

two examples of Holmes's use of the bad tendency test before Schenck, see *Patterson v. Colorado* (1907) and *Fox v. Washington* (1915).

21. Even as free speech doctrine has been liberalized over the course of the past century (see below), this particular theory has, if anything, been expanded. As courts have sought to "balance" the right to speak with a set of other state concerns, the result has been a spatial regime of regulation in which people can say just about whatever they want, just so long as it is never heard in such a way as to make a difference. In the United States, the right to speech does not seem to entail a right to be heard. I analyze this dynamic in Mitchell (in press).
22. The family resemblance between the specific geography of protest and control in this case and that regulated by contemporary "bubble laws" is clear.
23. Mark these words. They were rather closely echoed in a series of cases in the last decades of the twentieth century seeking to criminalize the behavior of homeless people (Mitchell 1998a; see Chapters 5 and 6).
24. A week later Taft lost both Holmes's support and that of Louis Brandeis (the other great liberal Justice to whom much public forum doctrine is traced) in a similar case (*Truax v. Carrigan* 1921). The dividing issue here was not whether the politics of the street could be prohibited but rather whether the federal judiciary should allow states to experiment more widely in loosening strictures on street politics if such experimentation might lead to a greater risk of disorder (see Cover 1981, 361–363).
25. Significantly, *DeJonge* was a labor case. Dirk DeJonge was arrested for criminal syndicalism (an old law meant to wipe out the Wobblies) when he helped organize a Communist Party-sponsored meeting protesting police shootings and raids on homes of striking longshore workers.
26. And, one might add, with the lavish attention that the media as a whole pays to various advertising campaigns and events (such as the annual media frenzy over Super Bowl advertising), an ad campaign can now expect to be *amplified* across the range of media, assuring that even those who, for example, do not watch TV are fully apprised of what is being advertised, when, and how.
27. It should be noted that the strongest restrictions on speech upheld in *Madsen* were around private residences and hinged on questions of private property and not speech or assembly per se.
28. In *Hill* he argued that it was the Supreme Court itself that had grasped this "loaded weapon."

## From Free Speech to People's Park

### *Locational Conflict and the Right to the City*

How much farther do we have to go to realize this is not just another panty raid?

—GOVERNOR RONALD REAGAN (May 20, 1969)

Conflict over rights often resolves itself into conflict over geography, as the Supreme Court's evolution of public forum doctrine has made plain. Space, place, and location are not just the stage upon which rights are contested, but are actively produced by—and in turn serve to structure—struggles over rights. Conflict over rights can therefore be understood, at least in part, as a species of *locational conflict*.<sup>1</sup> Rights have to be exercised *somewhere*, and sometimes that "where" has itself to be actively produced by taking, by wresting, some space and transforming both its meaning and its use—by *producing* a space in which rights can exist and be exercised. In a class-based society, locational conflict can be understood to be conflict over the legitimacy of various uses of space, and thus of various strategies for asserting rights, by those who have been disenfranchised by the workings of property or other "objective" social processes by which specific activities are assigned a location. In this sense, locational conflict is often *symbolic* conflict, in that the conflict is waged through the deployment of highly symbolic actions. That

is, it is waged through a combination of speech and action—the two things the Supreme Court works so hard to keep apart. In fact, the very space of struggle itself comes into being and is defined in locational conflict *because* speech (communication) and action (conduct) are simply inseparable. Further, and again because speech and action are inseparable, geography matters.

That might seem axiomatic, or in fact just tautological—that in locational conflict geography matters—but it is surprising how often it is forgotten that in any kind of social struggle, even struggles regarding place and location, geography, or more precisely the ongoing *history* of locational conflict, is simply forgotten. Take, for example, a recent article in *The Chronicle of Higher Education* detailing what the paper sees as a new trend in speech codes: the development of specific “free speech zones” on college campuses (Street 2001).<sup>2</sup> More and more campuses, according to the *Chronicle*, are developing specific places in which free speech is allowed and restricting it in others as a means of balancing “between universities cherishing the right to free speech and needing to run an institution,” as a Dean of Students from UC Berkeley puts it (Street 2001, A38). The *Chronicle* argues that the development of such zones continues a history of debate over speech codes that erupted in the 1980s when several universities attempted to regulate hate and other harassing speech. Many of these codes were struck down by the Supreme Court, and universities thus turned to public forum doctrine to assert their legitimate right to regulate the “time, place, and manner” of speech. There is nothing particularly wrong with this history until the paper asserts that “Tufts University may have been the first [to create a free speech zone]. In 1989, the university, in an attempt to restrict so-called hate speech, designated ‘free speech zones’ in certain areas of the campus” but quickly dropped the policy when students protested (Street 2001, A38).

The problem with this account is that, despite the fact that the 1964 Berkeley Free Speech Movement (FSM) is referenced in several places in the article, the *spatial* history of that movement—the very fact that the movement erupted in part as a result of the university’s attempting to create and enforce specific free speech zones, what the university called “Hyde Park areas”—is lost. That history, as we will see, not only was concerned with the right to speak but also developed as a struggle for an appropriate *place* to speak. Lost too in the *Chronicles* account is the fact that nearly all California public universities quickly developed

specific free speech zones—often in heavily trafficked locales—in response to the Berkeley FSM. Tufts was not first university to demarcate a free speech zone on campus, though it may be the case that the specific politics of regulation driving the current wave of zone demarcation is different than it was in the 1950s and 1960s.<sup>3</sup>

Exploring one of these earlier attempts to zone speech, and the famous reaction it called up, the Free Speech Movement, will help us see that by examining conflict over speech as conflict over location we can learn a great deal about how rights are fought for, claimed, undermined, and reinforced in “actually existing capitalism.” Let us delve, therefore, into the specific spatial history of the Berkeley Free Speech Movement in particular, and the changing radical politics of Berkeley in the 1960s more generally. Doing so will shed a good deal of light on current attempts to zone speech and conduct, attempts often couched not as a means of eliminating dissent but of promoting “quality of life.”

#### NONCONFORMISTS, ANARCHISTS, AND COMMUNISTS: FREE SPEECH IN BERKELEY

As a semipublic property, as something like a “dedicated public space” (in the language of the Supreme Court’s public forum doctrine), the UC Berkeley campus became an early staging ground in the battles over the redefinition of political, property, and social rights that wracked Berkeley (and the nation) in the 1960s. Clark Kerr, the president of the University of California from 1958 to 1966 (when he was removed from office in one of Governor Ronald Reagan’s first official acts), understood what was at stake in the first militant battles over free speech at Berkeley in 1964:

A few of the “non-conformists” have another kind of revolt [than one against the university] in mind. They seek instead to turn the university, on the Latin American or Japanese models, into fortresses, from which they can sally forth with impunity to make their attacks on society. (quoted in Draper 1966, 206)

For his part, Kerr had a rather different vision for the university in modern society.<sup>4</sup> Writing in *The Uses of the university*, Kerr (2001 [1963]) saw the university and surrounding community as being, in part, a labo-

ratory for the creation of a new and more rational society. The university had an important role to play in the drive toward a rational and managerial political economy. Relabeled by Kerr, the "multiversity," the university was to specialize in the "production, distribution and consumption of 'knowledge'" even as the surrounding city was to be reconfigured to more efficiently reproduce the "workers" who were to perform this production, distribution, and, to a large extent, consumption of knowledge.<sup>5</sup>

Kerr's vision, however, extended well beyond the university and its immediate neighborhood. He was just as keen to describe the new society that was coming to fruition at mid-century. In this new society, Kerr wrote in *Industrialism and Industrial Man* (Kerr et al. 1960), politics too would be made rational or, more accurately, managerial. Men and women "can be given some influence" in the new society, Kerr intoned.

Society has achieved consensus and it is perhaps less necessary for Big Brother to exercise political control. Nor in this Brave New World need genetic and chemical means be employed to avoid revolt. There will not be any revolt anyway, except little bureaucratic revolts that can be handled piecemeal. (Kerr et al. 1960, 295).<sup>6</sup>

Such pronouncements—which seem to accord rather well with the political pessimism of the later postmodern, post-structuralist left—at the time drew immediate fire from around the globe. Guy Debord (1994 [1967], 137–138), for example, attacked Kerr directly in his 1967 manifesto, *The Society of the Spectacle*, asserting that Kerr's vision was exactly what had to be fought against if people were ever to regain control over their own alienated lives and learn once again to live in the city.

Closer to home, Kerr's vision was enacted in part through the University of California's attempts, beginning in the early 1950s, to gain control of the South Campus area (centered around Telegraph Avenue), both for campus expansion and to better control the mix of residential and business functions. A 1952 Long-Range Plan proposed that the university expand into the South Campus area as part of a large city-wide redevelopment program that was aimed at addressing the "blighted" sections of the city. Students and the elderly who lived there were not expected to mount a particularly effective opposition to the purportedly benign plans of the university and the city. As the journalist Robert Scheer (1969, 43) later contended, the bureaucratic motives of the administration were

... based on assumptions about the purpose of the University and the role of its students. South Campus expansion was based on the presumed need to sanitize and control the University environment. The university community which the Development Plan envisioned was one of a total environment in which every need—classrooms, housing, recreation and parking—was programmed for ten years into the future. Students would literally be forced to dwell within an ivory tower of concrete and glass dormitories which—along with other official buildings, churches and a few spanking new store fronts properly up to code—would be the only structures permitted in the central South Campus area. All others would be pushed out by the University Regents exercising their power of eminent domain. This would, as the Development Plan (1956 revision) noted, provide "a well-rounded life for students. . . ." If the Multiversity was to be a knowledge factory, South Campus would be its company town.

Just this vision of the university and city as a rational technical and efficient future, carefully managed by competent and well-trained bureaucrats working in the interest of society, became the focus of revolt and popular rebellion in Berkeley in the 1960s rebellion for which the Free Speech Movement is often presented as the opening act.

But the FSM was not simply a spontaneous, massive, inexplicable act of refusal (as many histories have it). Instead, the FSM which shook the Berkeley campus during the fall of 1964 was a climax of a growing—actually rejuvenated—and ever more militant movement against the dictates of a class- and race-based society that refused to grant blacks, workers, and students those rights that were supposedly the very foundation of its existence. By 1964, Berkeley already had a long history of student activism. The 1930s, for example, saw significant student organizing, often led by Communist Party members and their allies, in support of striking farmworkers, longshore workers, and other militant unionists around the state. So too were many students (and faculty) involved in broader "popular front" organizing. In the 1950s the loyalty oath controversies had seen significant student support for resistant and fired faculty. By 1957 a radical student party, SLATE, had formed. And Berkeley students, like their counterparts in many other northern universities, were involved with civil rights struggles, labor struggles, anti-McCarthy actions, and fledgling new-left organizations such as the Students for a Democratic Society throughout the late 1950s and early 1960s.<sup>7</sup>

Be that as it may, proximate causes were important. FSM was in part a clear revolt against the increasingly restrictive policies of a campus administration, directed by Clark Kerr as president of the whole

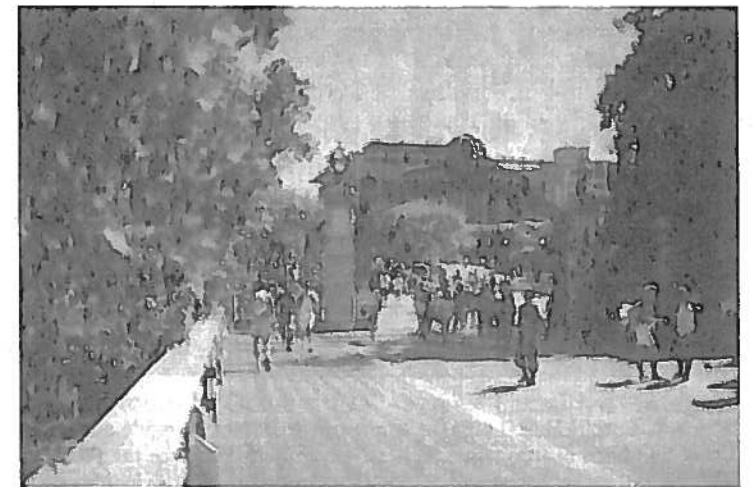
university system, that viewed itself as a center of liberal (capitalist) intellectualism. The American public university campus—and the Berkeley campus in particular—had always been a tightly controlled space. In spite of the history of free speech struggles in the first two decades of the 20th century that forced a reconsideration of laws governing public space, the public universities of California continued, as late as 1964, to operate as if restrictions on the political activities of their students both on and off campus were not only their right but also their mandate. Somewhat unusually among large public universities, the University of California retained the belief that paternalistic *in loco parentis* was a viable and necessary ideology of social control over students.<sup>8</sup> As Columbia University Professor Robert Paul Wolff (1966: 38) wrote in response to an angry article critical of FSM by former Berkeley Professor Lewis Feuer (1966): “In a morally sound society, the university can and should be a sanctuary of scholarship, a school for citizenship, and a validator of the dominant values of the political community.” Through a series of rules and regulations designed to severely proscribe what could be said on campus—and where it could be said—this was exactly what the University of California was attempting to do. Among the many issues at stake in the FSM at Berkeley was the question of what was moral and who had the *right* to determine that morality. But, even so, the movement resolved itself, quite explicitly, into a question of the right *to space*. Free speech at Berkeley, as with free speech anywhere, was a spatial problem.

### The Geography of Free Speech 1: Context

The Berkeley campus in the 1960s was growing rapidly. The traditional edge of the campus was Sather Gate on Telegraph Avenue (Figures 3.1 and 3.2). In 1960 and 1961 new campus buildings, housing the bookstore, student union, student government, restaurants and coffeehouses, were opened just outside Sather Gate. Telegraph Avenue was closed at Bancroft Way, and the former street was converted into a large plaza. Overlooking the plaza—indeed, dominating it—and also outside the Gate was the main building of the system-wide administration, Sproul Hall (Figure 3.3). Sproul Hall had been deliberately built outside the Berkeley campus in 1940 to symbolize the independence of the campus administration housed on the Berkeley campus proper from the university-wide administration now housed off-campus; the 1960 expansion of the campus, therefore, incorporated the system-wide administration back



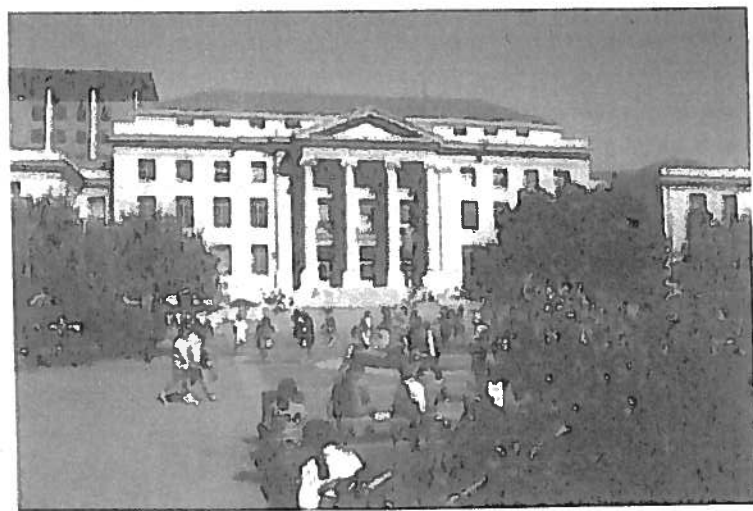
**FIGURE 3.1.** An aerial view of the UC Berkeley, 1965. The campus expanded rapidly southward (to the right in this picture) in the postwar period, stretching beyond Sather Gate (# 4). The complex of buildings labeled #1 are the student union buildings built in the early 1960s. #2 is Sproul Hall, now part of the Berkeley campus; Sproul Plaza is #5. The plaza the Berkeley administration wanted to designate as the “Hyde Park area” is below #1 in this picture. Photograph originally published in Heirich (1971).



**FIGURE 3.2.** Sather Gate, the traditional entrance to the Berkeley campus. The view is to the south from inside the “old” campus toward the new developments of the 1950s and 1960s. The building in the background is the Associated Students center. Sproul Hall is out of the picture to the left; the plaza through the gate and before the student center is Sproul Plaza. Photograph by author.

into the campus itself. The land upon which the plaza was built was ceded to the university by the city at the time of the street closure. Additionally, the university was engaged in an aggressive program of building student dorms off-campus several blocks south of Sather Gate, in the center of the “blighted” South Campus area (Heirich 1971; Scheer 1969).

All this detail is important because the city street in front of Sproul Hall had for a long time been a traditional *off-campus* free speech area. Student and community activists had long used it as a rallying ground. Indeed, it was the most important political forum in the city. But now it had been incorporated into the campus itself and was thus not subject to the regulations of a “traditional public forum”; instead, the rather more restrictive rules allowed a “dedicated public forum” obtained. Not that the university was much concerned with the niceties of public fo-



**FIGURE 3.3.** Sproul Hall. Long the home of the university-wide administration, Sproul Hall had been built outside Sather Gate to help reinforce the Berkeley campus's relative autonomy vis-à-vis the administration of the university as a whole. Campus development during the 1950s and 1960s engulfed Sproul Hall, and Telegraph Avenue in front of it was closed to create Sproul Plaza. The steps of the hall and the plaza are the *locus classicus* of the Free Speech Movement and remain to this day the central site for political activity on the Berkeley campus. The university administration moved several blocks off-campus in the 1970s and further decamped to Oakland in the 1980s. Photograph by author.

rum law: it had no qualms about regulating either particular activities (conduct), such as soliciting donations, or the very *content* of on-campus speech. The university reserved the right to approve content (to assure it was “appropriate”), and it banned the recruiting of members to partisan causes. It may be no accident that this change in the status of the space in front of Sproul Hall occurred just as political activism was heating up in reaction to the conservative but benign hegemony of the Eisenhower administration and the continuing and far less benign actions of the House Un-American Activities Committee and entrenched anti-civil rights racists in both the South and the North.

Three issues had emerged by the late 1950s that made the administration wary of allowing political activity on the land that it controlled. Within the university, there was increasing agitation to abolish compulsory ROTC (Reserve Officer Training Corps) for male students. Within California, both state and national House Un-American Activities Committees were becoming more aggressive again after a slight lessening of activity in the mid-1950s.<sup>9</sup> And nationally students were becoming active in the civil rights movements in the South and in other liberal and leftist causes, and they were beginning to bring that activism back to their campuses in the form of the demand that the same rights being agitated for in the South be extended to students at the university. The increasing assertiveness of students on these issues, coupled with a University of California administration (and Board of Regents) that was increasingly defining the role of the university as an institution in service of the economy and the society, suggested to university officials that clear guidelines on “appropriate political behavior” of students needed to be established.

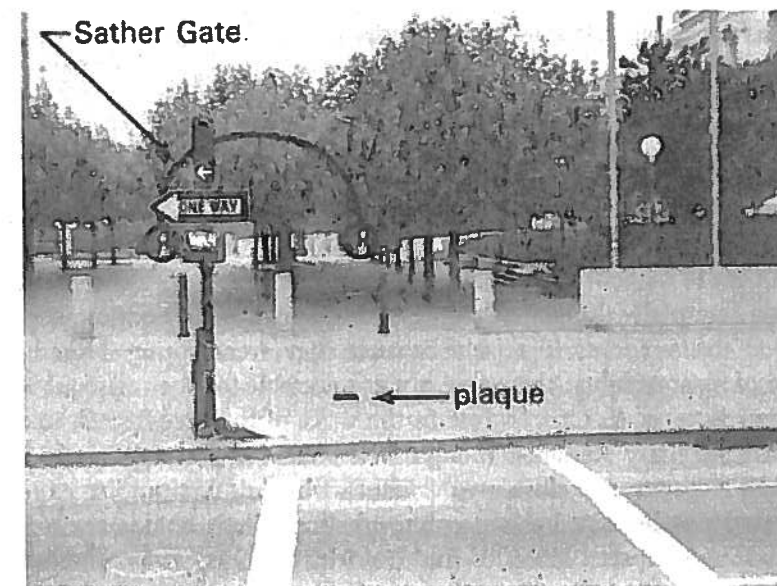
Since 1938, student political activity had been guided by “Rule 17,” which required presidential approval of off-campus speakers and for the use of university property by nonrecognized groups.<sup>10</sup> Additionally, Rule 17 forbade the collection of funds on campus by any student or nonstudent group. In October 1957, a new “liberalized” interpretation of Rule 17 was offered by the university administration in response to a year's agitation by various student groups. The new interpretation, which became a center of controversy in 1964, allowed off-campus groups composed entirely of students to use campus facilities provided that the dean of students approved the use at least a week in advance. All promotional material also had to be cleared through the dean. Any necessary services, such as police protection (which the university re-



quired), were to be paid for by the sponsoring group. Off-campus speakers no longer had to be approved by the president, but they did have to be approved by the dean, a faculty or senior staff advisor, and occasionally an appropriate departmental chair. Finally, off-campus groups were not allowed to solicit for either funds or membership (Heirich and Kaplan 1965, 19). It was obvious that the administration felt that it was its right and duty to continue to monitor closely the political activities of the students in the UC system, even if such monitoring was now removed from the president's office. At the same time, as the campus spread south, the traditional "free speech" area was abolished, although political activity was allowed on a strip of sidewalk opposite Telegraph Avenue on Bancroft Way (Figure 3.4). With this arrangement, speakers were presumably off university property, but audiences at rallies and speeches often spilled into Sproul Plaza.

The 1957 liberalization of restrictions on political activity were soon tightened back up when, in the fall of 1959, UC President Clark Kerr released what came to be known as the Kerr Directives. The Kerr Directives forbade student governments from speaking on "off-campus" issues, made the governments and student organizations directly responsible to the chancellor's office on each campus, provided that any amendments to government or organization constitutions be approved by campus officials, and required that all student organizations have a tenured faculty advisor (Heirich and Kaplan 1965). In October 1960, the UC administration arranged to have the editor of the student newspaper, *The Daily Californian*, removed for supporting student government candidates who were opposed to the policies of the administration on issues of free speech and the ROTC. The following April, the chancellor of the Berkeley campus issued a new set of rules that prohibited persons "unconnected to the university" to post, distribute, or exhibit literature on campus. Throughout the next 2 years, the university administration at both the campus and system level was engaged in constant clarifications and reclarifications of what appropriate on-campus political activity was. Most consistently, throughout these constant revisions, the administration reserved for itself the right to control both the content and the form of political activity on campus.

The development of student political consciousness on campus, and the continued attempt by the UC administration to maintain and solidify its control over political activity on campus, occurred concurrently with a series of social changes in the South Campus area, changes



**FIGURE 3.4.** A photograph indicating one of the plaques on the sidewalk along Bancroft Avenue at Telegraph Avenue. The area in front of the plaque is city property. Behind the plaque, stretching to Sather Gate, is the portion of Telegraph Avenue ceded by the city to the university when the student union was built. Before the Free Speech Movement, speakers would often stand on the city portion of the sidewalk and speak to crowds on university property. This is one of the practices the university sought to halt in the fall of 1964. Photograph by Lyn and John Lofland, originally published in Heirich (1971); used by permission.

that the administration saw as at least as threatening as those posed by students demanding a political voice. At the university's request, the city of Berkeley had dutifully conducted a study that declared the South Campus area to be "blighted"—a blight made all the more menacing by the realization that "Telegraph Avenue [had come] to rival San Francisco's North Beach as the vital center of the Beat Generation . . ." (Scheer 1969, 43). The idea that South Campus was blighted was reinforced by the growing "counterculture" centered on Telegraph, a counterculture that seemed to be as pernicious as it was attractive to students and other youths. Robert Scheer rather caustically remarked after the People's Park riots of 1969 (discussed later in this chapter) that the South Campus area, by the early 1960s, had come to be understood by the authorities of California

as a watering hole gone bad. . . . Perfectly decent young men and women attending what was supposedly the star attraction of the whole state university network were turning out to be politically and socially deformed, causing trouble for parents and politicians alike. And it all seemed to have something to do with a place called Telegraph Avenue where “they” practiced fornication, smoked marijuana, wrote leaflets, mobilized protests, and read sinister revolutionary tracts. (Scheer 1969, 43–44)

A more “sober-minded” analyst, and an opponent of Scheer’s, suggested essentially the same thing. Quoting Max Weber, Seymour Lipset argued that students, precisely because they were young, lacked an ethic of responsibility: they were not accountable for the consequences of their actions. As Lipset wrote in the wake of the Free Speech uprisings: “University students, though well educated, have generally not established a sense of close involvement with adult institutions; experience has not hardened them to imperfection. Their libidos are unanchored . . .” (Lipset 1965, 9).<sup>11</sup> And Heirich (1971) later argued that the explosive combination of environmental change (on campus) and environmental disorder (in the South Campus area) with youthful segregation and premature autonomy were responsible for what he called the “unreasonable” nature of protest in Berkeley in 1964. The transformation of South Campus into a haven for “beats” and student organizing suggested to the university that *in loco parentis* was breaking down, and the university was at a loss to explain its demise. By the mid-fall of 1964 it actually didn’t much matter if the university could explain what was happening or not, for by then it was fighting a rear-guard action against the wild youths with their unanchored libidos—or more accurately against a committed group of politically savvy and well-organized students who were quickly gaining support from the larger masses of their heretofore less politically active colleagues. The crisis, however, was of the university’s own making.

### The Geography of Free Speech 2: The Free Speech Movement

On September 16, 1964,<sup>12</sup> all student organizations received a letter from the dean of students, Katherine Towle, informing them that the 26-foot strip of sidewalk along Bancroft Way, which had become the de facto free speech area when Sather Gate was engulfed by the campus, would no longer be available for proselytizing and fund-raising (see

Figure 3.4). The strip of land was legally university property and as such was subject to the same regulations and restrictions as other parts of campus. The university justified its actions by pointing out that it had lifted a ban on scheduled outside speakers and had established a “Hyde Park” area as an open forum for students and staff in the plaza below the Student Union (Figure 3.5).

The problem with the university’s new “Hyde Park” area was that it was, quite literally, out of the way. For exactly that reason it was unacceptable to students and their supporters in the community and among staff and faculty, even though it was seen as a convenient solution by the administration. Responding to this new and geographic restriction on public speech, students, working through organizations as diverse as the leftist CORE (Congress of Racial Equality), SNCC (Student Nonviolent Coordinating Committee), and SDS and the right-wing Young Republicans and Students for Goldwater, protested and engaged in a program of open defiance of the ban.



FIGURE 3.5. The plaza below the student center that the administration designated in the midst of the Free Speech Movement to be a “Hyde Park area.” Even with a pub featuring outdoor seating at the edge of the plaza and the Zellerbach Auditorium concert hall, the plaza remains a place where relatively few people gather or linger. Photograph by author.

Early entreaties to the Berkeley administration by the united student groups asked for the reinstatement of students' and others' right to set up tables and distribute political literature on the sidewalk at Bancroft and Telegraph Avenues. Student leaders also announced plans to contact lawyers who would consider taking legal action against the university. Dean Towle hinted that political leafleting and tabling might be allowed in the existing "Hyde Park" area, but students once again reiterated the unacceptability of the lower Sproul Plaza as a political space. On September 18 a coalition of 18 student organizations presented to Dean Towle, in the form of a petition, what amounted to a set of "time, place, and manner" rules to govern the Bancroft-Telegraph sidewalk. This petition was rejected. In response, on September 20, the students voted to engage in a course of civil disobedience if the university remained firm in its ban on political activity after a meeting with the dean the following morning.

On September 21, Dean Towle acceded to many of the students' demands—but not all of them. She announced that tables and leafleting would be allowed on the Bancroft-Telegraph sidewalk but that only "informative" (and not "advocative") literature could be distributed; that fund-raising would not be permitted; and that "recruiting" people to organizations would not be tolerated. As Towle put it: "It is not permissible, in materials distributed on University property, to urge a specific vote, call for direct social or political action, or to seek to recruit individuals for such action."<sup>13</sup> Simultaneously Dean Towle announced that a "second" Hyde Park area would be established—on an experimental basis—on the steps of Sproul Hall. Here only students and university staff could speak: "Since the university reserves such areas of the campus for student and staff use, those who speak should be prepared to identify themselves as students or staff of the university."

The students rejected the concessions and announced plans to engage in civil disobedience. As one student organizer, Jackie Goldberg, put it:

[T]he University has not gone far enough in allowing us to promote the kind of society we're interested in.

We're allowed to say why we think something is good or bad, but we're not allowed to distribute information as to what to do about it. Inaction is the rule, rather than the exception, in our society and on this campus. And, education is and should be more than academics.

We don't want to be armchair intellectuals. For a hundred years, people have talked and talked and done nothing. We want to help the students decide where they fit into the political spectrum and what they can do about their beliefs. We want to help build a better society.

Dean Towle argued that the "nonadvocacy" position was part of university-wide policy and as such was something the Berkeley administration was powerless to change. About 75 students, unswayed by this logic, held an all-night vigil on the steps of Sproul Hall.

Other students, working through the Senate of the Associated Students of the University of California (ASUC), petitioned the Board of Regents the next day "to allow free political and social action to be effected by students at the Bancroft entrance to the University of California, up to the posts accepted as the traditional entrance." Open defiance of the nonadvocacy provisions announced by Dean Towle began. On September 27, in part as a response to an unforgiving statement by UC President Clark Kerr, students announced that the following day, during a University Meeting, they would establish tables on the sidewalk at Sather Gate and hold a rally at Wheeler Hall without properly notifying the administration.

At the September 28 University Meeting, Berkeley Chancellor Edward Strong announced a number of concessions to the Free Speech protesters. Among others, these concessions included allowing limited forms of advocacy (e.g., promoting a "yes" or "no" vote on initiatives, and distributing campaign bumper stickers and buttons). Students interpreted this reversal from the policy announced by Dean Towle only a few days earlier as a direct result of their picketing and rallying. The next day, a number of groups set up tables both at Sather Gate and at Bancroft-Telegraph. Only a few of these groups had secured the proper permits from the dean of students. Under the new policy announced by Chancellor Strong the day before, only groups that "promised not to solicit money or members, or initiate or advocate any off-campus activity other than voting" would be issued permits, and most groups simply refused to make this promise.

The following day, September 30, 1964, the situation exploded. In the early afternoon, five students staffing tables were requested to appear before the dean of men at 3 P.M. for violating university regulations: none had permits and some were collecting money for off-campus political activities. More than 600 students quickly signed a statement saying



that they had been equally responsible for staffing tables and that they too should be required to meet with the dean of men. At 3 P.M., some 300–500 students appeared outside the dean's office in Sproul Hall, with some, including the soon-to-be-famous Mario Savio, Arthur Goldberg, and Sandor Fuchs, taking up a position on an exterior balcony and exhorting passing students to join the demonstration.

In response to the demand that all those who had signed the statement claiming to have violated university policy be treated equally, the dean of men responded that the administration would cite only those "observed" breaking university policy, but he agreed to meet with the five who had been cited plus Savio, Goldberg, and Fuchs at 4 P.M. All eight refused to appear, and students decided to continue occupying Sproul Hall through the night. Around midnight Chancellor Strong issued a statement first asserting that UC students were more free than any others to engage in political action and then indefinitely suspending all eight students. In the early hours of the morning, after christening themselves as the Free Speech Movement, the occupiers of Sproul Hall ended the sit-in. Student organizers, with Savio as their spokesman, announced a rally for noon that day, October 1, on the steps of Sproul Hall.

As organizers were posting flyers announcing the rally, two tables were set up on Sproul Plaza at the bottom of the Spoul Hall steps. One of those tables was staffed by Jack Weinberg, a former student. When two deans asked him to provide identification, Weinberg refused to do so. He also refused to leave the table, whereupon a police lieutenant accompanying the deans arrested him. Students in the area protested, chanting "release him, release him," and perhaps two hundred lay down on the pavement all around the police car he was being taken to so that it could not leave Sproul Plaza. After Weinberg was placed in the car, Mario Savio climbed on its roof (after first carefully removing his shoes) and implored students and others in the area to join the protest (Figure 3.6). Students maintained their vigil around the police car—with Weinberg inside it the whole time—for 32 hours. A rotating group of student leaders climbed to the top of the police car to make demands upon the university, while a phalanx of protesters reoccupied Sproul Hall. When campus and city police tried to close Sproul Hall at about 6:15 P.M. on the first day of the standoff, about 2,000 protesters rushed the doors, knocking at least two police officers out of their way, and occupied the hall in an uneasy standoff with police. Some hours later, at the request



**FIGURE 3.6.** Mario Savio addressing the crowd from the roof of the police car that held Jack Weinberg, October 1, 1964. Photograph by Ron Enfield.

of students gathered in the plaza, those in the hall returned outside and relinquished the building to the police and administration, where protest leaders, working in a closed session, worked out a plan for ongoing civil disobedience at least through October 3, UC Berkeley's "Family Day."

Despite counterprotests by those opposed to the student activists (and the kindling of a near-riot as contending groups jostled with one another), and despite growing cracks in the cross-ideological coalition that had formed originally to protest restrictions on speech and political activity, Free Speech activists maintained their vigil at the police car. Governor Pat Brown announced his support of the university and campus administrations, and Chancellor Strong announced that the protests, in fact, were not about free speech: "Freedom of speech by students on campus is not the issue. The issue is one presented by

deliberate violations of University rules and regulations by some students in an attempt to bring about a change of the university policy prohibiting use of University facilities by political, social and action groups." Consequently, Strong and UC President Kerr determined during the morning of October 2 to attempt to regain control of the plaza. With the support of the governor's office, Strong and Kerr agreed that at 6 P.M. that evening the protest would be declared an unlawful assemblage, and if protesters did not voluntarily disperse, police would force them out. By 4:45, some 500 police officers from a range of Bay Area and state authorities marched to the campus and took up positions near Sproul Hall. The protest crowd grew in response—to perhaps as large as 7,000. A confrontation seemed likely.

Chancellor Strong and President Kerr agreed to meet with activists at 5 P.M. in advance of the 6 P.M. announcement. At about 5:30, the crowd was informed that the president had delayed any police action while a meeting with protest leaders, clergy, and faculty members was in session. At 7:15 the meeting disbanded, and at 7:30 Savio climbed atop the stranded police car and read the agreement:

1. The student demonstrators shall desist from all forms of their illegal protest against University regulations.
2. A committee representing students (including leaders of the demonstration), faculty, and administration will immediately be set up to conduct discussions and hearings into all aspects of political behavior on campus and its control, and to make recommendations to the administration.
3. The arrested man will be booked, released on his own recognizance, and the university (complainant) will not press charges.
4. The duration of the suspension of the suspended students will be submitted within one week to the Student Conduct Committee of the Academic Senate.
5. Activity may be continued by student organizations in accordance with existing University regulations.
6. The President of the university has already declared his willingness to support deeding certain University property at the end of Telegraph Avenue to the city of Berkeley or to the ASUC.

Savio urged the protesters to end their occupation of the plaza and to go home "with dignity." The protesters assented and the demonstration broke up.

Meanwhile, President Kerr held a press conference confirming the details of the agreement and announcing that Chancellor Strong would set up the ad hoc committee mentioned. He also noted, however, that the UC administration would not be bound by the recommendations of the ad hoc committee: they were to be recommendations only. Finally, he stated that while the university would not press charges, he could not speak for the district attorney, who might (and in fact did).

Over the next several days both the administration and the protesters skirmished—verbally, at least—over the meaning of the October 2 agreement, with students holding a large, and illegal, rally at Sproul Plaza on October 5. The activists agreed at the rally to suspend political activity in the contested spaces until after the ad hoc committee met and formulated its policy recommendations. When Chancellor Strong soon afterward announced the members of the ad hoc committee, elected FSM leaders immediately protested, saying they had not been consulted in the manner that they felt the October 2 agreement required them to be. When the committee met for the first time on October 7, ten FSM leaders appeared before it, declared it to have been illegally constituted, asked it to disband, and walked out. For its part, the committee announced itself to be a "study" rather than a "policy" committee and, after much discussion, determined to hold hearings on campus political activity beginning in 1 week.

Simultaneously, Clark Kerr went on a public relations offensive, declaring that though students were more activist than ever, the Berkeley protest was "one episode—a single campus, a small minority of students, a short period of time"—that is, an aberration. He more than once went out of his way to note that some of the demonstrators had "communist sympathies." He also reiterated that the administration was acting within the spirit of both the October 2 declaration and the negotiations that led to it, a position that received some support from faculty members who had brokered much of the agreement. Chancellor Strong also went on record, declaring the protests to be the result of "hard-core protesters" who wanted to "open up the university," and that his administration was determined to make sure that "the university will not be used as a bastion for the planning and implementation of political and social action." Despite and because of these pronouncements, Kerr, Strong, and both the UC and Berkeley administrations found themselves buffeted by continual and often competing representations, petitions, complaints, and threatened protests—from various student groups

such as fraternities, sororities, and even 29 Oski Dolls (UC Berkeley cheerleaders), as well as from ad hoc faculty groups, state politicians, and newspaper editorialists.

When the Study Committee on Political Activity (as the ad hoc committee was renamed) held its first public hearing on October 13, all but one of the 300 speakers rose to declare the committee to be illegally constituted. Partially in response, a new agreement was forged between the FSM steering committee, the administration and other interested parties. Announced on October 15, the agreement reestablished the Study Committee on Political Activity along new lines: it was enlarged from 12 to 18 members; exact means by which members were to be appointed were specified; provisions were made for twice-weekly hearings to last for 3 weeks; two attorneys and five other "silent observers" were invited to join the hearings; and it was determined that all decisions were to be made by consensus.

As both the Committee on Political Activities hearings and separate hearings into the suspension of the eight originally cited students got under way, FSM leaders debated the efficacy of continuing a ban on political tables on campus and decided, despite the impending national election, to maintain the ban while the committees did their work. After the election, on November 9, however, feeling that the process was moving too slowly, and in response to administration arguments that it needed to retain the right to discipline students or organizations that advocated acts that "directly result[ed]" in "unlawful acts" off campus, FSM-affiliated groups returned to "tabling" on Sproul Plaza and at Bancroft-Telegraph. The FSM argued that the determination of whether activities were illegal was up to the courts to decide, not the university administration, and that it needed to "exercise its constitutional rights." The time to test the administration's position on the use of the campus for speech had come.

The following day, some 70 students received letters citing them for violating (still in effect) university policies. Once again, hundreds of students (many of them graduate students, who by this time had also begun to explore the possibility of unionizing) signed petitions claiming equal responsibility for breaking university regulations. Despite the citations, the university took no action against the people staffing the tables and allowed them to continue their advocacy work. On November 20, as the University Regents were meeting in University Hall, some three thousand students rallied at Sproul Hall before

working their way to the Regents' meeting. At the meeting, FSM and other student representatives were barred from speaking. The Regents eventually voted, on President Kerr's recommendation, to adopt a modified version of regulations developed by the Committee on Political Action to allow fund-raising and recruitment, but banning "illegal advocacy." At the same time, the Regents more or less rejected a faculty committee recommendation that the originally cited students only be "censured" and instead reinstated them without clearing their records. In response, graduate students called for a sit-in, but Savio argued, successfully, for a cooling-off period over the weekend, followed by a rally on Monday, November 23.

On that day, several hundred students reoccupied Sproul Hall, but only after a fierce debate within the FSM (that by many accounts "split" the movement). After the Thanksgiving weekend, and as many FSM activists reestablished tables on the plaza and Bancroft-Telegraph, graduate students voted to strike, beginning on December 4. In the meantime, three FSM leaders, Savio, Arthur Goldberg, and Jackie Goldberg, received letters saying that new disciplinary charges stemming from the October 1-2 protests were being lodged against them by the administration. On December 2, 800 students once again occupied Sproul Hall to protest the administration's "arbitrarily singling out students for punishment" and what they saw as a continuing refusal to negotiate in good faith.

Governor Brown responded on December 3 by sending more than 600 police officers to Sproul Hall to arrest the demonstrators. Arrests lasted more than 12 hours. Sympathetic students and faculty staged a spontaneous strike. Taking their strongest stand yet, some 900 faculty members met that night and called for complete amnesty for the FSM protesters and for complete and unconditional political freedom for students—including the right to engage in advocacy. Departmental chairs working behind the scenes tried to meet with the administration to negotiate a settlement but were rebuffed. The next day, as the strike continued—quite effectively—and as the administration maintained an eerie silence, refusing to talk with faculty or departmental chairs, the chairs of all campus departments constituted themselves as the Council of Chairmen in hopes of reestablishing at least some authority on campus (since the general sense was that both the campus and system administrations had pretty much abdicated).

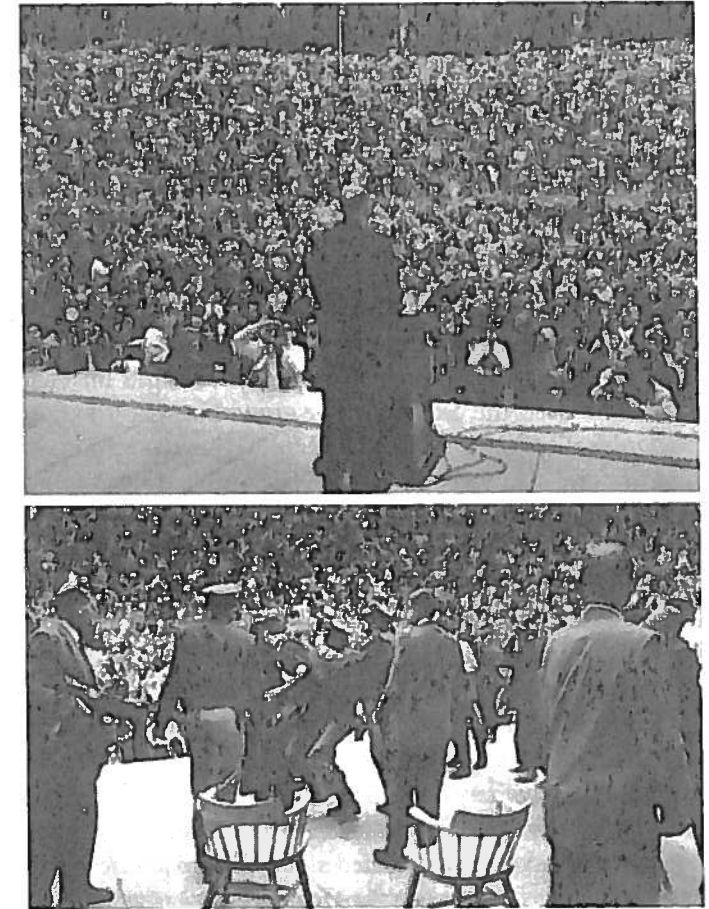
Frenetic rounds of negotiation followed, as nearly all normal cam-

pus activity ground to a halt. Over the weekend of December 5 and 6, the Council of Chairmen met in long sessions to work out a plan to end the protests, and after a meeting between the head of the Council of Chairmen and President Kerr, and later between Kerr and the Regents in a South San Francisco motel, an agreement was reached. Classes were cancelled campus-wide on Monday morning, December 7, so that departmental meetings could be held to discuss the agreement. In brief, the agreement represented a significant victory for the FSM: complete amnesty was granted to protesters for actions through December 7, and no position by the administration was to be taken on the question of advocacy. Following the departmental meetings, a huge convocation was held in the Greek Theater to announce the terms of the agreement (Figure 3.7). At the conclusion, Mario Savio attempted to speak to the assembled students and staff but was pulled from the stage by police officers. When he was finally allowed to speak, he announced a rally for noon at Sproul Hall.

At the noon rally, department chairs and FSM leaders announced the end of the strike while the Academic Senate considered the proposal for complete political freedom and the right to advocacy. Rumors quickly spread that in closed-door meetings President Kerr had agreed to the opening up of the campus for political activity. The following day, the Academic Senate voted 824–115 to accept a resolution allowing political speech and advocacy on campus and lifting restrictions on students' off-campus political activities as well as political activities by nonstudents on campus. The Senate resolution noted, however, that the Senate, as the lawmaking body on campus, needed to regulate the "time, place, and manner" of speech activities on campus, in essence returning the university to the *status quo ante* of 1938 before "Rule 17" had been implemented—and aligning the campus with other publicly owned spaces in the city. The Free Speech Movement—at least in its directly activist form—was over. A significant victory in favor of students' rights of assembly and speech—and of control over their campus—was won.

### The Geography of Free Speech 3: The Where of Protest

A fight over location, coupled with a fight over "appropriate" forms of speech and political action, proved to be explosive not just for the campus but for Berkeley and beyond. When Berkeley students and activists



**FIGURE 3.7.** Clark Kerr addresses the meeting at the Greek Theater on December 7, 1964 (top). The meeting was called to announce the terms of the agreement ending the Free Speech protests. When Mario Savio sought to address the crowd at the end of the meeting, he was pulled from the stage by policemen (bottom). Photograph originally published in Heirich (1971).

won the right to set up tables and promote political action on the Telegraph–Bancroft sidewalk and in Sproul Plaza, they in essence won the right to a particular space—the campus. From that space, many sought to organize a new kind of society, a new kind of city. But make no mistake, control of a public space was crucial, since, after all, it was only through control over that space that political action could expand. The

Berkeley campus became what Bruce D'Arcus (2001) calls a "protest platform"—something akin to a "liberated zone" from within which political action could be organized.

This was an issue clearly grasped by both FSM activists and the UC administration. As Clark Kerr had already said, it seemed as if many of the students hoped to turn the campus "on the Latin American or Japanese" model into a staging ground for radical societal transformation. As we will shortly see, they were, in fact, to some extent successful. But first it is important to emphasize just how much this was a *locational* conflict. The Free Speech Movement began as a response to the university's attempts to control or direct the speech activities of its students (and others who used the campus). The argument was that the *institution* of the university controlled and had full rights over the *space* of the university, that the campus was simply not a public forum in the traditional sense. In terms of the public forum doctrine that was even then emerging at the level of the Supreme Court, the university argued, at least implicitly, that the campus was at best a "dedicated" public forum and thus it had a right to more closely regulate the types of speech activities engaged in, their specific locations, the times they could occur, and so forth. The campus simply was not a city street or park and was not to be treated like one. By contrast, activists argued, again implicitly, that the campus was in fact a traditional public forum (or should have been one) and that the university had no right to regulate speech beyond the regulations already provided for in law. For these activists, there was no clear distinction between a city-owned sidewalk and a university-owned one, except insofar as the university-owned one was a better location for their activities. Activists worked to assert their right to the *particular* space of the campus (as opposed to simply moving their activities onto city-owned property).

At a finer spatial scale, the Free Speech Movement was even more a conflict over location. The university's establishment, and the activist's rejection, of a "Hyde Park" area in the lower Sproul Plaza indicates just how much the Free Speech Movement was concerned with the question of *where* protest or other political activity should be located. For the students, to "go again to Hyde Park" meant something entirely different than it did for the administration. For the administration, it meant that certain "Hyde Parks" convenient to it could be established. For activists it meant retaking the *prime* protest and political locations of the university and city. It meant reclaiming the sidewalk at Telegraph and

Bancroft. It meant establishing a right to the plaza at the foot of Sproul Hall (and just outside Sather Gate)—the traditional heart of the campus. Indeed, it meant reclaiming the steps of Sproul Hall themselves. It meant *taking* a space and *making* it public (a point to which I will return in greater detail in the next chapter).

To this day, Sproul Plaza remains a prime political space on the Berkeley campus. Nearly every lunchtime, activists set up on the Sproul steps and address the passing crowds. Along the walk to the Sather Gate, numerous organizations—both "on" and "off" campus ones—set up tables and distribute literature. On important occasions, marches and rallies are organized or held in Sproul Plaza. It remains a vibrant space for politics.

#### FROM FREE SPEECH TO COUNTERCULTURE: URBAN RENEWAL AND THE BATTLE FOR PEOPLE'S PARK

Following the victories of the Free Speech Movement, the transformation of the neighborhoods around the Berkeley campus intensified. The movement proved to be a great reinforcer of the burgeoning counterculture of the South Campus area (Scheer 1969). And, just as President Kerr had feared, the campus itself became something of a "free zone" for political activists. The Vietnam Day Committee, among others, was accused by relatively conservative faculty and others of using the university as a "staging ground" for subversive forays into the larger community. The otherwise liberal philosopher and sociologist Lewis Feuer, in particular, was deeply outraged by the Free Speech Movement and its effects on the Berkeley campus. Feuer blamed the faculty for refusing to "properly" limit the rights of students. This refusal had allowed the campus to "safeguard the advocacy and planning of immediate acts of violence, illegal demonstrations, interferences with troop trains, and obscene speech and action" (Feuer 1966, 78). The value—to activists—of a "liberated" staging ground—a public space—could not be clearer. The value—to liberalism—of *order* in public spaces also could not be more clear.

Perhaps that is the reason that the university, too, wanted to use the campus as a staging ground for an assault on the urban fabric of the South Campus area, even as city plans for urban renewal were coming



under increasing fire by merchants and residents of the area. In the spring of 1966, public hearings, required by federal law, were held on the city's Long-Range Development Plan, which called for extensive urban renewal and redevelopment in South Campus and along Telegraph Avenue. Opposition to the plan was strong enough that the *Berkeley Gazette*, a supporter of city-wide redevelopment, had to admit that the residents of the South Campus area "do not now, and have not in the past, liked the plan." But support from outside the district was strong from those who were "aghast" (as the *Gazette* put it) at the "beatnik" development that appeared to be arising in the absence of a strong city program of redevelopment. During a series of delays in implementing the plan, an uneasy alliance of students, local merchants worried about increasing rents, and older people "living in lifetime homes" in the South Campus area organized effectively enough to defeat the redevelopment plans (Scheer 1969, 44).

Despite the demise of the Long-Range Redevelopment Plan and the end of comprehensive urban redevelopment in Berkeley, the university maintained an aggressive desire to expand into the South Campus area. In particular it eyed a series of lots, mostly occupied by relatively run-down older houses, for dormitories and other "nonacademic uses" over which the university would nonetheless have control. As part of this expansion plan, the university in 1967 authorized its new chancellor, Roger Heyns, and Vice Chancellor Earl Cheit to purchase lot 1875-2 between Dwight and Haste Streets (see Figure 4.2, page 121). Original university plans had called for the construction of high-rise dormitories on this site, but because vacancy rates were at an all-time high in the city, dormitories were not really feasible. The university thus announced that the purchase of the site, and the clearing away of the houses on it, was designed to address a "desperate need" for a new soccer field in the area. When pressed by a reporter, the chairman of the campus Building and Development Committee admitted that one of the effects of the purchase would be to transform the South Campus neighborhood—to assist in eliminating the "counter culture" that had begun to grow up around, and define, the university: "I presume it is true. You are killing two birds with one stone. But we are aiming at only one of them; the other is free. We are seeking more facilities and if you engage in urban renewal, that's an added benefit" (Scheer 1969, 44).<sup>14</sup> University Regent Fred Dutton remarked, after the decision to buy the property had been made, that Heyns and Cheit had presented their plan for the

lot to the Board of Regents as "an act against the hippie culture" (Scheer 1969, 44).

In 1967 the campus administration bought the land—through the imposition of eminent domain—despite the fact that no funds were appropriated to improve it once purchased. The resolution that justified the purchase left no room for disagreement over the reason the purchase had been approved: "The Regents have approved the use of \$1.3 million in U.C. funds to purchase three acres south of the Berkeley campus. The area has been a scene of hippie concentration and rising crime." In June 1967, still without money for improvement, the houses on the three acres that comprised lot 1875-2 were demolished (Scheer 1969, 46).

All through 1968 and into 1969, lot 1875-2 remained unimproved—a muddy patch of ground that had become a free parking lot and, to many in South Campus, a symbol of the contempt in which the university held them. Indeed, it sat like a hole right in the heart of what was fast becoming the center of political and cultural transformation in Berkeley. While Sproul Plaza still remained a vital center for organizing, Telegraph Avenue had increased in importance as a site for experimentation, political meetings, neighborhood solidarity, and anti-war activism. During the summer of 1968, Telegraph Avenue was the scene of a series of pitched battles between riot police and antiwar demonstrators. And on campus, during the winter term of 1969, a wide coalition of students called for a strike (not the first since the FSM, either) to win their demands for a range of ethnic studies programs. The strike met with a good deal of success. Fearing an escalation of the occasional violence that had marked recent demonstrations, Chancellor Heyns turned over command of the campus police to (the notoriously tough) Alameda County Sheriff Frank Madigan, and requested that the new governor, Ronald Reagan, declare a state of emergency. Reagan readily agreed and, as the so-called Third World Strike quickly withered in the face of severe police brutality (Lyford 1982, 38), police forces were gradually withdrawn. The state of emergency, however, still remained technically in effect.

In this context, the following announcement appeared in the *Berkeley Barb* in April 17, 1969:

A park will be built this Sunday between Dwight and Haste. The Land is owned by the university which tore down a lot of beautiful houses in order to build a swamp.

The land is now used as a free parking space. In a year the university will build a cement-type expansive parking lot which will compete with the other lots for the allegiance of the Berkeley Buicks.

On Sunday we will stop this shit. Bring shovels, hoses, chains, grass, paints, flowers, trees, bull dozers, top soil, colorful smiles, and lots of weed. . . .

We want the park to be a cultural, political freak-out rap center for the Western World. . . .

This summer we will not be fucked over by the pigs "move on" fascism, we will police our own park and not allow its occupation by an imperial power. . . . (reprinted in Lyford 1982, 40–41)

Activists, in other words, were planning to take (or perhaps take back) another space in the name of creating an open community-controlled political space. They were planning to make a People's Park (Figure 3.8).

Although the reasons for being involved in the park were as varied as the people who turned out on that first Sunday morning, April 20, 1969, there still was the understanding that the construction of the park was a symbolic act that struck at both the designs of the university as a capitalist enterprise (in the terms long before articulated by Clark Kerr) and at capitalist society itself.<sup>15</sup> As one of the park supporters recalled a few years later: "The builders of the park were not a gang of ideological do-gooders. . . . Although economic and environmental issues were raised by park developers and supporters, fundamental to the struggle was the right of ownership, and the nature of private property rights" (quoted in Lyford, 1982, 41). Robert Scheer (1969, 46) suggested that most of the builders were of the "nonsectarian breed that managed to get through Berkeley's ideological warfare with a sense of humor and spontaneity in tactics." Soon People's Park became an "event." On weekends as many as 3,000 people worked at planting flowers and building playgrounds (Figure 3.9). The development of the park had broad-based support on campus and within the community. A letter to the *Daily Californian* protesting the university's decision to reclaim the land the park was built on was signed by 84 students leaders, including not only activists but also fraternity presidents, the head of the pom-pom girls, and the leader (again) of the Oskie Dolls.

Despite such support for People's Park, Chancellor Heyns decided that the university could not simply ignore such a strong challenge to its authority—and its ownership of lot 1875-2. On May 14, 1969, before



FIGURE 3.8. The muddy parking lot (lot 1875-2) that eventually became People's Park. Photograph by Mark Harris.

leaving town on business, Chancellor Heyns privately ordered the park to be cleared of any "residents" and a fence to be built around the perimeter. Heyns arranged for the Alameda County Sheriff to provide protection for the work crews that would remove people from the land and build the fence. Since Vice Chancellor Cheit was also out of town, a second vice chancellor was left in charge of the operations, although he later claimed that he had not been told the fence was to be constructed. He claimed that he "was told not to expect any problems" (quoted in Scheer 1969, 52).

At first it looked as though there just might not be any problems. The fence was constructed at 5:30 A.M. without any disturbance. The rationale for this action was presented by Chancellor Heyns a day later:

We have been presented with a park we hadn't even planned or asked for. . . . So what happens next? First we will have to put up a fence to reestablish the conveniently forgotten fact that the field is indeed the university's, and to exclude unauthorized persons from the site. That's a hard way to make a point, but that's the way it has to be. (quoted in Lyford 1982, 43)<sup>16</sup>

The first protest against the fence was called for noon on May 15—to be held in the long-since-liberated Sproul Plaza. About 6,000 protesters massed and, urged on by just-elected student body president Dan Siegal to “reclaim the park,” began to march down Telegraph Avenue.

There they met the arrayed forces of the Berkeley city police and the Alameda County sheriffs, who attempted to disperse the crowd. Under a giant billboard proclaiming “Showtime” (Figure 3.10), the rioting that ensued was vicious and bloody. At least 128 protesters were injured, one was blinded after being shot in the eyes with buckshot, and one other—James Rector—was fatally wounded as he watched the riot from a roof above Telegraph Avenue. No police officers were seriously injured. Alameda Sheriff Frank Madigan, whose officers were responsible for most of the injuries and Rector's death, defended the use of force by claiming that the crisis had been instigated by “anarchists and revo-



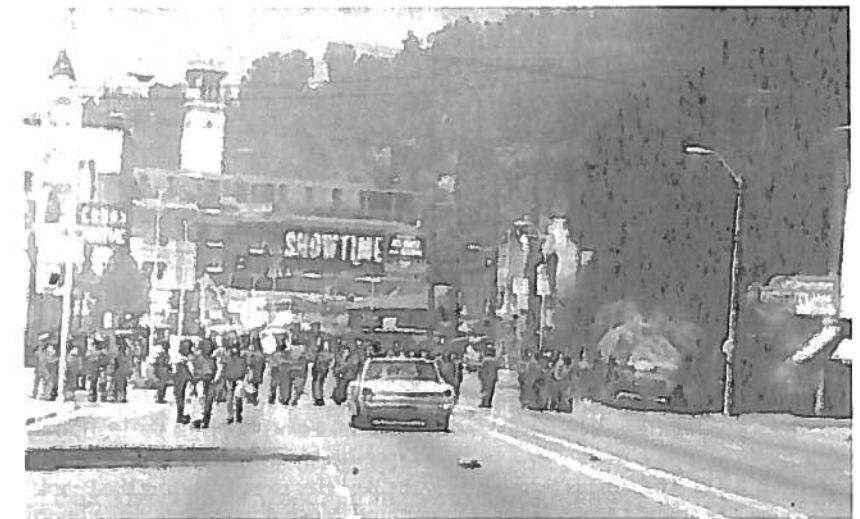
**FIGURE 3.9.** Building the Park. Hundreds of people turned out on successive weekends to construct People's Park. People brought tools, donated materials, or simply provided labor, as their means permitted. Photograph by Jean Raisler.

lutionaries” intent on taking “this form of government down, starting with the educational system and then with law enforcement” (quoted in Lyford 1982, 53). That night, referring to the continuing state of emergency, Governor Reagan remobilized the National Guard and banned public assemblies.

Despite the ban, protesters—students, city residents, sympathetic faculty members—gathered daily on and off campus to protest both the fencing of the park and the ongoing use of force by the police and National Guard, including the famous tear gas “bombing” of the campus by National Guard helicopters (Figure 3.11). Following a show of overwhelming support for the park in a campus-wide referendum, Chancellor Heyns announced on May 29 that he supported leasing the land to the city of Berkeley. The next day some 30,000 people march peacefully past the park as violence subsided. The fence, however, did not come down. Indeed, it remained under 24-hour guard.

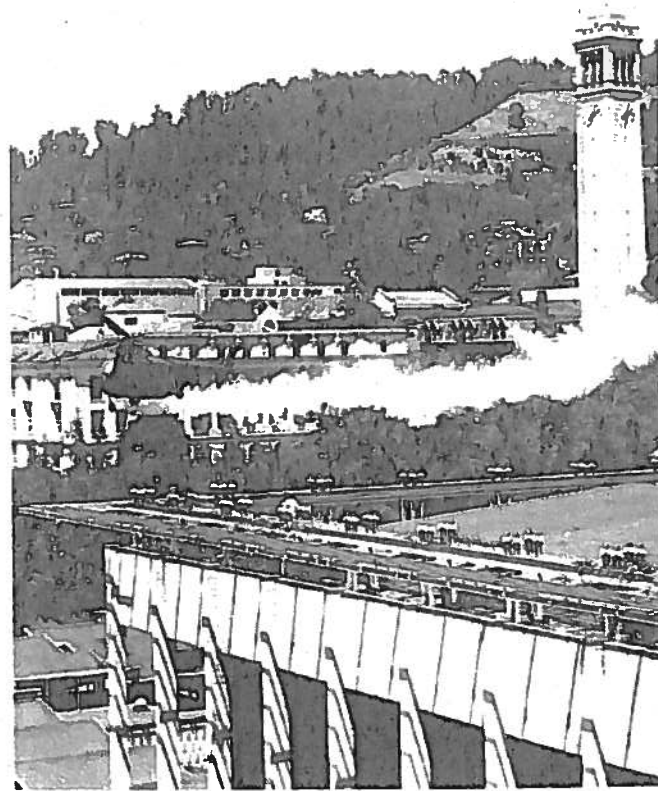
#### After the Riots

On June 20, 1969, Governor Reagan pushed a proposal through the Board of Regents that called for the construction of student housing on the site of People's Park, a return to the original Long-Range Plan of



**FIGURE 3.10.** Showtime. The People's Park riots. May 1969. Photograph by Ed Krishner.

1952. In doing so, Reagan engineered the rejection of a compromise plan, supported by the chancellor, that would have leased the land to the city of Berkeley for 7 years with provisions for the maintenance of a user-constructed park on at least a portion of the parcel (Scheer 1969, 53). Whereas the builders of the park and its defenders saw the park as an unalienated space for social, cultural, and political action, Reagan, echoing Matthew Arnold from so many years ago, saw things rather differently: the disturbances in Berkeley (and, in sympathy, throughout the university system) were not “simply the acts of youngsters sowing their wild oats or legitimately questioning our society and its values” (quoted



**FIGURE 3.11.** The famous teargassing of the Berkeley campus during the People's Park riots. The student center is in the foreground. Most of the teargas drifted north of Sather Gate into the main part of campus and beyond into the wealthy residential neighborhoods to the north. Photograph by Andrew R. Scott.

in *Los Angeles Times*, 1969). While more than a panty raid, the protests—including the taking of the land in the first place—were less than legitimate. Presumably, building another dorm would help reassert control over the students and other rioters.

For park builders and protesters, of course, this had never been a “panty raid.” It was, in fact, a much more fundamental fight. Lot 1875-2 became a symbol of the arrogance and the power of the university (which itself stood as a symbol of “the system,” or “the establishment”). Throughout the 1950s and 1960s, the university had claimed for itself, and attempted to enforce, the right to determine the nature and form of political discourse. Against this, students and others were struggling to find new and (in their eyes) appropriate forms of expression. Doing so required the taking, occupation, and radical transformation of space: it necessarily led to conflicts over location (where political speech could occur; where dorms should be built) which were at the same time struggles over rights (who had the right to speak; who had the right to determine the fortunes of whole neighborhoods). Making People's Park and subsequently defending it, like the Free Speech Movement that preceded it, were experiments, certainly imperfect, in the radical democratization of decision making, and of the adjudication of conflicting rights—including, quite apparently, the right to the campus and to the city—in Berkeley.

In the end, Governor Reagan denounced the protesters as “street gangs,” asserting that they were a “well-prepared and well-armed mass of people who had stockpiled all kinds of weapons and missiles” (quoted in *Los Angeles Times*, 1969). And despite a second riot in 1971, the fence remained around the park until May 1972, when protesters ripped it down in reaction to President Richard Nixon's announcement that the United States was planning to mine harbors in North Vietnam.

But if the disposition of lot 1875-2 remained unsettled, it nonetheless served as a rallying point for the transformation of politics in Berkeley. A coalition of radical groups began to organize around a series of electoral issues, and People's Park became a symbolic center: what had been a battle over a specific space widened into a conflict over the construction of a new political hegemony in the city. Berkeley radicals, many of them veterans of the FSM and People's Park, ran their first slate of candidates for city council in 1969, losing to more traditional liberal Democrats who had earlier ousted the conservative establishment that had run the city for the bulk of the 20th century. The radical coalition



had much better success in 1973 (and by 1979 had elected one of their own as mayor), and it remained the guiding force in city politics through the 1980s. In combination with liberals, Berkeley radicals reframed Berkeley as a leading center of experimentation for populist-radical politics, including rent control, ecological initiatives, and, until an almost reactionary set of policies was enacted in the 1990s, compassionate care for the homeless and street people (Lyford 1982). Perhaps most importantly, radicals centered on campus and in the South Campus area early aligned themselves with black activists in South and West Berkeley, allowing the activism of the campus to merge (not always easily) with militant black activism in Berkeley and Oakland.

Following the 1969 riots, the university, unable to build dormitories, built a soccer field on a portion of the lot. Students and community members staged a successful boycott of the field, and the university abandoned it a few years later. For a time during the 1970s, a portion of the park reverted back to a free parking lot, but when the university proposed charging fees, the community responded with jackhammers and destroyed the lot in front of onlooking and passive police. In 1976 the university held hearings on developing married student housing on the site. Faced with overwhelming opposition, the university eventually withdrew the plan.

During all these battles of the 1970s and into the 1980s, the park became a growing refuge, not only for political action but also for (mostly male) homeless people. Indeed, the growth of the homeless or transient population, coupled with the vehemence with which park defenders opposed development on the site, led many to see People's Park as a place "off-limits" to students and police alike. As nearby Telegraph Avenue gentrified during the 1980s, many merchants, students, and visitors began to see the park as a zone of danger and trouble rather than a symbol of radical populist politics—or in some forms as a zone of trouble precisely *because* it was a symbol, and the result, of populist-radical politics (Lyford 1982). For many, a direct line could be drawn from the FSM, through the People's Park riots, and to the state of People's Park in the late 1980s when it was often perceived as an uncontrolled and dangerous sore spot in the side of Berkeley and the university. By 1991 things came to a head once again as rioting broke out on the 20th anniversary of the original riots. But that is a story for the next chapter, a chapter which will use the more recent history of People's Park to explore both the legacy and the meaning of the Free Speech Movement

and the creation of the park for any putative right to the city. For rights are exactly what are at stake.

## NOTES

1. Locational conflict is usually studied in terms of the siting of specific, often noxious, facilities. The literature is large. A useful review and summary can be found in Takahashi (1998). Much of this literature is concerned with questions of NIMBYism (the "not in my backyard" syndrome), which takes a critical attitude toward often parochial concerns of middle- and upper-middle-class homeowners. However, the locational conflict literature—and activists who struggle for or against the siting of specific facilities—sometimes also intersects with concerns over, and literature on, environmental racism, since it is often the case that noxious and dangerous facilities are "dumped" in poor nonwhite neighborhoods. There is a relationship, that is, between NIMBYism and environmental racism, and the politics of this relationship is both fascinating and critically important. See Pulido (2000). In this chapter I will be turning the argument in a different direction, however, by exploring struggles for free speech, a place for the homeless to hang out, and similar issues as spatial struggles over rights.
2. The issue of campus speech areas arose again in the spring of 2002 with a spate of articles and news reports about various student attempts (notably at West Virginia University) to eliminate free speech zoning on their campus.
3. Indeed, one of the interesting but so far unremarked aspects of the recent attempt to zone speech is that it is *conservative* organizations (such as the Foundation for Individual Rights in Education) that are agitating against them, whereas in the 1960s similar institutions were strongly in favor of zoning—if not eliminating—the speech rights of students. Opposition to free speech zones is thus sometimes couched as an assault on free speech in exactly the same manner that Supreme Court Justice Antonin Scalia sees bubble zones around abortion clinics (and patients) as an assault on free speech.
4. Kerr is a fascinating figure. A labor economist by training (and one with great sympathy for the radical organizers of the 1930s), Kerr was the protégé of the important Berkeley sociologist Paul Taylor before becoming president of the largest university system in the country. After being fired as president, Kerr has remained in demand as a theorist of higher education in the modern world.
5. Kerr's *Uses of the University* can be productively read against Bill Readings's (1996) more recent, and critical, *University in Ruins*. It is striking just how much of Kerr's vision for the putatively nonideological "multiversity" has come to pass, and just what the costs, in terms of free, noncommodified inquiry has been.



6. This is an exceedingly interesting and in some senses prescient passage in Kerr et al. (1960). The authors go on to predict exactly the zeitgeist of the 1990s that so celebrated business and advertising triumphalism as a form of rebellion: "Along with the bureaucratic conservatism of economic and political life may well go a New Bohemianism in the other aspects of life and partly as a reaction to the confining nature of the productive side of society. There may well come a new search for individuality and a new meaning to liberty. The economic system may be highly ordered and the political system barren ideologically; but the social and recreational and cultural aspects of life diverse and changing" (295). For an analysis of the 1990s zeitgeist, see Frank (2001).
7. Two standard histories cover the rise of the national student left in the 1950s and 1960s: Miller (1994) and Gitlin (1993).
8. A study conducted by the UC Berkeley student government (ASUC) showed that, of 20 schools with enrollments exceeding 8,000, only the University of Arizona had similarly restrictive regulations concerning the location and content of speech on and off campus by students. While three schools reported no political action among students, 16 reported that there were no substantive hindrances to the exercise of political rights. See Heirich and Kaplan (1965, 30). One of the depressing things about working at a university at the dawn of the 21st century is just how strongly the ideology of *in loco parentis* has been revived by campus administrations—often at the urging of students' parents, parents who themselves fought so hard to dismantle it or were prime beneficiaries of its demise in the first place!
9. The United States House Un-American Activities Committee held a series of hearings in San Francisco during 1960. These hearings were well protested by Berkeley students. On the second day of the hearings, after students had been refused entrance to the hearings chamber, San Francisco police "washed" hundreds of demonstrators down the steps of the San Francisco City Hall. Many of those hosed and many of those arrested in the ensuing roundup were students who had participated in civil rights marches in the South. The congruence of experience was not lost on many. The California legislature had its own Un-American Activities Committee that had been active in witch-hunts throughout the 1950s and that was keeping a close eye on the growing unrest on the Berkeley campus. For a history of these activities and the students' role in them, see Heirich and Kaplan (1965) and Draper (1966).
10. Rule 17 had been implemented in response to complaints from farmers' and business groups around the state about support for radical union causes emanating from the Berkeley campus. Keep in mind that the president oversees the whole UC system. A chancellor runs each campus. Thus, speakers and other political activities on specific campuses had to be approved at the system level.
11. Lipset's analysis is remarkably similar to that of an earlier UC professor, Carleton Parker, who, as head of the California Commission of Immigra-

- tion and Housing in 1914, dismissed the radical action of the Industrial Workers of the World as an infantile, sexually deviant, psychosis. See Parker (1919) and Mitchell (1996a).
12. There are several chronologies of the FSM, most of which are now available at the impressive Free Speech Movement Archive: <http://www.fsm-a.org/>. These chronologies are often slightly inconsistent with one another. The following is pieced together from these accounts and from published chronologies and analyses such as Draper (1966); Editors of the *California Monthly* (1965); Lipset and Wolin (1965). I make no attempt to resolve minor discrepancies definitively, but rather have deferred to the general sense of when something actually happened. The letter from the dean of students was dated September 14, 1964, but was not received by student groups until September 16.
  13. All direct quotations in this section are taken from [http://www.fsm-a.org/stacks/chron\\_ca\\_monthly.html#September%2010](http://www.fsm-a.org/stacks/chron_ca_monthly.html#September%2010), which is an online version of Editors of the *California Monthly* (1965). As is often the case in questions of free speech, the line between "pure speech" and advocacy or incitement is a very thin one. As Dean Towle explained at one point during the controversy (October 28): "A speaker may say, for instance, that there is going to be a picket line at such-and-such a place, and it is a worthy cause and he hopes people will go. But, he cannot say, 'I'll meet you there and we'll picket.'"
    14. Sack (1986) has argued that "emptiable space" is crucial to the development of the modern city. By emptying space of conflicting and uncontrolled uses, control over the lives and activities of its (future) users can be asserted by its owners or other powerful institutions. See also Sibley (1995) and Cresswell (1996).
    15. As Annette Kolodny (1975, 4) notes, the creation of People's Park also symbolized "another version of what is probably America's oldest and most cherished fantasy: a daily reality of harmony between man and nature based on an experience of the land as essentially female." This is important, but I do not deal with these issues directly in this volume. Rather, I focus on how the park operated—and operates—as a political space, as a symbol of a "liberated" space in the heart of a capitalist city. That said, the issues of gender that Kolodny raises are crucial to this "political operation," as we will see in the next chapter.
    16. Of course, one of the park builders' main claims was that the land was not at all the university's. Park builders sought to drive home the point, among other ways, by tracing and publicizing Native American claims to the land, using Indian imagery on posters and leaflets.