

Michael Aron: I'm Michael Aron. It's the afternoon of August 28th, 2006. We're here for the Rutgers project on the governors. We're about to have our third interview with former governor, Brendan Byrne for the Byrne archives project. We've spoken to him about getting elected, his background in politics, and we're going to begin with his first term this afternoon.

<audio break>

Q: Governor, as we tape this, a key member of your inner office has just passed away, Dotty Seltzer.

Brendan Byrne: Yeah.

Q: What role did she play for you?

Byrne: Well, she played it not only for me, but she played it for Meyner, and Hughes, and me. I first met Dotty Seltzer, who became my secretary, in 1955 when I got to work in the Governor's Office for Joe Weintraub who was counsel to the governor, and Dotty had been first of all with Bob Burkhardt, and when I took over Bob Burkhardt's job as secretary to the governor-- Burkhardt went on to run the Stevenson campaign, second Stevenson campaign, and so Dotty became my secretary. She had done it for Meyner. Well, she was doing it for Meyner, and then she stayed with me until I left. This is in the 1950's, I left Trenton, and she stayed with Meyner, stayed on with Hughes. When Cahill, a Republican, became governor, Dotty went over and became secretary to the commissioner of community affairs, John Renna, and then when I won the primary in 1973, she called me, and she said she'd like to come back. So during the '73 general election campaign, she again became my secretary, and then when we won, stayed on, and practically ran the office from a lot of standpoints, and even stayed with me for a year during a transition out. So Dotty was part of the State House scene from, I would say, 1954 until 1982.

Q: Her obituary suggested that she even had a slightly enhanced role, in that she could sort of talk to you in a way that some staffers could not. How did that work?

Byrne: Oh, Dorothy was very frank, and yeah, we had a good rapport. When I started with her, one of the things we handled was the appointments that Meyner made to different jobs, and on Mondays that sometimes became an exhausting task, because we had to get the appointments ready, we had to clear them with senators, and we had to get them in, and get them confirmed. And you had to deal with the governor getting it started, and with the senators, and so on, and so we were a close knit team, and we almost had a-- read each other's minds at that time. And then when I became governor, I had known Dotty, I knew where she was coming from. We would play tennis once in a while at Morven and so it was a good relationship.

Q: Could she speak to you in ways that others could not? I mean, speak her mind to you?

Byrne: Well, there was no doubt that-- well, a lot of people told me what they thought. Dorothy never used curse words when she did it, but no, I would bounce things off her. And she would tell me, "You ought to talk to somebody, and you ought to call so and so." So, yeah, it was a nice relationship, and the most famous incident with Dotty was the time when Ray Bateman came out with a so-called Bateman/Simon Plan, and I went out to a press conference, and I said to her, "I think I'm going to call this plan by the initials," and she said, "Don't do that. That's not dignified." So I went out there prepared to take her advice, and not use it, but somebody asked the question at the end of the press conference who gave me an opportunity to say, "This plan is going to become known by its initials." And then I walked out of the press conference, and that was the most dramatic way to do it, and that was the headline in the next day's paper. And the media picked that up, and it completely discredited the Bateman/Simon BS Plan.

Q: It's interesting that a lot of things probably come out unscripted, or you're thinking on your feet, and making decisions on your feet that contradict what you think you walked into the room to do, right? I mean, is that common?

Byrne: Well, yeah. I mean, there are a lot of times when you come out with a line, and I've always worried to this day that someday I'm going to come out with a line that's going to get me in trouble, because I do a lot of this, you know, thinking on my feet, and developing a line or a quip for an answer. So far, I haven't gotten in real trouble. I've swallowed a lot of fairly funny lines in my day.

Q: For fear of getting into trouble.

Byrne: Sure.

Q: Or offending somebody.

Byrne: Sure. I have less fear as we sit here in 2006 than I had in 1974, but you have to be careful.

Q: Before we talk about your first term, one gap in our interviews so far has been your childhood. I'd like to know a bit more about the first ten, 15 years of your life.

Byrne: Oh, good. I was one of five children. A brother-- and it's, as I said, when we were very young, my brother decided he wanted to be a doctor, and became one, and I, fairly young, decided I wanted to be lawyer, and then became one. As a matter of fact, I decided fairly young that I wanted to go to

Harvard Law School. I don't know why, but it would give me a veneer that I wasn't entitled to. But anyway, I had three sisters, and in those days, a poor Irish family. We were basically a modest Irish family. My father had been a successful insurance agent for a traveler's insurance company, decided in 1929 to own his own agency, and put all his savings into it, and the crash wiped him out. But the family survived. I had three sisters, none of whom even considered going to college in those days. My brother went to Indiana University.

Q: Older or younger brother?

Byrne: Oh, he's older than I was, and as a matter of fact, before the war, World War II, my father took me aside and said, "Look, we spent a lot of money we don't have putting your brother through college and helping him with medical school. I can't do it again." So I got a job in a shoe store, where the money was quite good, and the experience was good. Anyway, we had a strong family.

Q: What town did you grow up in?

Byrne: West Orange. My father had been a town commissioner in West Orange. He was a public safety director. The mayor was Ben Degnan, who was John Degnan's uncle, and so it was a kind of a town that you loved, you know. I still consider myself a West Orange boy, so there we go. I have three sisters, I'm going to public schools. My younger sister ultimately became part of the Howdy Doody Show in New York.

Q: No kidding.

Byrne: And she started out with Bob Smith when he was doing a morning radio program, and playing records, and she was the one that selected the records and programmed the morning show. And then when he started doing Howdy Doody, she went over with him to do Howdy Doody.

Q: She wasn't Princess Summerfall Winterspring?

Byrne: No, she wasn't. Always, no. So there, there's my early years. So public schools, West Orange.

Q: West Orange High School.

Byrne: West Orange High School. I was president of my senior class at West Orange High School, which was the only other election I ever won.

Q: You were number what in the pecking order of the five kids? You were number...

Byrne: Four. Yeah.

Q: Were you an athlete in school?

Byrne: In high school?

Q: Yeah.

Byrne: In high school, I went out for football in my sophomore year, and made the so-called sophomore team. I was pretty good. I was fast, but then knowing that I had accumulated enough money to go to college, I couldn't do sports anymore, because I had to earn money. I worked in a shoe store, and no, I could go out on a given afternoon and beat half the guys on the track team, but I couldn't do it enough to make the team.

Q: You were...

Byrne: I made it at Princeton.

Q: You made the...

Byrne: Track team.

Q: ...track team at Princeton?

Byrne: Yeah.

Q: Princeton was, you know, a pretty prestigious school. You must have been a good student, and a leader?

Byrne: I was a better student in college than I was in high school, ironically. And I knew I had to do. No, my ambition always was to go to Harvard Law School. I think I told you this story. When I got out of service, the GI bill of rights kicked in, and I could go to college without money, and in fact on a scholarship, and so what I did was I went up to Harvard Law School and told them my life ambition was to

go to Harvard Law School, and you're going to tell me to go to college. Where should I go to college, and they said Princeton or Williams, and Princeton had a semester starting right around that time, and I got there to take the entrance exam, which I did, got into Princeton, and then kept badgering them at Harvard to let me into Harvard without a degree, and they finally did.

Q: You were in the service between high school and college?

Byrne: Sure.

Q: During the war?

Byrne: Yeah. What happened was, well, I graduated from high school in 1942, and I was going to be drafted, so there was a period of a few months before I got drafted, and I spent that time at Seton Hall, and I still have a loyalty to Seton Hall, by the way. And then when they drafted me, I went in the army, got in the air force. The pay was pretty good in those days, because you'd get combat pay as well as flight pay, and so I saved all that money, and when I came out of the army, I had, like, \$4000 saved. It was a lot of money.

Q: Where did you serve?

Byrne: I was in the 15th air force, flying out of Italy, B-17s. I flew 51 missions, although if the mission lasted more than eight hours, you got double credit. So I actually flew, like, 34 sorties. Yeah. Yeah, we bombed different places. You know, southern Germany, Austria, Romania.

Q: Looking back, was that a good time? A good experience?

Byrne: If you lived. You know, the casualty rate was pretty high in those days, and, you know, you went over a target, and targets were usually well fortified, and you were six or seven minutes over that target. It was hell. I remember one mission where, instead of going over as a diamond, we went over as a straight line, and my plane was on the right wing of the straight line, and there were two lines ahead of us. And the first wave that went over, the plane on the right side got knocked out. The second wave goes over, and the plane on the right side gets knocked out. I'm the third wave. That's as scared as I have ever been.

Q: Did they shoot at you?

Byrne: Oh, they always shot at us. My grandson would say, "Did your plane ever get hit?" The plane always got hit. So it was more of a question of how much shrapnel got into the plane, and what it knocked down. And we had flak suits that, you know, like, protecting us, but you always got hit. And you always came out with scratches on you, so some guys get, you know, knocked out. We almost always probably lost an engine, but it was a real war.

Q: I'm told that Dotty Seltzer, to bring this back to where we began, used to observe that your calmness under pressure stemmed from nearly been killed in the war. Do you think that's true?

Byrne: I've heard that, and there was a certain fatalism that said, you know, if you're going to go, you're going to go. But, actually, as calm as I was outside, don't kid yourself.

Q: In the war, not in politics, or even in politics.

Byrne: Well, you know what? In all the time I was in politics, I don't think I ever lost a night's sleep. I mean, I would have a hectic day, I would hear a poll that showed I was way behind, and I would go to sleep, and so be it.

Q: What do you attribute that to?

Byrne: You control as much as you can, and you can control. I mean, you get tense during a political campaign, and I remember having-- they gave me a night off one time, and I ran over to the Goldman Hotel for a massage and I just couldn't sit still. The most nervous, I think, a political candidate gets is, like, from about 5:30 on election night until the polls close, because you're sort of helpless during that time. You know, the fate is in somebody else's hands.

Q: Your father, what was his position in West Orange?

Byrne: He was a member of the town commission, <inaudible> member of the town commission, and held his job under the old commission form of government, which some towns still have it. A public safety director, so he ran the police and fire departments in West Orange.

Q: Do you think that helped interest you in government and politics?

Byrne: Maybe, I mean, because, you know, I remember <inaudible> there were five of us, and when he was running for election, we would on a Saturday, we would all go out with palm cards and traipse

through neighborhood after neighborhood, and my brother wouldn't do that. My sisters and I would do it, and he would have aspirin for us, running all up and down this thing.

Q: Why wouldn't your brother do it?

Byrne: Because he was smart. <laughs> He figured he could direct us.

Q: But you look back on that fondly, as a good experience?

Byrne: Yeah, oh, sure. As a matter of fact, if I got nervous at all, it was during my father's election, municipal election, because that was a vicarious kind of thing. With my election, at least I was in control, I thought.

Q: Any good slogans back from your father's election?

Byrne: Oh, sure. "Vote for Frances Byrne for Safety's Sake," because he was with the police unit. I still use that. "Vote for Byrne for Safety's Sake."

Q: You said that your brother wanted to be a doctor, and you wanted to be a lawyer from a very early age. Why did you admire lawyers?

Byrne: I think basically-- well, I always wanted to be a trial lawyer, by the way. I mean, being a lawyer and doing trusts and estates never did interest me, and so when I got to be a lawyer, I did what I wanted to do, which was basically trial work, and then when I went down to work for Meyner, after he won the election in '57, I was still with him, and he asked me what I wanted to do then. And I said, "I want to be a prosecutor for Essex County," and he said he didn't think he could do that for me. So I said, "Well, let me hang around for a while." And then, by pure coincidence, a prosecutor's job opened in Essex County, and the county chairman had a candidate who wasn't me, and the senator had a candidate that wasn't me, but they couldn't get together. So Meyner puts me up in the Prosecutor's Office temporarily, and then they never got together, and then finally Senator Fox at the time decided that he would go without the county chairman, and because he had a couple of other people that they couldn't agree on, and so he made that split, confirmed me for prosecutor, and confirmed the guy for the port authority all in one swoop. And so now I'm a prosecutor. I'm a trial-- well, as a prosecutor, I tried cases, and so from that stand point I fulfilled my ambition. I had worked for a lawyer by the name of John McGeehan, who was, in those days, known as the best trial lawyer in New Jersey, I think.

Q: Serendipity plays such a part in life. If Senator Fox and the country chairman had agreed on a prosecutor candidate, you might never have become governor.

Byrne: That's true. Absolutely. There were so many of those things that happened that way, and I talk to young people all the time who want to know what the plan is, you know, and then Tom Kean and I do these things a lot of times with kids here at Rutgers, and he and I have dramatically different ways that we got to the Governor's Office. I mean, he did it the traditional way. I did it by accident, by being in the right place at the right time, and that's two ways. There might be a dozen ways.

Q: You say the kids want the plan, but are you saying there is no plan? You can't plan?

Byrne: You've got to- well, like I said to Ed Hynes, 90 percent of all of this is luck, and most of it bad.
<laughs>

Q: Did you have any role model lawyers when you were young?

Byrne: Oh, absolutely.

Q: Who?

Byrne: Joseph Weintraub. Joseph Weintraub was my guardian, practically. He became Chief Justice of the New Jersey Supreme Court. He's the guy who got me into the Governor's Office to begin with. I didn't know Meyner really, and I knew Weintraub had worked, had been his law clerk, and he was sort of a mentor for me. Asked me to come down to the Governor's Office to work for him, and when I was governor, and he was then the retired chief justice, I didn't make a move without taking to Joe.

Q: How did you like Princeton?

Byrne: Well, I was in Princeton only for two years. I loved Princeton, and still do. I was at the track team at Princeton, so that my spare time was focused on track practice, running around the track.

Q: What was your event?

Byrne: The shortest distance I could run.

Q: Sprint running.

Byrne: Yeah. In the wintertime it was a 60 yard dash, and in the spring, the 100 and 220. An occasional quarter mile, but after 220 I was not competitive.

Q: Why were you only there two years?

Byrne: Because I wanted to get to Harvard Law School. Remember, I told you that I started sending my transcripts up to Harvard Law School after my first year, and then finally I get a letter from Harvard Law School saying, "Well, if you keep your grades up for another semester, we'll take a look at you." So after the next semester, I'm there now two calendar years at Princeton, I go, well, I borrow my young nephew, who's about three or four years old, and didn't represent that he was my son, but it gave the impression he was son, and I was a hurry to get-- anyway, they looked at my grades, and they took me into law school in 1947. Ironically, Ted Stevens who was in my class, the senator from Alaska, did the same thing out of I think UCLA. He got into Harvard without a degree.

Q: You never got a Bachelor's degree?

Byrne: I finally did. Then I had to go back to Princeton, and talk them into letting me write a thesis and take some courses. If you read my biography, it says "Princeton, '49, Harvard '50," so from a calendar stand point, that's accurate. Although I was asked one time a little gathering to explain that, and I said, "Well, there's nobody here who would, who has any doubt that I've never had more than a year of legal training in my life."

Q: How'd you like Harvard Law School?

Byrne: It was tough. Harvard Law School in those days, first of all, they flunked out a lot of people. They don't do that anymore. You get into Harvard Law School, you're going to get out. But in those days, they flunked out a lot of people, because they didn't have now there's tests, they didn't have a good way of determining whether you're suited for law school. And so they took some bright guys, and flunked them out. So you were always worried about that, and this was what I was going to do the rest of my life to make a living, and I didn't want to take a risk. So I really studied hard. I had some great classmates. I still keep in touch with John Keto, who was a classmate. We had some good guys.

Q: Do you remember any favorite courses or professors?

Byrne: Sure. Jurisprudence.

Q: Jurisprudence?

Byrne: Yeah.

Q: What was so good about that?

Byrne: I got an A+. No, I liked the thought of thinking through what the law really is. I mean, most of the other courses have a mechanical aspect to them. But the course in jurisprudence, you're trying to think of what's right and what's wrong with the law, and so it was a challenge. I enjoyed it, and I still have some of the papers I wrote.

Q: Do you really?

Byrne: Yeah. Yeah.

Q: Did you think about going somewhere other than New Jersey after law school?

Byrne: No.

Q: Why not?

Byrne: I don't know. New Jersey was for me. When I passed law school, I had some opportunities in New Jersey. I had served a clerkship with Weintraub, but McGlynn, Weintraub and Stein was the firm, and they had offered to take me back after I finished. A number of Harvard Law School graduates at that time went either to the big firms in New York, or to Washington, and I considered working in Washington, because a lot of guys did, but I decided to stay in New Jersey, and was happy doing it.

Q: It worked out.

Byrne: So it seems.

Q: Were you married at this point in your life?

Byrne: Not when I graduated from law school.

Q: What were Weintraub's qualities that you most admired?

Byrne: First of all, he was brilliant, and lawyers around who had clerked for Weintraub will all say he was the smartest lawyer they ever encountered in New Jersey, and I think that was a consensus. I'm on a board on the New Jersey Law Journal as we speak, and there are a number of editors of the Law Journal who had clerked for Weintraub, and they all hold him in awe, and there's a Weintraub lecture series now. So nobody questions that Weintraub was absolutely brilliant. He was also extremely ethical, and for instance, he wouldn't let you take a jurit unless you had seen the client sign the paper, and would hold to that standard, which I always appreciated. And I remember one time, I went to him when I was governor, and I said, "You know, I have an old friend of the family, a friend of my father, who has a son who he wants me to put on the bench." And Weintraub said, "Well, does he have the qualification?" I said, "Victor's an old friend." And Weintraub says, "If he wants to do something like that, he's not a friend."

Q: Let's talk about your first term. What did you see, in retrospect, if you can put yourself back to say, January of 1974, what did you see as the rough game plan for your first term?

Byrne: Well, the first thing we had to do, I mean, we got elected frankly because of Richard Nixon, and Watergate, and so the first thing that we had to face was giving the people a sense that this was going to be a government under glass, a government that was disclosing everything to everyone. An open government, in other words. An open government was the first thing we had to do, and that was the first thing we addressed, and so we did things like making people file financial statements. We opened the electoral process so that you could register to vote by postcard. In the old days, and I remember doing this as a young lawyer, you had to go into the county clerk's office, and get the book, and you had to sign the book, and then we had nights before election registration. We would literally get the county clerk to take the book to a designated area of the community, and have people alert, and knock on doors and say, "Do you want to come down and sign?" Now, we changed that, and we said that if you want to register to vote here, there's a postcard, you send it in. And between that and ultimately the financing of gubernatorial elections, it was opening the process, and doing everything that Watergate was criticized for not doing.

Q: Was it early on that you created the public funding of gubernatorial elections? Was that early on in your first term?

Byrne: Sure, yes. Fairly early on. We also created the public advocate, which my theory there was that we ought to have somebody who can tell us what we're doing wrong, and if we're doing it really wrong, raise hell. And that's a concept, which I think has just been reinstated as we speak by Jon Corzine, and, you know, Christy Whitman abolished it, said that, you know, we can't watch ourselves. Anyway.

Q: Because she thought it was impractical.

Byrne: Redundant.

Q: Well, impractical to have government suing government, and having the taxpayers pay both sides of the bill.

Byrne: I can understand that. It doesn't work. And we had a public advocate, as a matter of fact we had Stanley Van Ness, who's on tape here somewhere, and Stanley was the ideal public advocate, because he was respected on both sides on the aisle. He was smart, he business experience, he had worked for Dick Hughes, and you knew he was to be respected. And so when he decided that we weren't living up to snuff, he changed us, and I think that not only did it work, but it also gave credibility to an administration that was getting out of the Watergate era.

Q: Was it difficult to get either the public advocate created, or public funding of gubernatorial elections through, or were they...

Byrne: The advocate, I got a lot of static, it took a while. If I hadn't had Stanley Van Ness, who had that reputation, I wouldn't have gotten it through. But they respected Stan, and they confirmed him, but it took some push. And Stanley was both a public advocate and a public defender. Those are two different jobs in a way. The public defender was the guy who represented criminals in criminal cases if they couldn't afford a lawyer. And by the way, when I gave Stanley the job of public advocate, he wanted tenure. He didn't want to come in-- he wanted a term, and I said I would give him a term as public defender, but I wouldn't give him a term as public advocate, because I wanted some control over jobs that had a lot of policy aspect to them.

Q: The public advocate came to be an office that sued other branches of government, but I don't know that at that beginning. Or did it?

Byrne: Oh, yeah.

Q: It did?

Byrne: As a matter of fact, one of the problems I had, one day Anne Klein, who was the commissioner of institutions and agencies or whatever it's called, came into see me and she had tears in her eyes, and she said, "I've just been sued by the public advocate." I said, "Yeah, that's what he's there for," and she said, "Yeah, but he's suing me personally, and for punitive damages." That's nuts. That can't happen, so I had to call Stan in, but that's not the way we ran that.

Q: Alright, so ethics and restoring confidence in government, and creating government under glass was one focus.

Byrne: Yes.

Q: What else?

Byrne: Well, first of all, in my address to the legislature, in my inaugural address, I suggested that we've got some problems, and we're going to have to address them down the line. So in June of my first year, I called for a special session in the legislature, and I said, "We've got a school funding problem, and the way I propose to deal with it is to have state income tax." And as everybody knows, that was a tough two years. And, by the way, during the campaign I had not said, "We don't need an income tax for the foreseeable future." I said, "We don't need an income tax to balance the budget," and we didn't. And I sort of hedged on how we were going to do this school funding, but I was quoted as saying, "We don't need an income tax for the foreseeable future," and I had to live with that.

Q: Were you misquoted?

Byrne: No, I wasn't misquoted. I was quoted out of context. And by the way, I've looked at some of the television things I did during the campaign, and time and again, I would say I would go for an income tax only if it met certain criteria, and I said that during the primary, and I said that through the election. It didn't come up too often, but the people had that impression, and then when I ran for re-election, I was advised not to try to defend my other remarks, but to just say, "Hey, I said it, and I was wrong."

Q: Yes, Harold Hodes this morning said that he thought that the ad you did in that campaign, in which you sort of explained yourself on the initial campaign statement and the subsequent behavior, and then he said you said something like, "I didn't realize how serious the problem was." He thought that was a very effective commercial, whatever you did say.

Byrne: Well, yes. Yes, and I didn't-- what I did say-- what happened the second term is I'm running for re-election, I go back to David Garth, who had done my first campaign, a media consultant, and at first he doesn't want to do my campaign, because he sees me as a loser. I finally get him to do the media, and he organizes a separate corporation so he's not going to be identified with what happens. Anyway, he shoots-- we're going to do a series of commercials for the primary. He shoots one commercial in which I stand before a camera, and I say, "I told you we don't need an income tax. I was wrong." And I was playing down, you know, no apologies. "I was wrong." I said, "But I think although I handled it poorly, I did the right thing," and that was the commercial. We shot that commercial on a Saturday morning, he stays in his little truck so nobody sees him, and after we shot that commercial, he comes running out of the truck, and he says, "That's the only commercial we're going to run." And we ran that commercial during the primary, and it worked, and I had people who would say they never saw my commercial, but then repeat it to me.

Q: Looking back now, do you think you confronted the tax issue too soon in the first term?

Byrne: Well, there were people who said I should have made it a campaign issue, that I was going to do an income tax, but honestly, I had seen a paper that John Russo had done on a state wide property tax, and I wanted to give that further consideration before I settled for an income tax. Maybe a combination of state wide property tax and income. Anyway, but I had to confront the issue, and even thought of doing it in my inaugural. No, but I don't...

Q: Why did you have to confront it? Why couldn't you wait another year?

Byrne: We had a school funding issue that we had a shortage. We had a problem. We needed, we ordered a court mandate. We had a lot of things that forced us to face the issue.

Q: What's the court mandate?

Byrne: That we fund schools on an equitable basis, that we do not rely on the property tax in municipalities that didn't have an adequate property tax base.

Q: When was that decision rendered?

Byrne: Oh, that was basically Robinson versus Cahill in different shades.

Q: Was it rendered in the election years? '73?

Byrne: It was actually Ted Botter decided that a couple years before, I think. So it was an issue. It was never clearly identified by candidates, just like in this last election you didn't hear either candidate talk about deficits. If they don't have to, they don't have to. And in the campaign, by the way, you don't really get to articulate in depth any issue. The Ledger did a good job in campaigning in the old days, where they took the candidates into the editorial board and went into in depth a questioning of a specific topic, and how are you going to deal with it.

Q: Do you recall who on your staff and your cabinet, among your advisors, argued for or against proposing the income tax that first year?

Byrne: I don't think anybody in the cabinet really opposed the income tax. I got it from the legislators. I mean, the legislators were coming in all the time with alternate proposals which resembled to a large

extent what Ray Bateman proposed in 1977. A little of this, a little of that, hope for this, but once we decided that the income tax was the way to go, and there was no realistic alternative, we stayed with it.

Q: Was there anybody in your close circle of advisors who recall saying, "I don't think we should do this now?"

Byrne: No. I don't think so.

Q: In hindsight, do you think if you had waited longer, you might have been able to build more support for it before you unveiled it?

Byrne: In the legislature?

Q: Yeah.

Byrne: No. No, first of all, they had to be convinced that I wasn't going to go for anything else, and there's no way to convince them in advance, just like Corzine couldn't convince them in advance last year that we needed that penny. No, I don't think so. Probably a better-- Dick Hughes might have, you know, done it a little better.

Q: How so? What would he have done?

Byrne: Dick schmoozed people. Dick Hughes is the best politician New Jersey's ever turned out, but even Dick Hughes, when he tried to get an income tax, in the old days, he couldn't do it, and so, no, you had to come down and draw the line and say, "I'm not crossing this line."

Q: How were you at schmoozing at the beginning?

Byrne: Lousy, but I had a good staff, and I had, you know, people like Dick Leone, although he irritated some people, who was good at explaining why we needed something done. Jerry English had a good rapport with a lot of legislators, and various others. Anne Klein was in the cabinet, and had been an advocate of an income tax in the '73 primary, and even some Republicans who acknowledged that probably we needed this. People say you're crazy, when the people, especially Democrats would come and say, "You know, it's a great idea. We need an income tax, but this in not good enough." I said, "We need a better plan on this income tax," and they would keep coming in and saying, "Yeah, I'm all for it, but not this one because it's not quite good enough."

Q: You thought that was fraudulent, that position?

Byrne: Sort of. I mean, I remember one legislator who came in one day with a list of four reasons why he couldn't vote for the income tax. A Democratic legislator, and Steve Perskie, who was spearheading the income tax, looks at his list and says, "We've taken all of this, all of these four things out of the bill." And then, "Oh, well, I still can't vote for it." It was life or death for a lot of people, or at least they thought so.

Q: Perskie had what title at that time? I thought he was a legislator.

Byrne: Yeah, he was just a legislator.

Q: Okay.

Byrne: Very brilliant guy, by the way. One of the guys we should have used more in this state, you know.

Q: Maybe doing it the first term was part of a conscious-- in the first year of the first term, right away, first spring, proposing the income tax, was that in some way a conscious strategy to get it done and out of the way early, so that when it did come time to run for re-election it would be far in the past?

Byrne: Frankly, it was a pretty good strategy and Florio tried it. It didn't work. I just thought I had to get this problem solved. Now, I was aware that Rockefeller in New York had done it exactly that way, the first year of his first term, he gets his taxes through, and then he pretty clear sailing after that. But, no, I appreciated the strategy, but I just had to get the job done.

Q: How did you deal with situations where legislators asked for something specific, like a road or a bridge in return for a vote on the tax?

Byrne: Well, we didn't do it those terms. You don't do it in those terms.

Q: What terms do you do it in?

Byrne: Dick Cody, for instance, wants a exit off 280 for the city of Orange, and you never say, "If you vote for this, I'm going to give you the bridge." You never do that. But somehow, you know, he's got a problem, I've got a problem, and maybe we can solve them together, but you don't ever do it, this for that.

Q: It's far more subtle. It's a wink and a nod.

Byrne: No. Sometimes a guy says something that he may have an interest in, or, you know. For instance, there was one legislator who I knew wanted to be a judge, and he was very supportive of the income tax. Now, we never said anything to each other. Never. He votes for the income tax, and when the time came to put on the bench, I put him on the bench.

Q: So it's a kind of unspoken understanding among the political class that if I do something for you, you owe me one.

Byrne: Well, it isn't even that. It's a matter of I'm going to help you where I can, and I want you to help me where you can. That's all. Sometimes you can't do it. Sometimes you-- it's never a quid pro quo. I mean, I don't know what the staff does. I mean, I would have guys call me and say, "I'll sign if you promise me this," or "I'll sign if you promise me that," but they all knew that that was not the way it really worked. Yeah.

Q: In your administration, or do you think generally in most...

Byrne: Well, I think if you're smart in politics, you don't make crass deals. You let people know you're going to be helpful, and you let people know you want them to be helpful, and I think it works that way.

Q: So much of politics comes down to personal relations, doesn't it? Personal feelings, one person to another.

Byrne: Or even more altruistic than that. I want to do the best for the people of the State of New Jersey, and you want to do the best for the people of the State of New Jersey. Do you think Don Linky would make a great judge? Fine, I'm happy to consider it. I hope you think the state income tax would be the best out of things, and that's the way we ought to work together.

Q: In '74, do you recall who were the key votes you were trying sway on the income tax? Who were the key...

Byrne: You know, it's hard for me to remember. I just remember at one point there was a senator, Tony Imperiale, and I would bring him in a couple times and talk to him, and for a while I thought we might swing him, and we never did. But there were people, for instance, Herb Klein in Passaic County who by voting for an income tax, he lost his seat. But what we had to do was convince people that this really was the best thing to do, that they weren't going to be hurt by it. Most of them were not hurt by it, by the way.

Although, guys like Tony Scardino from southern Bergen County was scared to death of the income tax, a white collar district. He wasn't going to be re-elected. The people were sad about this. There was a guy like George Otlowksi in Middlesex County, whose district is going to be helped by having a state income tax. He won't vote for it. And no matter how much I talked to him.

Q: Why?

Byrne: He thought his district was a blue collar district, and people-- I lost most of the blue collar districts in 1977, and George may have been right in saying no.

Q: So it's the poor or the working class that resented the income tax more than the people who were going to be paying most of it.

Byrne: No, no. No, I use this example all the time. Bergen County, the southern part of Bergen County is basically or was then a Democratic area. Northern Bergen County is basically a Republican area. We put in the income tax. People in northern Republican Bergen County all worked in New York, and they didn't have to pay the state income tax in New Jersey, because they got a credit from the New York state income tax. So it was a free ride for them. People in southern Bergen County, who lived and worked in southern Bergen County had to pay the state income tax, and weren't getting much of a break on it, and so they voted against me. I mean, I didn't get a single vote in Teterboro, New Jersey, and they're absolutely very intelligent people, because they didn't get anything out of that state income tax.

Q: The population there today's about 18.

Byrne: That's alright, and none of them pay any taxes. So they did not benefit from the state income tax, and they voted against me.

Q: What was Robert Wilentz's role on the tax in 1973, the year of the election?

Byrne: He was out of the legislature by that time. He was never in the legislature when I was governor.

Q: How about in the campaign?

Byrne: In the campaign, he was helpful. He campaigned for me. He was counsel for the Democratic state committee. I think he was counsel to the Turnpike Authority, but while we were campaigning in '73, he was a voice of reason and enlightenment.

Q: A voice saying, "We need an income tax someday?"

Byrne: I forget how he was with an income tax, but he certainly was supportive when he knew that was my position.

Q: Was he in the legislature the following year?

Byrne: No, he was never in the legislature with me.

Q: No?

Byrne: Never.

Q: Okay. Once it became your position, was he some kind of important voice?

Byrne: I'm not sure we ever used him to come in and try to persuade people, and he knew it was a tough issue. As a matter of fact, I still remember Robert Wilentz in late '76 coming into my house, and telling me that I ought not to run for re-election, because I can't win.

Q: Really?

Byrne: Yeah. And we <inaudible>. He paid for it by becoming Chief Justice. And even his father was a <inaudible> politician in those areas. But he kept telling me I was going to win, and then after it was all over, he said, "I kept telling you were going to win, but I never believed it." <laughs>

Q: What about David Wilentz and the income tax, or the other county bosses, Harry Lerner, and so forth? Where were they?

Byrne: They were supportive to the extent that they weren't advocates of it, but they were getting me votes. As a matter of fact, I remember Harry Lerner coming down and I was having trouble with a couple of Essex County legislators, and I asked Harry to meet with them, and he did, and sort of turned them around.

Q: Did they believe in what you were doing, or were they protecting themselves?

Byrne: Everyone at that time regarded the income tax as a death knell, and it goes back to the days when the old Newark News went out of business in I guess 1972, would become hysterical about a state income tax, and anybody who proposed it got butchered by the old Newark News, and so there was that hangover of you go for an income tax, and we're going to get you.

Q: So why would a Harry Lerner two, three years later come and help you?

Byrne: Because the Newark News is out of business, and The Ledger was a lot more sympathetic to a state income tax than the Newark News was. The Ledger saw the advantages and the necessity for an income tax, or something like it. It was Mort Pye was a lot more enlightened in that area.

Q: Mort Pye was the long time editor of The Star-Ledger.

Byrne: Yeah.

Q: Was that the most important newspaper at the time in terms of its opinion?

Byrne: Sure, sure.

Q: What other papers did it matter...

Byrne: Well, you went to the Bergen Record, the Asbury Park Press, the Camden Courier at the time. One funny story is when I was touting in the election of '73, I was touting different alternatives, and people would ask me about how I was going to solve the school problem, and I said, "Well, you do it with property tax, and income tax, or this tax, or that tax." I had represented the old Paterson Evening News as a private attorney, and they had a law suit where I represented the Paterson Evening News. And so I figured if there's one paper that's going to treat me kindly, it's the Paterson Evening News. So I go out and have a relaxed chat with the editors, and I give them these possible alternatives, and the next morning the paper has a headline that Byrne is for this tax, that tax, that tax, and that tax, and it killed me. Like, I called them said, "Hey, you know." But that's the way it went.

Q: How about the out of state papers? Were they important? The New York Times? The New York Daily News? The Philadelphia Inquirer?

Byrne: Yeah. The Daily News had a New Jersey edition, and so, yes, you know, they had daily coverage of New Jersey. I think John McLaughlin was with the Daily News at that time, and the New York Times, I don't know if you remember Ronnie Sullivan, but Ronnie Sullivan had decided early that I

should be a candidate, and he would run stories about my days as a prosecutor, and how tough I was, and how I had a state policeman with me all the time when I went out, and spec stories, and the day I announced, the next day it was on the front page of the New York Times. The front page.

Q: You had a friend at the New York Times.

Byrne: Well, at least I had a guy who saw the story. Once I got nominated and so forth, Ronnie Sullivan used to kill me, but that's the newspaper business. But, yeah, he had an interest in my running, and one thing you've forgotten is that there was a time when the media sort of saw the Democratic candidates as not winners, and were looking at somebody else, and to large extent Henry Helstoski, who was a congressman from Bergen County, and he was a viable candidate for a while. Until the very end, the day I announced, probably if Helstoski had announced the day before, I wouldn't have gone in, because I wouldn't have had Bergen County, which I thought I had, but I'm not sure it did. But Henry Helstoski played with it until the very end.

Q: Another serendipitous thing. Had he declared, you might seriously not have declared.

Byrne: Probably not. Well, what was key to my declaring was getting the endorsement of Hudson County, and I think we've been through that, where if I hadn't have gotten the line in the Hudson County, I wouldn't have gone at all.

Q: And how was Hudson County and Jim Dugan a year later on the income tax issue?

Byrne: Well, Jim Dugan is an interesting guy. A very bright guy. He became the state chairman when I had that appointment to make in effect. Politically, he was...

Q: You said, "He became." You didn't say, "I named him state chairman."

Byrne: Yes.

Q: Why?

Byrne: Why did I say that?

Q: Yeah.

Byrne: Because that's what happened. Technically the state chairman is named by the state committee. What happens traditionally, and I think still does is the gubernatorial candidate sends word to the state committee as to who the state chairman should be, and for as long as I can remember, that's been the tradition that's been followed, and Corzine names his state chairman, and everybody else.

Q: The Republican party does it that way as well?

Byrne: Yes.

Q: So you named Dugan state chairman in essence.

Byrne: Right. Right.

Q: But your relationship with him was not...

Byrne: On political matters, Dugan ran the show, wanted to run the show, and so I sort of let him run the show. It looked like maybe a weakness at the time, but it was a blessing, because I got to make those deals. You know, Dugan picked the slate for the presidential primary, which didn't make a whole lot of difference anyway, but when it came to what went on in the Senate with my bills, Dugan was an obstructionist, couldn't have gotten the income tax through that Senate without his help, and he gave it.

Q: He was state chairman, was he also a Senator?

Byrne: Sure, he was a Senator. He was the chairman of the judiciary committee. A powerful guy, controlled the house, and by and large Jim was well respected in the legislature, and when he said, "This is what we've got to do," pretty much they did what he asked them to do.

Q: Alright, so June of '74 you called a special session of the legislator and proposed that it pass an income tax. You have the power to call the session. They have to respond.

Byrne: At least show up, yeah.

Q: Right. Did they show up?

Byrne: Yeah, they showed up.

Q: What month? Do you recall?

Byrne: June.

Q: June. What happened?

Byrne: Nothing. <laughs>

Q: Did you have a sponsor?

Byrne: Oh, no, oh, yes.

Q: Who was the sponsor?

Byrne: You know, I don't remember. I think Perskie was a sponsor. I'm not sure. I know Perskie was a sponsor. I forget who sponsored it in the Senate.

Q: Did you know when they came to Trenton that they were not going to approve it?

Byrne: I knew it was going to be a tough battle. I thought we would win it the first year, but...

Q: How long a battle was it?

Byrne: Two years.

Q: No, but how long was it, how long did the special session take?

Byrne: Oh, I don't remember. We were there all summer off and on, and there were some nights you'd go home thinking tomorrow I've got to come back and do it, and maybe I'm going to get Tom Dunn on the bill. Although I remember one time delivering some fact sheets to Tom Dunn who never did vote for the bill, and he had a police guard standing in front of the street so we couldn't get up to give him the sheets. It was a very tough time.

Q: Tom Dunn was the mayor of Elizabeth, and...

Byrne: And a state Senator. And a nice guy. He was a charming guy.

Q: So was there a dramatic vote at some point that summer?

Byrne: There were a lot of them. There were a lot of votes. There were a lot of times when we were one or two votes short, and actually we got it passed, I think-- Tom Kean actually voted for it one time, voted for one version of it anyway.

Q: What was your mood after you lost your first tax bill?

Byrne: It was discouraging, you know, because it was something we had to have. It's a problem that wasn't going to go away. They would keep bringing silly things by way of packages that wouldn't work, and we kept playing with different numbers. I mean, if I do this for this thing, will I get the vote from the guy Monmouth County because it seems to favor him a little, and this was the early stages of computers, and so for the first time I could say to the treasurer, "Well, if we change this by a quarter percent, what happens in Lakewood, New Jersey?" And he would give me the answer in no time, and so we were playing with guys who wanted a little edge in their district, and we would alter something, maybe try to give them that edge and get his vote. That whole summer doing that.

Q: Did you have a plan B on what to do next if you didn't win that summer?

Byrne: We didn't win that summer.

Q: No, but did you have a plan B?

Byrne: Yeah, no, we had several plans. I remember at one time the legislature passed the T&E bill, which was going to be funded by the income tax. They passed the T&E bill.

Q: Both houses?

Byrne: At least one. Yeah, maybe both, and now they don't pass the income tax to fund the T&E bill, and there was one dramatic moment where as soon as they don't pass the funding, I made whatever it was, a billion dollars worth of cuts in the budget, and sent the bill back by way of a veto.

Q: Was that this first summer or later?

Byrne: I think it was.

Q: T&E is thorough and efficient education and that's in the state constitution.

Byrne: Right.

Q: They passed a law saying they're for this line in the state constitution?

Byrne: Well, actually, the income tax covered more than just T&E. The income tax was a whole series of things other than just funding T&E. The income tax also provided homestead rebates, and various forms of tax reductions that were part of the program.

Q: Was the homestead rebate part of the initial design of the program?

Byrne: I think it was. And for the first year, we were doing all kind of, well, Wisconsin has this kind of a plan, and somebody else has that kind of a plan, so they were toying-- it wasn't a total rejection of income tax. It was just a frustrating kind of time. But basic to it all is these guys thought, these people thought that this was a life or death issue.

Q: The legislators did. Life or death for them.

Byrne: For them.

Q: Did this fight consume all your energies and intentions?

Byrne: No, we did some other things, you know, as we were fighting this, the legislature was meeting and passing other...

Q: Before we get to those other things, because I think it's important to get them, did you consider dropping the income tax as your proposal and just letting the courts enforce their own order?

Byrne: I did. <laughs>

Q: That's what you did?

Byrne: Yeah.

Q: That's how it played out?

Byrne: Yeah. What happened...

Q: That's how it played out two years later?

Byrne: Yeah.

Q: Go ahead, explain it.

Byrne: What happened finally is the legislature is not moving the income tax bill. The schools are not being funded in accordance with what the Supreme Court had said is a constitutional way of doing it, so in 1976 I go before the Court myself, and I say, "You've got to close the schools. They're not being funded legally, or constitutionally, so close them."

Q: Who went before the Court? The Attorney General?

Byrne: Me. Me.

Q: You stood up there?

Byrne: Yeah.

Q: You argued the case for the state.

Byrne: Yes. Yes. It's in the books, and they closed a school.

Q: Step back one second. The Governor goes to appear before the Supreme Court on the fourth floor of the state house annex?

Byrne: Right.

Q: Is that where the Court met in those days?

Byrne: That's where it was then.

Q: And you appealed to the seven Justices to close the schools effective in September...

Byrne: July 1st.

Q: School is not in session in July.

Byrne: Some of them are.

Q: And the Court took that under advisement, and...

Byrne: No, they closed the school.

Q: Immediately? That day?

Byrne: Yeah. I don't know if it was that day, but it was a quick response. Yeah. And that's been used, by the way, as an example of how the branches of government working together can get some stuff done that maybe one branch by itself can't get done.

Q: Explain.

Byrne: By myself, I could not talk the legislature into passing that income tax. I go to Court, and I say, "Well, if I can't get it done, I want the schools closed, because that's what you guys in the Supreme Court have been saying that would have been an ultimate result of not having the proper funding." So now I got the courts on my side, and the courts put the leverage on the-- I've got leverage on the legislature, the Court now has real leverage on the legislature.

Q: Interesting.

Byrne: And the legislature came back right after that and passed the income tax.

Q: In July?

Byrne: Yeah. Yes. Yeah. Now, they pass it, and they make it sunset with the end of the part of the administration, which they thought was inevitable, and so if I had lost that election, the income tax would have expired with me.

Q: They really tied it to your name and your person?

Byrne: Almost. <laughs>

Q: I mean...

Byrne: No. They gave it a date.

Q: They did it by date, yeah.

Byrne: Yeah. So that is what made the 1977 election a referendum on the income tax, and that's why I won in '77.

Q: Because...

Byrne: People voted-- they forgot about how bad a governor I was, and the issue was do we have the income tax or we don't have the income tax.

Q: And they had gotten used to it by then? Or they understood the rationale.

Byrne: Yeah, and if you analyze the '77 vote, it was a very intelligent vote. People who benefited from the income tax voted for me. People who were hurt by the income tax voted for Ray Bateman.

Q: People voted with their pocketbooks.

Byrne: Pretty much. I mean, they voted on that issue anyhow. It was a fairly sophisticated issue to understand, and people understood it.

Q: In New Jersey the Supreme Court and the Governor have prodded the legislature to act on a number of occasions, on a number of issues. Is this good? Or is this anti-democratic?

Byrne: Well, the legislature is voting on something-- everything the legislature votes on, they vote under some pressure. Any significant bill, and so the pressure is there, and if the Court is putting some pressure usually on some issue which has constitutional dimension, the Court is just recognizing its responsibility.

Q: Is the relationship between the Court and the Governor, given that the Governor appoints the members of the Court, too close?

Byrne: Oh, no. I don't think so. I had a good relationship with Dick Hughes. You know, I had a good relationship with the Court, and you should have, and Dick Hughes one time made a report to the legislature on the state of the judiciary. No, theoretically we're working for the same purpose, which is good government.

Q: Yeah, but theoretically you and the legislature are working for the same purpose, and yet on these constitutional issues it's the Governor and the Court that tend to line up together, and the legislature reflecting...

Byrne: Oh, not necessarily. No, no, no, no, no. The Court and the legislature-- remember when McGreevy wanted to float the bond issue to balance the budget. It was the legislature and the Court working against the Governor, so there's no automatic alliance between any two branches of government.

Q: I wonder how many of those seven justices who made the decision in '76 to close the schools you had appointed, do you recall?

Byrne: Not off hand, but it doesn't make any difference. I mean, there's no reason a justice wouldn't decide a case against me. Whether I argued it or not. I mean, the issue was there, and there are times when a court will determine a case against a bill that the Governor's sponsored.

Q: Did you ever argue any other case before the Supreme Court?

Byrne: Yes.

Q: What was that?

Byrne: Personally, you mean as Governor?

Q: Yeah.

Byrne: No, but there was one case where the so called legislative oversight where the legislature passed the bill in my time, in which they said that they wanted a review, a 30 day review of any administrative rule making, and I vetoed it. I said it was unconstitutional, and that came up for argument before the New Jersey Supreme Court. By that time I had left office, I was appointed by Tom Kean to represent the state. Actually, almost prosaic, because I was the named defendant, and I argued it, and won it, but then the legislature had a constitutional amendment passed so that they do have now oversight of rule making.

Q: But you went before the Supreme Court after you left office.

Byrne: Yeah, but I had appeared as Governor.

Q: In my time covering Trenton I can't recall ever seeing a Governor argue a matter before the Supreme Court.

Byrne: Yeah, but don't forget, as a prosecutor I argued tens and tens of cases before the Supreme Court, so I was comfortable arguing before that court, and I think I knew the law, and, you know, could do as good a job as the attorney general. And I also knew it was a big enough issue, so that I thought it was appropriate.

Q: What are your views now on judicial activism? Do you think that the courts are less inclined now in New Jersey or in the federal courts to act aggressively? Less inclined.

Byrne: Probably right now, less inclined. There was a time where there was some issues that the Court could not duck, and the income tax was one of them. And, you know, the death penalty was one of them. There are a number of issues which the Court has every right to be aggressive about. You know, gay marriage is an issue before the Court now. They have a right to look at those issues from a constitutional stand point. The Court does not, you know, does not take issues like whether we should have a traffic light at Broad and Marcus Street. They will look at constitutional issues.

Q: Do you think that they're less inclined now to do these sweeping sorts of landmark...

Byrne: Yes. Do I really think, yes. Yes, I think, first of all, school funding issue, for instance, I think the public is less confident that we have a money solution to that issue, and the courts probably feel the same way. So for instance, they've let some issues slide. Could we take a break? How are we doing?

Q: Okay. Do you want to break for the day? It's 3:10.

Byrne: Yeah, maybe.

Q: Okay.

End of Byrne (8/28/06)