Salt Lake or something) had dinner at a little restaurant there in Tooele instead of dinner at home, and along about 5:30 or so the evening papers would come in on the stage from Salt Lake and in this restaurant the table at which we were sitting could be seen from the street because it was an old store-front type of thing. Spud Lee, who was an old high school crony of mine, came by, and saw me sitting there and he opened the door of the restaurant and called in, "Herman, have you heard the news?" I said, "No, what?" He said, "Andy Smith just died." I stood up and I said to Mother, "Would you excuse me please?" I went out of that restaurant and leaned against the wall and cried like a baby. I still do. [Pause]

Selvin: It was the first time that anybody real close to me had died. I guess that might have had something to do with it.

Brower: Did you attend the memorial services?

Selvin: Yes. Do you mean out in front of the stadium? Yes, I was there, the whole starting line-up of the Wonder Team was up on the bank against the wall, against the stadium fence, and the rest of us down standing below that and they were all bawling like babies too.

Brower: Do people remember that that's the Andy Smith Memorial Stadium?

Selvin: No, the bench in there is the Andy Smith Memorial. The stadium is the California Memorial Stadium, the memorial part of it being for the Californians who were lost in World War I. But the bench is the Andy Smith Memorial. Andrew Latham Smith, the big Swede he was always called. I don't know why. I don't think he had any Swedish ancestry. I always understood he was Scotch Irish and part Indian. You take a look at some of his pictures, or if you saw him in person, you'd see the extremely high cheekbones, you'd understand the Indian part.

He had a great deal of influence on me. I was very fond of Andy and I think Andy liked me. He was a remarkable man. He had some very bad failings, particularly an addiction to a drink, but he was a man of great sensibilities, fine leadership, and teaching quality, and a strong and determined will to succeed and prevail.

Brower: How would you say that influence manifested itself in you?

Selvin: Well, I think some of it might have rubbed off on me. When I left Tooele as a little kid to go to the university, I was a diffident and shy sort of individual. I think that the fact that a man of that character would accept me as he did and be as close to me as he was probably influenced my own opinion of myself and gave me some confidence in myself that I didn't have before.

Brower: Perhaps the determination--

Selvin: Well, yes--I guess his principle influence though has been in fact that I know something about football [laughter]. But football was much different in those days from what it is now.

General Doolittle

Selvin: I had an amusing experience with General Doolittle in connection with Andy Smith. Doolittle was a member of the board of directors of Mutual of Omaha Insurance Company. They lost a lawsuit out here in which they wanted to take an appeal and I was asked to join with their regular counsel in the appeal. A committee from the board of directors which included Doolittle came out to talk to us about what we thought about the case. During a lull in our formal discussion I happened to be sitting next to Doolittle. Actually, I didn't happen to be sitting next to Doolittle. I purposely chose that place. I said, "General, do you remember Andy Smith's funeral?" He said, "I certainly do." "Well," I said, "let me tell you a story."

Garff Wilson, professor of rhetoric on the campus, every year before the Big Game used to deliver an inspiring, hoop-em-up fight talk to the varsity squad at about midnight, gathered together in front of the Andy Smith bench at the stadium. I had heard about that talk and how emotional and thrilling it was.

So, I went out one night when I happened to be in Berkeley before the Big Game and I listened to it. It was really an excellent fight talk in the old Knute Rockne-Andy Smith tradition. He tells them the story of Andy Smith's funeral and the scattering of the ashes on the floor of the stadium from an airplane, which is the way it happened. I was there along with hundreds of others when it was done.

I said to Garff afterwards, "You know, that's an excellent recital that you give about the burying and depositing of Andy Smith's ashes on the stadium turf. Why don't you tell them who flew the plane?" "Well," he said, "I would but I don't know. Do you?" I said, "Yes, I know." He said, "Who was it?" I said, "It was Jimmy Doolittle, General Doolittle of the class of 1916. That's who it was. He was flying that plane."

Then I continued to tell the general, I said, "The next year I wasn't there but someone who was told me that Garff had amended his speech and he told them who was flying the plane and he had me in the plane with you at the time!" The general said, "Welcome aboard." [Laughter]

Brower: How charming! [Laughter]

Football and Football Coaches

Selvin: [This followed off-tape conversation about football strategy.] Any trial lawyer I think must be like a scientist. He has a curious mind, not an inquiring mind, but a curious mind. He wonders why things are. He's got to. That's his job. The witness testified to something and he's got to figure out why is he saying that and why what he's saying is meaningful or meaningless as the case may be. It's your job to expose it for whatever it is or whatever helps your side.

So, I started thinking. I know the general impression-- people say passing teams don't win consistently. So, I started thinking to myself, "Why?" Well, it didn't take long to figure out the plain arithmetic of it. You're giving away anywhere from 50 percent to 60 percent of your offensive plans when you rely exclusively on passing. No matter how good your passing is you get 50 percent completions. When you have as high a percentage of completions as 50 percent, a good many of those completions are only short gains anyway. So, I say it's a matter of arithmetic. The arithmetic will catch up with you. Waldorf used to say, "On the average, you will have at least one out of every thirteen passes intercepted no matter how good you are." That's another reason why the passing game can't be successful. You get more turnovers with it than you do otherwise. You don't fumble one out of every thirteen times in a running game, but in a passing game one out of every thirteen passes on the average is intercepted.

Brower: You had a lot of contact with Waldorf. Was he coaching the Goofs at that time?

Selvin: No, Lyn came in the fifties. My contact with him was simply through the alumni or so-called booster organization and on a personal basis. Lyn and I took a liking to each other. We saw quite a bit of each other up there and down here, one place or another.

Brower: I always knew him as "Pappy."

Selvin: Everybody called him that. For some reason or other, I don't know, I've never called him Pappy. I've always called him Lyn and lately it's become sort of an obsession with me not to call him Pappy.

Brower: He followed Nibs Price?

Selvin: No, he followed the Sarge, top Sarge, [Stub] Allison. There was a fine man. When I was in the service and before they had shut down too much on travel regulations, California came down here to

Selvin: play USC [University of Southern California] and Stub made a special trip to my home. I was at sea. I wasn't there. Made a special trip to my home to leave a football for my two-year-old son. And old Clint Evans. Clint Evans had a list of what he called his boys.

Brower: He was the line coach?

Selvin: No, Clint was a backfield coach and for years was a freshman coach. And baseball coach, head baseball coach. He had a list of what he called his boys, the kids that he coached. There must have been several hundred of them. But, I was one of his boys, although I was much older than anyone else on the list. And he wrote regularly to all of the people on that list who were in the service during the war. I used to hear from him. I never heard from my law partners, but I used to hear from Clint.

Clint was famous for telling the teams that he didn't want them to lose but if they had to lose why at least be good losers. I once quoted him as saying, "God damn it don't lose, but if you lose be good losers." Clint looked at me and said, "I never said that in my life." I said, "Clint, I've heard you say it." He said, "I've never said that in my life." He said, "I never swore in front of any of my players." He said, "I didn't say God damn it." [Laughter] (I still think he said it, no doubt not meaning it.)

Brower: I remember him quite well.

Selvin: Yes, a very effervescent individual until his later years of course. He was in the same condition as Bob Sproul in his later years. He was a vegetable. He and Bob were in the same class, '13. There were quite a few in that class that later became very well known. Like my law school class, the '27 class, which we always referred to as the vintage year.

It had Traynor. It had Peters. It had Agee. It had "Lefty" [Warren] Olney, who was an assistant attorney general. Strange that Lefty in school never gave the impression of being particularly enthusiastic about intercollegiate athletics but apparently he was. He was in the party that went down to Philadelphia when California came out there to play Pennsylvania in the days when Penn still had good football teams.

Earl Warren

Selvin: This was the first year, I think, of the Eisenhower administration. So, you had Warren in Washington as chief justice and Barnes as assistant attorney general in charge of the antitrust division and Olney as assistant attorney general in charge of the criminal division.

So, the three of them decided to go down to Philadelphia Saturday to see California play Pennsylvania. It was then, the chief later told me, that he realized that he had been trapped, that the Supreme Court traditionally had its weekly conference on Saturday and that meant he couldn't go to football games.

[Third voice interrupts. Tape is turned off.]

Selvin: The Supreme Court conferences now are held on Fridays. Warren made that change. He told me personally he did it because the Saturday conferences kept him from seeing those football games.

Brower: How did you know that they all went down? Were you there watching that game?

Selvin: No. Either Stan or Lefty told me, maybe Warren himself. I used to see Warren every now and then, Earl.

Brower: It's interesting to me how much more liberal he was later. He was not at all a liberal attorney general. And then something seemed to happen to him.

Selvin: The reason I'm smiling: One of the most rabidly reactionary Republicans I ever knew was a lawyer down here by the name of Lloyd Wright and Lloyd Wright was a great admirer of Earl Warren in the beginning. He worked hard to get Earl elected governor simply because Earl was Republican. Earl, I think, appointed him chairman of the racing commission in his first year, but they had a falling out for what reason I've never known. Lloyd quit and became very sour on Earl Warren, and there was nobody who could be sourer when he wanted to be sour than Lloyd Wright.

Now, Lloyd and I a long time ago had decided that there was no possibility of the two of us ever reconciling our ideological positions, so that we would forget them and continue being good friends the way we always were. And we were very good and very close friends, never agreed politically or ideologically.

So, the day that Eisenhower nominated Warren to be chief justice I was in San Francisco and I was going home that night on the Lark, which was a good way to travel and which had a good dining

Selvin: car. As usual I went into the club car first to have a couple of drinks before dinner. Lloyd Wright was sitting there having a drink, so I sat down next to him.

Lloyd looked at me and said disgustedly, "Well, what did you think of the appointment that was made today?" "Well," I said, "Lloyd, you and I may not live long enough to know whether I was right, but in my opinion and I will predict that Earl Warren will go down in history as one of the great chief justices of the United States."

Lloyd got so mad at that that he stood up and walked out of the club car. I knew Earl Warren and I thought I knew what really made him tick. I figured, crass as it may sound, that once he got to the point where he could be Earl Warren without worrying about what it was going to do to his votes, he would be the Earl Warren that I thought he was. I think it turned out that he was that Earl Warren.

Brower: That was a very good guess.

Selvin: It wasn't a guess. I knew the guy. I knew the guy and I just thought he was that kind of a man.

Brower: His position on the removal of Japanese-Americans during World War II--

Selvin: Well, that's the one thing he said himself, of course, that that's the greatest mistake he ever made in his life. He admits that himself.

Brower: It was an understandable one, given the temper of the time and the fact that we believed the Pentagon in those days.

Selvin: But I made that prediction about Earl Warren and I'm glad to say that I lived long enough to see it come true. I'm also glad Earl knew that I said that; a friend of mine who knew the story and who was also a very good friend of Earl's told me that he had told Earl about it. He didn't tell me what Earl said in reply.

Brower: I could hardly believe Warren's position as it unfolded. I was delighted.

Selvin: It didn't surprise me at all. It really didn't. He was a tough district attorney. That was his job. One thing about Warren, he had a sense of responsibility. He carried out his job and as a district attorney, why, he was supposed to be tough. He was a tough prosecutor. He wasn't mean but he didn't shirk the job of sending those to prison that he thought ought to be on their way to prison.

Selvin: But, Earl had to be a liberal and kindly man at heart. He was the son of a railroad brakeman down in Bakersfield.

Brower: Do you think that guarantees a man--?

Selvin: No, but it helps. He was brought up in the atmosphere of--in those days, those early days of unionism, which was liberal to the point of being almost radical. After all you had the Emma Goldman philosophy type of union in those days.

His father was murdered and so far as I know the murder has never been solved.

And I had talked to Earl at one time or another--we used to be quite active in alumni affairs. We were always on some goddamned committee or another together--to get the very definite feeling that at heart Earl was a man not only of kindness but of liberalness in the political sense and certainly a man of fine instincts. When I put all those together along with his capacity of leadership and efficiency and administration I just decided that that guy would be a great chief justice and he turned out to be, even though he wouldn't go for my position on reapportionment of the legislature. At least I had the good grace not to quote Earl Warren in 1940 when he was in favor of the kind of legislation that we had.

Brower: That must have been hard to resist!

Selvin: I met Earl Warren when I was in school and Earl was district attorney of Alameda County. Over the years we came into considerable contact with each other largely because of our interests in the University of California on the whole and particularly because of our interests in athletics. So, I thought I knew what the man was like and that's why I said what I did to Lloyd Wright. I will admit that a certain amount of it was motivated by needling Wright. But, I really meant it. Oh, Lloyd was mad. He didn't even finish his drink. He walked out of the club car. He didn't want to talk to me any more that night.

Brower: Did you ever patch it up?

Selvin: Oh, there was never any rupture. He just walked out of the car that night. Oh, a long time after he told me, "You know, Herm, over the years we've been pretty good friends." I said, "Yes, I think we've been very good friends." He said, "We've hardly ever agreed on anything but that though, have we?" I said, "No, we haven't, thank God."

Dale Coffman

Selvin: When Red Sanders left Vanderbilt to become the head football coach at UCLA, a law professor by the name of Dale Coffman was also brought out [from Vanderbilt] to become the dean of the UCLA law school, which was just then starting up business. There was a great deal of publicity about the two of them in the Los Angeles papers (and in those days we did have papers in the plural, not just the Los Angeles Times): Sanders, of course, because of the changes that he was going to make in UCLA football, Coffman because of the various speeches that he had made about the horrors of Communism, radicalism, and liberalism, and about the changes he was going to make in UCLA, which up to that time had been familiarly but unkindly known as the "little red school house."

Because Coffman was the new or at least the coming-up dean of the new UCLA law school, he had been invited to be present although not to participate in the ceremonies at a meeting of the Boalt Hall Alumni Association in Berkeley, of which I was then president. The meeting was liberally attended by alumni, some students, and I think practically all of the Boalt Hall faculty which at that time was (as I understand it still is) a very liberal faculty and its liberalism extended beyond the arts.

Presiding at the meeting because I was the president of the association it became my duty to acknowledge the presence of and to introduce Dean Coffman, which I did by adverting to the fact that he and Sanders had left Vanderbilt to take up there respective duties at UCLA and that according to what was being printed about them in the Los Angeles papers, it seemed that Sanders had been brought out to introduce the single wing and Coffman to introduce the right wing. I recall that I got a standing ovation from the Berkeley faculty but my relations with Dean Coffman from that time on were a little bit strained. [Laughs] I can't understand why. After all, I hadn't accused him of anything he didn't believe in, but anyway we never saw eye to eye about that.

That reminds me of something else about Coffman. One of Coffman's faculty members at that time--let me interrupt myself. One of the reasons why I have no use for Coffman--after all, I have quite a few good friends whose social, political, and economic views are almost as Neanderthal as Coffman's were--is that he was notoriously a bigot. Blacks had no rights anywhere and particularly in the UCLA law school, according to Coffman, and Jews had little more in that regard. In fact, he was quoted as saying that as long as he was dean a Jew would never be a professor at UCLA's law school. I never heard him say it, but I passed on my information to Bob Sproul once and Bob Sproul assured me that he and the academic senate were aware of that frame of mind on Coffman's part

Selvin: and steps would be taken at the appropriate time, the appropriate time being apparently when the question of the renewal of the deanship came on. Of course, he had tenure as a full professor so they couldn't kick him out completely but at least they could relieve him, as they did later, of his deanship.

On his faculty at that time was a big husky jovial man by the name of Jim Chadbourne who taught evidence, among other things, and was one of the country's leading authorities on the subject of evidence. He went back to Harvard as a visiting professor and never came back. He stayed on as a full-fledged member of the Harvard law faculty until the time for his retirement came. Jim was an outspoken sort of fellow and had no use for Coffman, either as a man or as a thinker. The UCLA law faculty had a little custom--a few of them used to congregate in front of Chadbourne's office or one of their offices for lunch and they'd go off the campus for lunch because by going off the campus that way they could get a drink or two with lunch which they couldn't do on the campus, at least not legally.

So the story as I get it and get it from Chadbourne (because I once had him confirm it) was that Chadbourne joined the group on one of these occasions and noticed Coffman standing there and he asked somebody, "Is he going to lunch with us?" and somebody said, "Yes." Chadbourne said, "Well, not with me. I wouldn't eat with that son of a bitch if he was the last man on earth," and stalked away, which I suspect is an attitude that had a lot to do with his not coming back to UCLA but staying on at Harvard when Harvard asked him to stay on. Otherwise, he might have come back here because the good Lord knows it's a lot more pleasant to live here at least in the winter time than it is in Cambridge, Massachusetts.

The Saint Thomas More Medal

Selvin: Loyola University Law School or the society there every year presents what they call the Saint Thomas More Medal or Medallion--I prefer to call it a medal; it sounds more imposing!--the Saint Thomas More Medal to some lawyer or judge in the vicinity who they feel is entitled to be called "a man for all seasons." They presented that medal to me and it's a beautiful thing. I don't have it here, but it's really a beautiful thing. But it led to one of Father Donovan's and my exchanges, a typical one. After it had been presented to me, they discovered that they had no more of the medals. The die from which it was cast had been lost and the artist who had designed it was no longer living. They had another presentation coming up. This one I think was to [William] Byrne,

Selvin: United States District Judge William Byrne, and could he borrow my medal for the presentation or at least to have it copied so they'd have something to give Bill Byrne and I said, "Of course." Then I didn't get the medal back and I kept after Father Joe. I wanted my medal and I never got it back. Well, I did eventually but not until I had written a letter to the two of them telling them that I wanted it back and that I was quite sure that the writ of replevin ran in the federal courts and by God I was going to sue one out if I didn't get that medal back! [laughs], and I got it back.

Brower: The writ of what?

Selvin: Replevin [spells term]. That's an old common law writ which means to get something back that's been withheld from you that you're entitled to and I said I was quite sure the writ ran in the federal courts and I was going to sue one of them.

Brower: That finally brought it in?

Selvin: Yes. It's a beautiful thing, not only as a medal but, of course, the idea behind it.

Brower: Isn't it? What a nice thing to be, a man for all seasons.

Selvin: When I got it back, it's a medal that's designed to be worn around your neck like the Medal of Honor or for that matter the Knight's Cross or the Iron Cross in Germany. [Chuckles] I can offset one with the other. When I got it back, it had a bright red ribbon it and Father handed it to me in a nice little box or case. I opened it and I saw that red ribbon. I said, "Father, couldn't you have made that blue and gold?" [Laughter] Now, he's a fine old man, Father Joe. He was regent of the Loyola University Law School. I don't know what that meant except that I suppose that that meant he was the representative of the Jesuits to supervise the general running of the law school because it is a Jesuit institution, Loyola. Of course, Loyola now is Loyola Marymount, so it's not entirely Jesuit. Marymount--

Brower: Is that a different order?

Selvin: I don't know.



Front and verso of the Saint Thomas More medal, presented to Herman F. Selvin, May 22, 1966, by Loyola University Law School.



Queen of Angels Hospital Case

Selvin: I represented the Franciscan sisters of the Sacred Heart of Jesus in one lawsuit.

Brower: What was their problem?

Selvin: With the state of California. They were operating the Queen of Angels Hospital down here and losing money hand and fist, being rather poor business women but with very big hearts. They had a lawyer, the lawyer for the archdiocese, who was a very good businessman in addition to being a good lawyer and he got a deal for them with a national concern that operates hospitals all over the country. He got an operating contract or a lease for them for the hospital from which the sisters of the order got a million dollars a year net--free. They had no taxes, they had no upkeep, they had nothing to pay on it. A million dollars a year.

Of course, now they've got a million dollars a year: What to do with the money? Well, what they wanted to do with the money, they wanted to do one thing primarily. They wanted to do some other things that the court held they couldn't do with the money, but the one thing they mainly wanted to do was to open medical clinics on the east side for the indigent poor, badly needed down there and, of course, the population now on the east side is largely Chicano. It's largely a Mexican population and therefore largely Catholic. In the early days it used to be largely Jewish down there. They wanted to open clinics because of the real need for them down there. I think another reason although I never asked them and they didn't tell me was that at that time, relations between the Chicano element and Cardinal MacIntyre were somewhat strained and I suspect that the sisters thought that they could do a great deal toward repairing those relations if they did this charitable work down on the east side.

The attorney general of California in all of his dignity who by statute is the supervisor of charities in this state decided that the order had no right to operate clinics except in connection with the hospital and since they had leased the hospital they were no longer in a position to operate charities and therefore they couldn't spend the money to operate those clinics on the east side. That's what the lawsuit was about.

Evelle Younger

Selvin: The court held they could. Of course, it was a senseless contention by the attorney general but that was just an example of what happens too often and that is that you give somebody with a little mind a lot of power and they become a big tyrant and that's happened to the gentleman who's a friend of mine, a gentleman whom Ray Peters always called "Evil" Younger. [Chuckles] He would never call him Evelle Younger; he always called him "Evil" Younger.

Brower: I must say that in his relentless joy about the death penalty, I can only think of him as evil too.

Selvin: When Evelle (I always called him Evelle; I'm not going to change on account of Peters although I agree with Peters) was district attorney and during that time the Warren court was coming down with all of its "soft on criminals" doctrine, at least that's what Warren's enemies called it, that he was soft on criminals. Ev gave a talk down in New Orleans to the American College of Trial Lawyers and I was in attendance, being a member of the organization, and Ev gave a talk, the general theme of which was that the Warren decisions weren't hurting the prosecution. As far as he was concerned, he could operate under them just as well as he could without them and the conviction rate in California wasn't going to drop. The people that heard him, the American College of Trial Lawyers, was a national organization. It's not a big one because it's an organization whose membership is by invitation only and at that time I don't imagine we had more than maybe twelve hundred or fifteen hundred lawyers. I know it's limited by its own constitution to not more than one percent of the lawyers in active practice in each state.

So Easterners were amazed. I had a couple of them--one of them, I remember, he came up to me and he said, "Is this really your district attorney?" I said, "That's what he is." He said, "God, I wish we had somebody like that." Well, he was great and just fitted in with everything that Joe Ball and I believed in. Joe practices a lot more criminal law than I do. I don't practice any, but I keep in touch with what's going on in the criminal field, that is in the criminal law field. I came back and told Joe what Evelle had said in his speech and so forth. Well, Joe thought that was great too. Then when Evelle decided to run for attorney general he solicited Joe and me to support him although he was a Republican and we were Democrats. We agreed to because on the basis of these ideas that he had expressed, we thought he was right.

Selvin: Then when he filed his nomination papers and started his campaign, why, he took the typical John Birch Society attitude toward the Warren court and its soft decisions. So I saw Joe one day and I said, "Joe, I don't think I can support Evelle any longer and I don't think you can either in view of what he's saying now. It's nothing at all along the lines of what he said down in New Orleans." Joe said, "That's right. I agree with you." I said, "We ought to tell him we can't support him." Joe said, "Yes." I said, "Okay, let's call him. Let's have lunch with him, invite him to lunch, and tell him."

So we did. I think we had lunch, as I recall it, at Perino's and we told him then that we could no longer support him and that he was not to use our names and we told him why and he was understanding. Evelle understood why. But that satisfied me of something that up to that time I hadn't been thoroughly sold on and that is that he's an opportunist. He's a trimmer. He believes in whatever is a popular vote-getter at the time. So you can see now how I am not going to vote in the coming gubernatorial election! [Chuckles]

The problem is going to be the attorney generalship. If Evelle ever vacates the attorney generalship, I am not going to vote for any of the people that are looming up on the Republican side so far and the two candidates for the Democratic nomination, one of them in my opinion is thoroughly impossible, that's Pines; the other one, Burke, the woman, I don't know enough about her to be sure. But from what little I do know I don't think I'll be able to screw up my courage to vote for her. Bruce Sumner, the judge down in Orange County, Bruce has announced he's not going to run. I don't think Bruce would have had much of a chance, but if Bruce had been in the Democratic picture (stayed in the Democratic picture), I certainly would have worked and voted for him, as would Joe Ball. But he's not there, so I don't know what I'm going to do. I'll probably vote for Norman Thomas again. [Chuckles] I did that once, because I couldn't stomach either presidential candidate and I didn't want to give up my vote completely so I went into the polling booth and voted for Norman Thomas who, incidentally, was a fine man. [Laughs] My wife has never gotten over that!

Brower: Did you have to write him in?

Selvin: No, no, he was running on the Socialist ticket.

The Supreme Court of California

Brower: You mentioned the California reports? What are they?

Selvin: The law reports. The reports of the cases decided by the Supreme Court or now the Court of Appeals of the state. They start in 1850 with statehood, of course, when the first Supreme Court was organized, the chief justice of the Supreme Court being a gentleman whose name has gone down in University of California history, S[erranus]. C. Hastings. Sure, that's how Hastings across the bay got its name. It was his endowment that created Hastings. Whether he insisted as a condition of the endowment that it be named after him I don't know, but it was named after him but by choice or necessity. I suppose you can find out by reading the grant.

Brower: The California reports would, of course, give you a very full history of a region, wouldn't they?

Selvin: Oh, yes. I have a favorite trick question among lawyers. I was on the constitutional revision commission that promulgated and put on the ballot the revision of the California constitution that was adopted in 1966. Frank Newman was on that commission. He's now justice of the Supreme Court and it was at Frank's suggestion that we revise the judicial article so that the office which up to then was simply chief justice of the Supreme Court of California, became chief justice of California. So my question, of course, is who was the first chief justice of California? Now, you get a lawyer who knows some California history but not enough of it, he'll say, "Why, Hastings." You say, "Wrong." He'll say, "Who was?" I'd say, "Roger J. Traynor," which is true. Roger was chief at the time that constitutional amendment went into effect, so he was the first chief justice of California.

Brower: Prior to that the title had been chief justice of the Supreme Court?

Selvin: I know it was Frank's suggestion that we made that change at the time. It's a strange thing, as a matter of fact, although it won't bother Frank any because I think he probably figures he's going to dominate that court anyway pretty soon. A former student of his is the chief justice now. Sure, Rose Bird. She's from Boalt and she studied under Frank. At least, Frank was on the faculty at that time. She might not have taken any of his courses. As a matter of fact, when she was there Frank was probably the dean. He voluntarily resigned the deanship because he wanted to spend more time teaching. So he's up there as one of the side judges (Oliver Wendell Holmes, Jr. always called them side judges),

Selvin: Frank Newman is one of the side judges and she's the chief, whereas it used to be the other way around. He was the dean and she was the student [chuckles].

Brower: She's quite a young woman, isn't she?

Selvin: Yes. I don't know how old she really is, but I think in her forties. She's about the same age as Jerry Brown.

Brower: How do you feel about that appointment?

Selvin: I have no feelings for publication [chuckles]. I still have to appear in that court.

Brower: I'm sorry. That was an injudicious question.

Selvin: Well, I suppose it gives you an idea. That's unfair. I don't know enough about her to be able to form an intelligent opinion and she has not had a chance yet really to show what her capabilities may be. On the other hand, I do get back stories and professional gossip, some of them, I think, pretty reliable, about what's gone on up there behind the scenes in the Supreme Court and if those stories are true, it's not a very pretty picture. As the stories go, she's arrogant, domineering, won't listen to anybody or anything, and has succeeded in alienating the old-timers up there. I don't know how much truth there is in it, what goes on in the Supreme Court behind the bench is something that they generally keep secret from the bar.

The J.D. and the Bar Examinations

Brower: We haven't talked about the J.D. and Bar Examinations yet.

Selvin: In my day the J.D. was really a doctoral degree. We had to write a dissertation and take an oral exam, a comprehensive exam, before a committee of the faculty. But law review men could complete the dissertation requirement by the notes and comments that they wrote for the review. So I did a few of those and I've read some of them since, and incidentally they were very bad. They're not good at all. On the other hand, [Roger] Traynor and [Ray] Peters wrote some and I've read and reread theirs and they're good. Mine weren't good. I don't think anything at all of them today.

So to that extent--there's no thesis or dissertation up there [at Berkeley] signed by me, but there are those law review articles. Traditionally, law review men were treated rather

- Selvin: lightly by their comprehensive examining committee and spent little time with the committee. My committee consisted of McGovney, a constitutional law professor who was a bull of a man and a bulldog of an examiner and Doug Maggs, who had just gotten out himself a year or two before and was a law professor just getting started and of course an eager beaver. In addition to which Doug was pretty much of a libertarian, as was I when it came to civil rights. I remember I walked into the room at 9 o'clock, and there was McGovney and Maggs. They checked me over, the formalities: name, Bachelor's degree, and so on and so forth, and then Maggs asked the first question. He said, "Do you believe in democracy?" I didn't see what that had to do with the practice of the law and getting a law degree, but anyway it wasn't for me to argue--I had to answer. So I said, "No." He said, "Why not?" "Well," I said, "I don't because a majority vote doesn't make things right. A principle may be entirely wrong and still command a majority vote." Maggs said, "Don't you think it's because the majority has the power to enforce their ideas that it's right?" I said, "No, I don't think that might makes right. I grant you the practical proposition that what the majority wants is what they're going to get. They have the power to get it, but that doesn't make it right." About 6 o'clock that afternoon we were still arguing.
- Brower: A long day!
- Selvin: That was probably the longest J.D. oral that was ever given up there.
- Brower: You mean you never got beyond that first question? I suppose it had some ramifications.
- Selvin: It had ramifications. They never really got beyond it. They never got into any substantive law, or anything that I'd learned in law school.
- Brower: I take it, you passed it without any problems.
- Selvin: Well, apparently. Here I am!
- Brower: Certainly not the ideal team to be questioned by: one bulldog and one eager beaver!
- Selvin: McGovney was relatively quiescent as I remember. Doug took most of the lead in that thing. He started out to needle me in that thing. He'd probably heard me declaiming around Boalt or some doggone thing and he was out to give me my come uppance, I guess. I don't know, maybe he did, but I know I didn't give in to him. I'll never forget that first question, "Do you believe in democracy?"

Brower: Was passing the bar examination as tense a thing and as critical as it seems to be today?

Selvin: Yes.

Brower: Did you have to wait a long time to find out if you'd passed?

Selvin: Well, we took it in June, or the early part of July because they had to wait for Stanford and the other quarter schools. We'd been finished since the fifteenth of May or thereabouts and I got down here in August and it was some time after I got down here that I was notified of the result. So apparently we did have to wait several months.

Brower: I think that's a pretty short time compared to nowadays.

Selvin: Yes, it was quite a grueling experience. We had something that they don't have today and that was an oral examination by one of the members of the Committee of Bar Examiners. We were split up into groups of maybe twelve or fifteen and we were closeted in a room with the bar examiner, who would spend whatever time was available and necessary going around the group asking law questions and we were supposed to answer them. I remember I was asked two questions and I still remember what they were.

Brower: What were they?

Selvin: The first one was: What is the difference in the intended manner of operation with respect to keeping the law up to date between Restatements of the Law by the law in the manner of operation in the American Law Institute and the uniform laws promulgated by the Uniform Law Commission? And second: Would a wife who had been injured in an assault by her husband have a case against her husband?

Brower: Where was the bar examination held?

Selvin: It was held in San Francisco. I was the first to finish and was sitting on the ballustrade outside the examination room when Roger Traynor came out. He was the second to finish and he was sweating.

Brower: How did you prepare for the bar examination?

Selvin: Remember, most universities operated on the quarter system but we were on a semester system opening in August, in the fall. We were through with our finals, commencement was over, and everything was out of the way not later than the middle of May. So we had quite a bit of time on our hands that the other people from the other schools didn't have. Over at Berkeley, we spent the time

Selvin: "seminaring" as we called it. We split up into little groups more or less spontaneously. There wasn't any organization to this thing. I remember Ray Peters had his little coterie with whom he had seminars, all through the years they used to get together and go over this stuff that they were learning and Ray would supply them with a summary that he made of each course, and I had a similar coterie that did the same thing. Traynor never did. I think I know why. Traynor was a grade shark, among other things and I don't think he ever had anything lower than an "A" in his life except once. He was much more familiar, having been a teaching fellow, than I with that I later learned was called grading on the curve. Traynor was always reluctant to increase the class average, thus making it more difficult for him to get a high grade. [Laughs]

Brower: Why the stinker!

Selvin: It never occurred to me, not because I was holier than Traynor. It was because I didn't know anything about grading on the curve. But we did that in preparing for the bar. I had made summaries of my courses all three years and had kept them, of course. We used to meet at that time, there were about six of us--Don [Donald P.] Nichols, Ernie [Ernest] Spiegel, Jim Loofbourow, Leo Wilson, a few others. We were all living at the Hotel Whitecotton on the second floor that Mickey Whitecotton had turned into sort of a students' dormitory. We had a room and two meals a day for thirty dollars a month.

Brower: Was somebody named Whitecotton?

Selvin: Oh, yes, the Whitecotton family. That hotel originally was the Shattuck Hotel and then when bought by the Whitecotton family, the name was changed to the Hotel Whitecotton. I understand it's now back to Shattuck. But Mickey Whitecotton was a scion of that family. He was at school at about the time we were. He was a Sigma Chi, a great friend of Barnes'. He ran the hotel when we were there. There were I think about six or eight of us who all agreed to live down there together and we got rooms in a line and they were all connecting so that we could go from one room to another.

Brower: These were law students?

Selvin: Yes, all law students. We all knew each other. We doubled up in one room; we shifted one of the beds into one of the other rooms so that there were two beds in that room and the room that we had vacated in that way, we made into a lounge, a parlor. Ernie Spiegel, whose mother had just been widowed, had a lot of furniture in storage and he brought out a couch and as I remember

Selvin: it a phonograph and things of that sort and we had a nice little recreation room there. We used to meet in that room all day and sometimes far into the night going over my summaries course by course, and discussing things and that way refreshing our memories of things that we had supposedly learned as long as three years before.

Then Tommy [Thomas W.] Dahlquist who was a Boalt alumnus and with a very good San Francisco firm at that time started the review courses for the bar. He gave a course that you enrolled in and paid a reasonable sum and he would lecture for a period of a week or two or more, I don't know which, and which consisted of a review course, a review back over the subjects that were most likely to be the subjects of questions in the examination. Most of us enrolled in that; after we finished our own seminar we took that and that took us to within a few days of the bar examination itself, and then we took the examination.

When we got down here [Los Angeles], I think the word came out that the bar results were out and Don Nichols had come in from Pomona to my office. Martin Gang was then in the Loeb office. So he was with us, and Shan [Shannon C.] Turner was down here and he came in. Shan is now dead and there's a professorship at the law school now at Boalt called the Shannon C. Turner Professorship at Law, I suppose endowed by his family. Shan died a very few years after we got out of school. So Shan was there.

Martin came in. The letter had come to Martin advising him that he had passed the bar, and none of the other three of us-- we didn't whether we had or not. Then Don called his office in Pomona and there was a letter for him there and he had passed and Shan did the same thing--I think he called long distance to San Francisco and he got the word that he had passed. In the meantime, I had no letter, no letter at all. [Laughs] So I began to get a little worried then. Up until then I had been serenely confident. Pretty soon the gal that prepared the mail at the office called me and said that a letter had just come in for me. I said, "From whom?" She said, "From the state bar"--or the board of bar examiners, whatever it was. So I said, "Open it and tell me if there's a check in it." You had to pay a fee to take the bar examination. If you failed it, you got part of the fee back. So I said, "Open it and tell me if there's a check in it." She said, "I'm sorry, Mr. Selvin, there isn't." I said, "Then bring in the letter!" [Laughs] So that's how we learned that we had passed the bar. Martin Gang and Shan Turner and Don Nichols and I.

Law Schools and Passing the Bar

Brower: Do you have any idea what the casualties were? What was the percentage of failures?

Selvin: I know that Boalt passed a hundred percent that year. We did for years. It was a long time before I was shocked by seeing that somebody from Boalt had failed. I suppose if I dug back into the early issues of the State Bar Journal I could find out, but I'm not going to do that. I've had my experience about that.

I was at some kind of an athletic function with Lynn Waldorf and--who was the fellow that was football coach and later director of athletics at Stanford? He played for Stanford too, a very good guy. I liked him very much but I can't think of his name--Chuck Taylor. He and I got back to the subject of this, that, and the other thing, and he made some comment about Stanford having the highest percentage of successful examinees in the Bar Association than any law school in the country and I told him he was wrong, that California had a better record. It wound up by making a five dollar bet and I undertook to settle the bet by getting the figures.

So I got the old issues of the State Bar Journal in which they always published the results of the bar examination school by school and started combining them so as to bring them to a total figure and mathematically it became an impossible job. It was just too doggone much work with too many questions left unanswered. I finally gave up in disgust and I sat down and wrote Chuck and sent him a check for five dollars and I told him that I didn't want him to think that I was sending him the check because I admitted defeat. I was only sending him the check because my time was worth more than five dollars and it would take more time to get the proof that he mistakenly needed. And, in any event, I told him I had been reluctant to do that because of the thought that what would probably happen was that the five dollars would be contributed to the Stanford Buck Club, and some day if I saw some guy in a red shirt crossing a California goal line I would have the horrible dissatisfaction of knowing that I had contributed in part to that touchdown.

Brower: What was the Stanford Buck Club?

Selvin: The Buck-of-the-Month Club. That's the first of the support groups where they raise money to pay athletic scholarships and they called it Buck-of-the-Month Club. They started out by paying a dollar a month or twelve dollars a year but they very soon got higher than that.

Brower: This was Stanford?

Selvin: Yes.

Brower: Not a general widespread thing, but just Stanford?

Selvin: Oh, no, just Stanford. The name, the official title, is a Buck of the Month, the imitation, of course, of Book of the Month but it was Buck of the Month because I think their original dues were twelve dollars a year. But by the time this happened, I think their dues had gone up. I got no answer to my letter except a bill, on the bill head was, "Buck Club, annual dues \$100, credit \$5 payment, balance due and please remit \$95." So I took the bill and I wrote at the bottom of it, "Paid, H.F. Selvin" and I sent it back to them.

Brower: But in the absence of the evidence you still believe that Boalt did better?

Selvin: Well, there may have been a percentage of a point difference here and there, but in those days we were consistently passing a hundred percent. Since then it has dropped off considerably, for two reasons. In the first place, the bar examination, I think, has gotten tougher, or at least the grading has gotten tougher.

Brower: Has law gotten more complex over the years like everything else?

Selvin: Yes, there's more of it and so many specialty things that you don't pick up in the way of a general course on the basics in law school. You know, taxation, labor law, federal trade regulations, this, that, and the other thing. But I think the second reason why our percentage started dropping, and so did that of all the big schools, more and more of the good law schools have refused to be training schools for the bar examination. They are schools that teach law with a capital "L," the philosophical background and the historical and all the rest of it. The night schools and the private law schools, the little private law schools, are bar examination training schools and they're just as likely as not to have a higher percentage of students who pass the bar examination.

Brower: They boast about that I know.

Selvin: Sure, they have more people pass the bar than Stanford and California. Harvard and Yale were never at the top because their people aren't as familiar with California law as those who went to California law schools and the Bar Association, no matter how much they might try, had to be somewhat California-law oriented. Oh, Chuck Taylor--that's the fellow.

Brower: The Stanford coach?

Selvin: Yes, and later director of athletics, I think he was director of athletics at the time when we made this bet. I'm not sure. He was a very attractive person. I liked him. He was a good coach too!

Brower: You don't often like Stanford men!

Selvin: Oh, I'm not that bad. I pretend a lot of things, for the sake of having some fun, but to use an old cliché that Jews hate to hear when applied to them, some of my best friends are Stanfordites [chuckles]. That's true as a matter of fact. There was a young lawyer that I met down here, about a contemporary of mine. He died at a very early age. He died right after World War II after he had gone off active duty, came back to work shortly before the war ended, had a very bad heart attack in a restaurant where he was having dinner. Jack Hardy, he was Stanfordite. He and I were very close. We got to know each other doing junior bar work. Ken Chantry is from Stanford; right now he and I are very close. Frank Belcher, the dean of the Los Angeles Trial Bar. He's eighty-six years old now and still active. He's a great trial lawyer. Franks' from Stanford. Nip McHose, who was captain of the basketball team at Stanford when I was an undergraduate.

Brower: Would you spell him for me?

Selvin: [Spells name] A basketball player, although rather short. But then in those days height wasn't as prevalent as it is today. Kids weren't as big as they are now. We only had one man on the whole Wonder Team squad in 1920 that was over two hundred, and he was just barely over two hundred. Stan Barnes played at 177 or 178. They wouldn't even give you a uniform today for that. That made you a backfield man. But he was a tackle, and today they won't look at you for tackle if you're not at least 210 and preferably 220 or 230.

[Long pause]

Influences

Brower: Can you think of people we haven't mentioned who influenced you? We have talked about professors and Andy Smith, and Justice Holmes.

Selvin: Yes, Justice Holmes, of course, I never met. In fact, I never saw him in person. But I have read practically everything that he's written and although not everything that's been written about him, I've read quite a bit about him. He first attracted my attention when I was an undergraduate and I was preparing for a debate. It involved some legal questions and I remember going over to the Boalt Law Library and looking up some stuff and among them--naturally, if you were looking up anything involving labor law, you'd see his famous dissenting opinion on that Massachusetts case when he was chief justice of the Supreme Judicial Court of Massachusetts. I can't think of the name of the case off hand, but it was the starting of the modern and non-adverse attitude toward labor unions on the part of the court. And I was attracted then by the quality of his style and the merits of the position with which I agreed--not that it made any difference in his life, the fact that I agreed with him.

I think the people who have been most influential in my life, other than those from the University of California are, in the law, Irving Walker, and Joe Ball, who is a contemporary--he and I began to practice at the same time--he has been a very potent influence on my way of thinking and of doing things, especially in the profession. He's a great lawyer and he has abilities of the sort that I don't have, but I learned from watching him and listening to him things that I can adapt to my own abilities and get some use out of them.

Brower: [Pause] I'm looking in my notes for areas that we have neglected, and not really finding very many.

Selvin: You mean that we haven't covered?

Brower: Yes.

Selvin: I would be surprised if you told me I'd covered the things you wanted me to cover. But I wouldn't be surprised if you told me I'd covered things you weren't a bit interested in!

Brower: It's all been very, very useful. I think the specific things I listed have in one way or another been covered. I'm sure there are a whole series of other things I'd like to ask, but that I can't think of at the moment.

Selvin: That line from Grey's Elegy. I think I used it before--"the simple annals of the poor."

Brower: I'd forgotten where that came from. You're a better English major than I am--for all your poli. sci.

Selvin: That was "The Elegy in a Country Churchyard.": "Here some mute inglorious Cromwell stood, guiltless of his country's blood"--a terrible character Cromwell!

Brower: Yes, I hated him.

Selvin: The Irish certainly hated him.

Brower: It's funny how people in history can elicit so much belated animosity, so many generations later.

Selvin: Cromwell's brutal activities against Ireland centered in Wexford and there's a good old Irish rebel song--I have a recording of Irish rebel songs, and one of them is that, "We are the Boys of Wexford."

Legal Contributions

Selvin: There are some of the rules of law of California, for which I am responsible--at least to the extent that it was in my case that the rules were developed--and there has been some legislation that I was responsible for, either by drafting or by providing the impetus for its introduction in the legislature. Nothing particularly earth shaking, little things--bits and pieces here and there.

Brower: Perhaps we could take that up next time, a brief rundown on that.

Selvin: I haven't any idea how many cases I have handled in the appellate courts of this state. My best guess is that it must be in the nature of six or seven hundred of them. So somewhere along the line they are there with whatever contribution to the law they will make. But I could pick a few here and there where I know that they made a contribution--sometimes they made a contribution by my losing the case.

Brower: I think that would be a very valuable thing to have, Mr. Selvin.

Brower: Perhaps we can get into that in our final session. This has been a long day, and I think we had better stop for this session at least. It has been very interesting and I thank you very much.

[When the interview concluded, at dusk on February 19, 1978, after a long day of nearly continuous taping, it was in the belief that we would be able to schedule one more session. This proved not to be possible. Ed.]

INDEX -- Herman Selvin

- Adams, Earl, 159
 affirmative action, 97-101
 Aiso, John, 152-153
 Allison, Leonard (Stub), 189-190
 Alpha Chi Rho, 63
 American Civil Liberties Union (ACLU), 134, 144, 148, 149, 150
 Anthony, Barney, 79
 anti-Semitism, 61-62, 103, 121-122, 134, 136, 149, 166-167, 194
 Aptheker, Bettina, 95-96
 Associated Press
 campus rep. for, 41-44
 ASUC News Bureau, 18, 48-51
- Bakke case, 97-99
 Ball, Joe, 141, 143-144, 198, 199, 209
 Ballentine, Henry Winthrop, 31
 Barnes, Stanley, 28-29, 30, 62-63, 129, 152, 191, 208
 Barney's Beanery, 78-79
 Barrows, David P., 40, 75, 76, 86, 87
 Belcher, Frank, 208
 Berkeley Fire the (1923), 19-21
 Bevan, John A., 3
 Big C Society, 29-30
 Big Game, 58-61
 Bird, Rose, 200-201
 Blessing, Don F., 68
 Brereton, George H., 71
 Brown, Edmund G. (Jerry), Jr., 89, 92
 Brown, Edmund G. (Pat), Sr., 89, 92, 129, 144
 Brown, Harold, 167
 Buck-of-the-Month Club, 206-207
 Byer, Carl, 41, 43
 Byrne, William, 196
- California Bar examination, 203-207
 California Club, the, 167
California Monthly, 67
 "California Spirit," the, 24-28
 California Supreme Court, 200-201
 possible seat on, 129
 Campbell, William Wallace, 86-87
 Chantry, Kenneth N., 112
 Chapman, Charles E., 39-40
 Chipman (Lieutenant), 104-105

Chotiner, Murray, 159
 Coffman, Dale, 194-195
 Cohen, Alfred, 61
 Cohen, George, 22, 161, 165-166
 Cohen, Moe, 56
 Conabear, Hiram, 67
 "Conabear stroke," 66-67, 68
 Costigan, George P., Jr., 31
 Cross, Ira B., 37-38, 52-53
 Cushman, Bob, 49

Dahlquist, Thomas W. (Tommy), 205
Daily Cal, the, 21, 47, 48, 71-72
 Dean, William F., 79
 death penalty, 141-142
 Dixon, Jimmy, 186
 Donovan, Father Joseph J., 47, 195-196
 Doolittle, James (Jimmy), 188
 Douglas, Helen Gahagen, 159
 Drake, Stillman, 124-125
 Drew, Jerry, 77
 Duchin, Eddie, 104

Earl, Guy C., 23, 89
 Ebright, Carroll (Ky), 24, 66-68
 Ebright, Kay, 66
 education:
 grammar school, 4-5
 high school, 5, 15
 university, 15-81 passim
 Espinoza case, 99
 Evans, Clint, 30-31, 181, 190

fair-housing legislation, 143-149
 Fortas, Abe, 145, 146, 147
 fraternities, 61-64
 Free Speech Movement (FSM), 94-96
 Friedman, Bennie, 104
 Fritz, Bill, 67
 Furman case, the, 141
 Furth, Albert Samuel [Levinson] (Bill), 21, 58, 80

Gang, Martin, 205
 Golden Bear, 24, 44, 47
 Gordon, Walter, 152-153
 Griswold, Erwin Nathaniel, 141, 141A-142

- Harriman hospital, 116-120
 Harriman, Roland, 116, 120
 Hastings, Serramus C., 200
 Hearst, Phoebe Apperson (Mrs. William Randolph Hearst, Sr.), 65
 Hearst, William Randolph, Sr., 65
 Henderson, Thelton, 77
 Higgs, DeWitt A. (Dutch), 89
 Hildebrand, Joel H., 38, 41, 43, 43, 59-60
 Hill's place, 81
 "Hollywood Ten," the, 132
 Holmes, Oliver Wendell, 136, 142, 170, 200, 209
- Imlay, Talma W. (Tut), 186
 Imperator, Mimi, 82
- Jenner, Bert, 129
 Jennings Place, 82
- Kaplan, Lee, 166, 175
 Kaplan, Livingston, Goodwin and Berkowitz (later Kaplan, Livingston, Goodwin, Berkowitz, and Selvin), 164-166, 168-177
 Kappa Nu, 61-62, 73-74
 Kidd, Alexander M. ("Captain"), 32-36
 Knight, Goodwin J. (Goodie), 90, 91
 law curriculum, changes in, 154-155
- lawyer candidates, changes in attitudes of, 172-174
 legal ethics, 126, 132-133, 181-182
 Lehman, Benjamin H., 38
 Liebendorfer, Don, 49, 56
 Loeb, Edwin, 128, 157, 160, 164, 165
 Loeb, Joe, 157, 162, 164, 165
 Loeb, Walker, and Loeb, 22, 156-163, 165
 Loofbourow, Jim, 71, 72, 204
 Los Angeles Bar Association, 151-153
 Los Angeles, business and political policy of, 167
 Los Angeles Police Commission, 137-140, 177-180
- McBaine, James Patterson, 31, 32
 McCormac, Eugene I., 39
 McGautha case, the, 141, 142
 McGovney, Dudley Odell, 31, 202
 McMurray, Orrin Kip (O.K.), 31
 Maggs, Douglas, 202
 Malone, Shanty, 83

- Marshall, Thurgood, 145, 146, 147, 148
 May, Samuel Chester, 93
 Mell, Charles N. (Snook), 186
 Metzler, Brent, 41-42, 43
 Mormons, 2, 3; and Judaism, 3, 4; and Masons, 8
 Morris, Abe, 160
 Morse, Clinton R. (Brick), 41-42, 53
 Murphy, George, 91
- Nagler, Russ, 66
 Newman, Frank, 200-201
 Nichols, Donald P. (Don), 18, 43, 204, 205
 Nichols, Luther A. (Lute), 42-43
 Nimitz, Chester W., 103
 Nixon, Richard M., 159
- oath controversy, 93-94
Occident, The, 72-73
 Olney, Warren, III (Lefty), 190, 191
 Oman, Charles M., 117, 119
 Order of Coif, 29
- Palm, Franklin Charles, 39
Pelican, the, 75
 Peters, Ray, 130, 141, 143-144, 190, 198, 201, 204
 Phi Beta Kappa, 63-64
 Pi Delta Epsilon, 29, 71
 Pi Lambda Phi, 61
 Price, Clarence Merle (Nibs), 189
 Priestley, Herbert I., 39
 Prohibition, 81-85
 Pruitt, Samuel O., Jr., 145
- Queen of Angels Hospital, 197
- race prejudice, 77-78, 122-123, 134, 151-153, 194
 charges of, in Los Angeles Police Department, 177-178
 Radin, Max, 31
Raspberry Press, 71-72
 Reagan, Ronald, 88, 89, 90, 91-92
 religion, 10-11
 Reynolds, Louis, 21
 Richardson, Friend W., 88, 91
 Rieber, Charles H., 36-37
 ROTC (Reserve Officers Training Corps), 75-76

Saint Thomas More Medal, 47, 195-196
 Salt Lake City, 5-8
 Sanders, Red, 30, 66, 194
 Savio, Mario, 95
 Schwarta, Milton H., 162
 Selvin, Ariane (Mrs. Herman Selvin), 121-122, 123, 149
 Selvin, David F. (brother), 123, 124
 Selvin, Holmes (son), 123, 129, 130-131
 Selvin, Fannia (née Frank), mother, 8-10, 12-14, 16, 18-19
 Selvin, Florence (Mrs. Stillman Drake), sister, 123, 124
 Selvin, Minnie (Mrs. Crutcher) sister, 123, 133-134
 Selvin, Sol (father), 2, 4, 6, 9-10, 18-19, 133-134
 Shattuck Price award, 158
 Sigma Chi, 28, 62-63, 186
 Sigma Pi, 186
 Skull & Keys, 44-45, 70, 71, 78
 Smith, Andrew Latham (Andy), 45, 50-51, 185-188
 Smith, Gerald L.K., 134
 Spencer, Bill, 80
 Spiegel, Ernest (Ernie), 58, 72
 Sproul, Robert Gordon (Bob), 22-24, 45, 86, 87, 190, 194-195
 Spykman, Nicholas, 46
 Steinhart, Jesse, 28
 Storment, Frank, 27-28, 76-77
 Supreme Court of the U.S., 134-136

Taylor, Charles (Chuck), 206-207
 Teggart, Frederick J., 46
 Templeton, Dink, 41
 Theta Zeta Psi, 62
 Tooele, 1-5
 Traynor, Roger, 32, 83-84, 130, 141, 190, 200, 201, 203, 204
 Turner, Shannon C. (Shan), 205

University of California, 15-97 passim
 University of California crew, 65-69
 University of California regents, 88-90
 U.S. Navy service, 102-120

Van Sant, Merritt E. (Muggs), 74-75
 Vietnam War, 96-97

Waldorf, Lyn (Pappy), 24, 54, 189
 Walker, Irving, 157-158, 209
 Wallis, Ben, 66
 Warren, Earl, 28, 29, 92-93, 152, 191-193

Wheeler, Benjamin Ide, 24-25
 wine cellar of, 20-21
Whitecotton Hotel, 204-205
Whitecotton, Mickey, 204
Williams, Sam, 77-78, 153
Wills, Harry, 72
Wills, Helen, 71-72
Willsey, Ray, 95
Wilson, Garff, 188
Winged Helmet, 24, 44, 47
Wirin, Al (Abraham Lincoln), 134, 144-150 *passim*
women, the role in law of, 174
Wonder Team, 30
Wright Lloyd, 191-192, 193

Younger, Evelle, 198-199

Zeta Beta Tau, 61, 74

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