



Interview with **Herbert Brownell, Jr.**

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New York, New York
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Note: These transcripts contain material that did not appear in the final program. Only text appearing in ***bold italics*** was used in the final version of *Eyes on the Prize*.

00:00:02:00

[camera roll 173]

[sound roll 1140]

[slate]

CAMERA CREW MEMBER: I HAVE FLAGS. SPEED.

[sync tone]

INTERVIEWER: OK. WE TALKED A LITTLE BIT ABOUT THE TILL TRIAL AND I'M INTERESTED IN HOW MUCH PUBLIC COMMUNICATION YOU HAD ABOUT THE KILLING OF EMMETT TILL IN THAT TRIAL AND WHAT YOU FELT YOU COULD DO ABOUT IT.

Brownell: The, Till trial had considerable publicity and when it came to our attention we asked the FBI, which was, in the Department of Justice of course, to make a, an investigation to see whether we, if there was any federal jurisdiction. Their report indicated that there was no, interstate aspect to it and it was a strictly a matter for the local law authorities to handle and we never could find any basis for the federal government intervening at the time that the, death occurred.

00:01:08:00

INTERVIEWER: IN A SENSE I'M WONDERING IF, IF, IF IT'S THAT THERE WAS NOT YET THE KIND OF LAWS, THE KIND OF STRUCTURE TO DO THAT. IN OTHER WORDS, THE POINT THAT I WAS WONDERING IS YOU HAD TO FIND SOMETHING INTERSTATE BECAUSE THERE WEREN'T THE KINDS OF LEGAL MECHANISMS THAT THE LATER LAWS, THE '64, '65—

Brownell: Oh, that's definitely the case. It's a little hard to think back and realize the paucity of the, of the laws as far as the federal government was concerned. All of those laws came later. And while that was an incident that aroused the public to the importance of having the federal government available to remedy or to intervene in a case like that at the time there was no vehicle which we could use legally to intervene in the case.

00:02:06:00

INTERVIEWER: DO YOU THINK THAT THE SAME THING WAS TRUE OF THE MONTGOMERY BUS BOYCOTT, WHICH HAPPENS JUST A LITTLE LATER THEN? AGAIN, NO—THERE WAS NO ROLE THAT THE FEDERAL GOVERNMENT COULD TAKE?

Brownell: Well, I think there again, we had a watch on the situation but the local authorities never asked for any help and in the absence of a, of a requests indicating that there was a real civil disturbance in the area there was no legal mechanism for us to get into the matter. And while there was a certain amount of publicity, so that it came to our attention through the media, not nearly as much as you might have expected. It was considered a pure, purely local demonstration to be handled by local authorities. And there was no statute although we later tried to get such a statute, but at that time there was no federal statute that would allow direct intervention unless the local authorities appealed to Washington for help on the ground that they themselves could not handle the situation.

00:03:20:00

INTERVIEWER: IT DIDN'T SEEM TO YOU THAT THE BOYCOTT IN ANY WAY WAS SIGNALLING A, A, A CHANGE IN BLACK ACTIVISM OR ANY CHANGE IT JUST SEEMED LOCAL TO YOU?

Brownell: At the time I think that's correct. In perspective I think it was very significant a development in that it showed that people wanted help and that there was this major problem that was not confined to Montgomery or any other cit-, one city. It became a burgeoning, movement that finally caught the attention of congress.

INTERVIEWER: I'M, I'M—CAN I ASK YOU IF I COULD ASK YOU THAT AGAIN, BECAUSE YOU DIDN'T INCORPORATE—YOU SAID THAT'S TRUE BUT YOU DIDN'T SAY WHAT WAS TRUE ABOUT IT.

Brownell: Oh, yeah, you, you caught me there.

INTERVIEWER: YEAH I'M SORRY. IT'S, IT'S NOT ALWAYS IMPORTANT, BUT I THINK THE THOUGHT IS IMPORTANT THAT AT THE TIME YOU...

Brownell: Yeah, of course it is.

INTERVIEWER: DID, DID IT SEEM TO YOU THAT, THAT THERE—NOT LOOKING BACK BUT AT THE TIME DID YOU SEE THIS AS A CHANGE IN BLACK ACTIVISM OR NOT?

Brownell: Well, the bus strike in Montgomery at the time appeared to everyone, the media, and to Congress, everybody else as being a local affair to be handled by the local enforcement authorities. There was at the time no recognition I think of the significance of it, it later became sort of a, an incident which turned the tide toward the necessity of having legislation which would give the federal government power to intervene in a case like that where there was mass deprivation of human rights and gross discrimination.

INTERVIEWER: STOP FOR A MOMENT.

[cut]

00:05:16:00

CAMERA CREW MEMBER: AT FLAGS. STICKS.

[sync tone]

INTERVIEWER: I'D LIKE YOU TO TALK A BIT ABOUT THE CHANGE IN THE SUPREME COURT BETWEEN THE FIRST AND SECOND ARGUMENT OF THE BROWN CASE. EXCUSE ME, I SAID THAT WRONG BEFORE. WHY PRESIDENT EISENHOWER SELECTED EARL WARREN AND WHAT EFFECT HE HAD ON THE DECISION.

Brownell: The, the change in the Supreme Court which occurred between the first argument of the Brown case and the final decisions was, was significant. The, after the argument of the, of the Brown case which occurred after Eisenhower was elected but before he was inaugurated, there came the dramatic death of Chief Justice Vincent, and so the president, Eisenhower, was unexpectedly faced with the choice of a new chief Justice. There were a, a number of faces that were presented but the, important one right from the beginning was Governor Earl Warren of California. President Eisenhower admired the way Warren had sort of carried on a non partisan administration of California. He was, well aware of his attitude on civil rights among other things. Warren as along with Governor Dewey in New York and Governor Stassen in Minnesota had been the leaders in the Republican party in favor of, what were then called the Fair Employment Commissions, with compulsory enforcement powers and they were considered liberals in the Republican party in taking the leadership in civil rights movement generally. He also thought that Warren as governor had commanded public attention throughout the nation. He had been a candidate for vice-president. He had

considerable experience with the law. He'd been attorney general of California and before that special prosecutor. And he admired his, his stand on law enforcement. So he felt that all of those qualifications made him the prime candidate and really he was the leading candidate from the beginning. And he took his position as Chief Justice, before the next argument on the—of the Brown case. So it was really quite a significant change in the leadership of the court.

00:08:27:00

INTERVIEWER: DO YOU THINK THAT, THAT THE COURT DECISION WOULD HAVE COME DOWN THAT WAY, WOULD HAVE COME DOWN IN FAVOR OF STRIKING DOWN THE PLESSY DECISION ANYWAY OR DO YOU THINK THAT IT WAS WARREN TURNED THE COURT.

Brownell: Well of course the court did not strike down Plessy in terms, in terms it, it avoided that subject and that caused a few enforcement problems afterward, but I think, most people feel that after the second argument in Brown, that the opinion on the court swung over care—toward the, toward the unanimity in favor of declaring that segregation in public schools was unconstitutional, and many people give Chief Justice Warren credit for attaining that unanimity on the court. I don't believe that enough, time has gone by, enough memoirs have been written and enough notes have been published to say with certainty when exactly when the last holdouts in the Supreme Court changed over and joined the majority. I think the majority was there under Chief Justice Vincent. I'm quite sure that there was not, no unanimity, at that time.

00:10:08:00

INTERVIEWER: THE COURT ASKED THE ADMINISTRATION TO COME—

CAMERA CREW MEMBER: YOU HAVE ONE MINUTE.

INTERVIEWER: TO COME IN ON THIS. EXCUSE ME. STOP ROLLING?

CAMERA CREW MEMBER: YOU HAVE ONE MINUTE ON, ON FILM, ON FILM.

INTERVIEWER: TO COME IN ON THE SECOND BROWN ARGUMENT. COULD YOU TELL US BRIEFLY ABOUT EISENHOWER'S REACTION TO THE COURT ORDER THERE?

Brownell: As I have said on other occasions, the court had already heard the first argument on the Brown cases. There were five other you remember that were never consolidated before the court, before Eisenhower was inaugurated. Very shortly after he was inaugurated, Chief Justice Vincent told me that he expected that the—

[cut]

[wild audio]

Brownell: —Eisenhower administration would have to take an, an official position.

INTERVIEWER: WE HAVE TO CHANGE.

[cut]

00:11:00:00

[slate]

[change to camera roll 174]

CAMERA CREW MEMBER: AT FLAGS.

[sync tone]

00:11:08:00

INTERVIEWER: COULD YOU TELL US ABOUT PRESIDENT EISENHOWER'S REACTION TO BEING ASKED TO DEVELOP AN ARGUMENT FOR THE COURT?

Brownell: The [coughs] Supreme Court after the first argument of the Brown case asked the Eisenhower administration to intervene in the case formally. Up to that time it had been, the parties were private parties. They were parents and school boards that were involved but the federal government was not a party to the case. So when Eisenhower first, learned that the case was going to be reargued and that the Supreme Court had asked us to intervene he asked quite properly why should the federal government get involved in this, it was a private case. And, we pointed out the fact, that the request from the court for the opinion of the Department of Justice the Attorney General on this was almost a command. And that the command was quite specific that we were asked five different questions on which the court wanted us to argue and to develop a brief and to develop a history of the fourteenth amendment and its effect on the segregation in the public schools. We therefore recommended to him that we should respond affirmatively to this request from the Supreme Court, and he accepted our recommendation on that. He said that we should answer all the factual questions which the court had asked us. Then the question came up as to whether we should express an opinion on the constitutionality of segregation in the public schools and there he said he was not prepared to have the federal government as such make such a statement. But I was authorized as Attorney General, if asked by the court to state my position as a lawyer on the, on the question. So when the court at the argument, asked the question we responded it was the opinion of the Attorney General that segregation in the public schools was unconstitutional.

00:13:44:00

INTERVIEWER: NOW WERE YOU SURPRISED BY THE DECISION OF MAY 17, 1954?

Brownell: That was the first Brown decision. We anticipated that it would come out that way. It was no surprise. The unanimity was a pleasant surprise.

00:13:59:00

INTERVIEW: WHAT DO, WHAT DO YOU THINK THE EFFECT OF THAT UNANIMITY WAS?

Brownell: I think it had an effect on public reaction to the opinion. You have to remember that the, it was a major change from the status quo. Supreme Court had decided in Plessy against Ferguson late—in the preceding century that it made it very clear that they did not consider that segregation in the public schools was, was unconstitutional. In fact they cited cases of segregated schools around the country and indicated that there was no power in the federal government to change that. And two generations at least had grown up under the belief or at least the—had followed the Supreme Court decision and a whole way of life had developed, especially in the South based on the Supreme Court decision and Plessy so it was a major change in the constitutional interpretation when the Brown decision was made. So to have it unanimous I think was very effective in rousing public support for the Brown decision.

INTERVIEWER: CAN WE DO A CHANGE IN THERE?

CAMERA CREW MEMBER: I JUST CHANGED. I JUST CHANGED.

00:15:28:00

INTERVIEWER: OK. LET ME ASK YOU, COULD YOU OUTLINE FOR US PRESIDENT EISENHOWER'S BASIC POSITION ON THE BROWN DECISION AND ON, ON WHAT, WHAT HIS ROLE WAS WITH REGARDS IT.

Brownell: I'd have to give a little background I think to make it understandable as to what President Eisenhower's attitude toward the Brown decision was. He came into office on a pledge to abolish discrimination in all forms in any area where the federal government was involved. For example, he abolished segregation in the District of Columbia. He abolished, completed the abolition of segregation in the armed forces. He ordered the interstate commerce commission to develop non seg-, a non-segregation policy in public interstate transportation. He established a commission to eliminate discrimination in federal contracts. So that he was very clear on that and very faithful to his campaign pledges. Put, and he put a black man, Frederick Morrow on the White House staff and established an office of civil rights in the White House. When the, so when the Brown case came down, it really transferred the problem of segregation in the public schools from a local matter the so called neighborhood schools which were governed by local school boards, to one that was partially under the jurisdiction of the federal government. Against that background he took the

position that it was his duty and he would enforce the supremacy of the federal government. And the question of discrimination and segregation in the public schools. He, however, held himself aloof from being an advocate or taking a part in, in day to day enforcement of the Brown decision. He did that basically because the second Brown decision left the primary enforcement job to the local school boards. President Eisenhower had asked the Supreme Court to establish a deadline, say sixty or ninety days, under which every school board in the country would have to file a plan of, for desegregation. That would have given the executive branch, that is the president, some, something to get a grip on whereby he could say you're in default you haven't started the desegregation process. The Supreme Court however rejected that argument which we made and let, had no deadline whatsoever. They substituted the doctrine of all deliberate speed which was from an enforcement standpoint almost impossible to get a, a grasp on. And so that they had to wait until some situation arose in the local courts which would justify a, a decision by the President that the Brown case was being flouted. That of course later arose in the Little Rock case where he took very decisive action to enforce the Brown decision.

00:19:16:00

INTERVIEWER: NOW—

Brownell: I might say too there if it's appropriate, that his policy had in, in the light of history, was a rather wise one because by, as a result of his policy he obtained the support of the moderates in the south. And when the Little Rock Crisis arose, he was supported by a committee of the southern governors who were called the moderates. Who, approved of his decision to make Little Rock the test case on the enforcement of the Brown decision so that that had a lot to be said for him as being a proper role of the President under the circumstances.

INTERVIEWER: CUT PLEASE.

[cut]

00:20:12:00

CAMERA CREW MEMBER: FLAGS. STICKS.

[sync tone]

INTERVIEWER: WHY WASN'T HE MORE VOCAL FOR HIS SUPPORT FOR THE DECISION?

Brownell: I think he felt, I think President Eisenhower felt that, that for him to be vocal in support of the Brown decision was, would be a mistake so far as getting affirmative response of the American people when the showdown came. It was obvious that there was going to be a showdown, because shortly after the Brown decision, a majority, I believe an overwhelming majority of the governors and the senators and the congressmen from the

south, the southern states, joined in what they called a southern manifesto which was to resist the Brown decision by all means short of violence. And that was an important segment of the American public and Eisenhower's position as President was that he had to work with that group in the American scene as well as those who were for, much more affirmatively supporting the, the Brown decision and that his job was not exactly to be a referee but was to keep in a position where he could work with both groups. And of course it turned out that that was an important element when the showdown came at Little Rock. And the southern governors of moderate persuasion—

[cut]

[wild audio]

Brownell: —sided with him as against Governor Faubus.

INTERVIEWER: STOP HERE? GOOD.

[cut]

00:22:05

[slate]

[change to camera roll 175]

CAMERA CREW MEMBER: AT FLAGS STICKS.

[sync tone]

INTERVIEWER: COULD YOU TALK ABOUT HIS FEELING OF BEING PRESIDENT OF ALL THE PEOPLE AND WHAT THAT, WHAT THAT MEANT IN TERMS OF ENFORCING SUPREME COURT DECISIONS—

CAMERA CREW MEMBER: I'M SORRY. CAN I CUT FOR JUST A SECOND?

[cut]

00:22:17

CAMERA CREW MEMBER: FLAGS. HIT IT.

[sync tone]

INTERVIEWER: AGAIN THE PRESIDENT'S POSITION AS—

Brownell: President's—*President Eisenhower's position* after the Brown—second Brown

decision which established the doctrine of all deliberate speed for the enforcement *was that* he should *he was the President of all the people*. People were almost violently divided on the, on the enforcement of the Brown decision. Great resistance to it still existed. *He felt that his role* as President of all the people *was to* stay in a position where, when the showdown came for enforcement as it did later at Little Rock, he would be able to talk to both sides and persuade them.

00:23:16:00

INTERVIEWER: NOW, GOING ON TO LITTLE ROCK, WHY WAS IT THAT PRESIDENT EISENHOWER WAS SO EAGER TO GIVE GOVERNOR FAUBUS EVERY OPPORTUNITY TO SOLVE IT HIMSELF? WAS IT FAUBUS' RECORD? WAS IT THE PRESIDENT'S HESITANCY? WHAT, WHAT WERE HIS REASONING?

Brownell: The President realized the significance of the Brown decision's being won, which was in its way as serious as the question of slavery before the Civil War and then it would be very easy to have flare ups which would be almost irreconcilable, and therefore he kept him in a pos-, himself in a position where he could *talk to the moderates throughout the country, including the Southern states*. *He felt that, and was, was told by many advisors, that Governor Faubus could be reasoned with and that a, an, an amicable solution could be found to the Little Rock crisis*. He therefore formed a committee of southern governors to talk to Governor Faubus and later led to a confrontation between Eisenhower and Faubus up at Newport, Rhode Island. Up to that time he was very much of the opinion that he could persuade Governor Faubus to an amicable settlement that would protect the federal rights that were involved, and protect the black children who wanted to go to the public high school there in Little Rock.

00:24:58:00

INTERVIEWER: COULD YOU TALK ABOUT THOSE DECIS—THOSE DISCUSSIONS IN RHODE ISLAND AND, AND WHAT YOU THOUGHT WAS THE, THE AGREEMENT AND WHY IT DIDN'T WORK?

Brownell: At the, at the conference of Newport between President Eisenhower and Governor Faubus, those—*the President thought, that he had persuaded Governor Faubus to go back and allow the black children to enter the high school peaceably. And, it was quite a surprise to him, he* considered it a, a, really a—I'm gonna have to do this over.

INTERVIEWER: SURE. WHY DON'T YOU JUST TRY IT AGAIN.

Brownell: I lost, lost the word that I wanted.

INTERVIEWER: LET'S STOP FOR A MOMENT.

[cut]

00:25:56:00

[sync tone]

INTERVIEWER: ROLL PLEASE.

Brownell: President Eisenhower *felt let down when Governor Faubus* went back to Arkansas and *decided against allowing the black children to enter the high school*. And the southern governors who had consulted with President Eisenhower to work out a peaceful solution, at Little Rock also felt let down and they supported President Eisenhower when he took the firm position, the only position that was left to him, and that was to send in the federal troops to enforce the orders of the Supreme Court in the Brown case.

00:26:41:00

INTERVIEWER: NOW, IN THIS TV ADDRESS A FEW WEEKS BEFORE GOVERNOR FAUBUS HAD CLAIMED THAT HE HAD TO PREVENT THE OPENING OF THE HIGH SCHOOL, BECAUSE THERE WAS GOING TO BE VIOLENCE. COULD YOU TALK ABOUT THE FBI EVIDENCE ON THAT POINT?

Brownell: The FBI was on the spot at Little Rock when the crisis occurred there and the black children were not allowed to enter the high school. They gave us hourly reports on what was happening. We felt that it was necessary for local officials to appeal to Washington for assistance before the federal government could send in troops. The mayor of Little Rock did appeal to Washington on the ground that the rioting and the threatened rioting there meant that local law enforcement authorities could not handle the situation. That gave the legal authority which under the Supreme Court cases we thought was necessary to have. And that's when the President acted swiftly and surely by sending the troops up the main street of Little Rock and arriving on the scene before anyone realized it. So that the crisis was solved peaceably without any deaths or any casualties.

00:28:08:00

INTERVIEWER: WHY WAS IT THAT HE CHOSE TO USE THE 101ST INSTEAD OF FEDERALIZING THE NATIONAL GUARD?

Brownell: He did both. He federalized the National Guard to be sure that they were directly under his command. And he selec—selected the 101st Airborne Division first because he had known them and their capabilities when he was commander in chief during the World War II and that they were close by and they could be transported quickly and efficiently and he took the position, which in the light of history turned out to be a very wise decision that if he was going to intervene which he did not want to do he did not want to get into the Little Rock situation unless it was necessary to prevent violence and to enforce the constitution. Then he would go in with sufficient force to prevent injuries and deaths, so that he said once you intervene, intervene with enough power so that you can do it quietly and efficiently and without casualties. And that's what occurred.

00:29:28:00

INTERVIEWER: AT THE TIME OF LITTLE ROCK FOR A WHILE IT SEEMED LIKE THIS VIOLENT RESISTANCE WAS GOING TO SPREAD—

Brownell: Yes.

INTERVIEWER: —AND THE FEDERAL SYSTEM WAS UNDER ATTACK COULD YOU FEEL THAT?

Brownell: Definitely, it was as close as you could get to irreconcilable difference between the north and the south. Been nothing like it since the Civil War and we felt that this was the test case that had to be made in order to dramatize to everyone that when it came to a showdown the federal government was supreme in this area. The constitution required, compliance with desegregated school orders of the, of the Brown case.

00:30:11:00

INTERVIEWER: AND THIS OF COURSE BRINGS US TO INTERPOSITION WHICH WAS THE OTHER SIDE. COULD YOU TELL ME WHAT THE LEGAL OPINION AT JUSTICE WAS OF THIS THEORY OF INTERPOSITION?

Brownell: The opinion of the Justice Department from the beginning was that segregation in the public schools was unconstitutional. That—because it was unconstitutional it, it was the role of the federal government to enforce desegregation and that the, the position taken by most of the political leaders in the south, the fact that they could interpose themselves between the public and the federal government was not valid. No more valid than it was at the time of the Civil War and that under the constitution the president has to enforce the constitution as interpreted by the Supreme Court, which is legally as simple as that, and when there was direct defiance of the federal role as there was in Little Rock by Governor Faubus and his people there it became incumbent on the—

00:31:42:00

[cut]

[wild audio]

Brownell: All right.

CAMERA CREW MEMBER: FLAGS.

INTERVIEWER: GET READY TO ASK MY QUESTION AGAIN. ROLL PLEASE. YES PLEASE.

[cut]

00:31:46:00

[cut]

[sync tone]

Brownell: After President Eisenhower met with Governor Faubus at Newport, Rhode Island, Governor Faubus went back and decided still to resist letting the black children into the public high school there. President Eisenhower then called me from Newport and said he was—had decided in view of Governor Faubus' position that the, that the federal government must intervene, and that he was coming back to Washington. He came back to Washington [coughs] and I had a meeting with him at the White House, just the two of us, to discuss how to implement his decisions that the federal government should intervene. And it was decided at that time that the appropriate unit enforcement unit would be the 101st Airborne Division, which he knew, which he had desegregated while he was commander in chief of the United States Armed Forces and which could be moved quickly into the immediate area outside of Little Rock, and with enough force—

00:33:06:00

[cut]

[wild audio]

Brownell: —to prevent casualties.

INTERVIEWER: OK, THANK YOU.

[slate]

[change to camera roll 176]

CAMERA CREW MEMBER: ROLLING. FLAGS. STICKS.

INTERVIEWER: SO I WANTED YOU TO TELL US ABOUT THE JUSTICE DEPARTMENT'S STUDY OF— AND THE TWO CONDITIONS NECESSARY.

Brownell: Well, after the second Brown decision the question came up as what the proper roll of the federal government was going to be in the enforcement, although the primary enforcement was left to the federal courts. Therefore the justice department undertook and made a study of the—to find out what the precedence in this regard had been as to when and how the federal government could intervene when there was a dispute with local authorities over the enforcement of a court decision. We found out there was, there were two things that were necessary for the federal government to intervene and to have its action upheld by the

Supreme Court. One was that the local authorities must ask for, for help and the other was that there should be, widespread rioting or imminence of widespread rioting. Those two things had to coincide. There had been—then there were sporadic eruptions around the country before Little Rock. A number of cases where both of these conditions were not met. Little Rock in our opinion was the first place where the conditions were fully met and it made a good test case to prove that the federal government was supreme in this area. And of course the Little Rock case went up to the Supreme Court and the Supreme Court upheld the opinion of the Justice Department.

INTERVIEWER: DO YOU—STOP FOR A MOMENT. I—

[cut]

00:35:09:00

CAMERA CREW MEMBER: STICKS. FLAGS.

[sync tone]

Brownell: The—after, after the Brown decision we asked the FBI to run a continuing study as to what the local conditions were in various trouble spots. And to find out whether there was any organized resistance which would lead to real trouble. And the FBI made such a study and they found that in several spots there were local groups which were actually organizing opposition to compliance with the Brown decision. This was completed by the time of Little Rock. As a matter of fact there was another case in Arkansas, Hoxie, Arkansas, which was in the courts just before the Little Rock case and we presented that evidence to the Judge in the case when he asked us to appear as a friend of the court in deciding the constitutional question of whether the Brown decision flatly prohibited segregation in the public schools. At Little Rock we had the benefit of the special FBI surveillance team there throughout the days leading up to the crisis. And the substance of our information was given to Governor Faubus although not publicized at the time so that he was aware of the fact that the federal government had the power to intervene if the local authorities requested it and if there was actual violence.

00:37:11:00

INTERVIEWER: DID YOU, DID YOU ASK—THERE'S SOME QUESTION ABOUT THIS—DID YOU ASK MAYOR MANN TO, TO WRITE TO YOU AND—OR DID—OR WAS THAT SPONTANEOUS?

Brownell: That was spontaneous. I didn't even know his name when we received the telegram from him. I think the telegram went to the President and was referred to the Attorney General and I think I heard his name and recognized it only at that time. I had had no communication with him before then I imagine that the FBI and the local US Attorney's office had dealt with him—

INTERVIEWER: STOP PLEASE.

[cut]

00:37:55:00

[sync tone]

INTERVIEWER: WOULD YOU SAY THAT THERE WERE COSTS POLITICALLY TO THE PRESIDENT OR EMOTIONAL COSTS IN TERMS OF THE NATION'S HEALTH AS A RESULT OF THIS?

Brownell: President Eisenhower was very loathe to intervene in the, in the Little Rock situation. He wanted so much to have the Brown decision enforced without confrontation wherever possible, that it was really a great struggle in his mind before he reached a decision that he had to intervene, in order to carry out his constitutional duty to enforce the Supreme Court's decision.

[cut]

[wild audio]

CAMERA CREW MEMBER: I'M SORRY

INTERVIEWER: I'M SORRY WE ARE GOING TO HAVE TO STOP.

[cut]

00:38:41:00

[slate]

[change to camera roll 177]

CAMERA CREW MEMBER: AND STICK PLEASE. FLAGS.

[sync tone]

INTERVIEWER: YOU WERE TALKING ABOUT ANY SENSE OF POLITICAL COSTS WHAT, WHAT THOSE WERE.

Brownell: President Eisenhower was well aware [coughs] of the political costs of intervening in the Little Rock situation or not intervening. There were costs involved in either course. He knew, for one thing, that the leadership in the Congress both the Senate and the House would be antagonized if he decided to, send troops into Little Rock. That of course was important to him because he had worked fairly closely with the leaders in both houses, which were

southern oriented. So that that was an immediate political cost to him if he went into Little Rock. He knew that not going into Little Rock would mean that he would be charged and rightfully charged with not enforcing the Supreme Court decision in the Brown case or upholding the constitution which was his duty as President. So that the imbalance he never had any hesitation once the crisis developed in supporting the constitution.

00:40:13:00

INTERVIEWER: WHAT DO YOU THINK THAT HE LEARNED FROM LITTLE ROCK? DO YOU THINK THERE WERE LESSONS THAT HE TOOK?

Brownell: [pause] I think that he realized more and more the importance of desegregating the public schools to the general welfare of the United States and that Little Rock was a dramatization of the fact that if you continued with segregation that there would always be a split in this country that was unhealthy.

00:40:57:00

INTERVIEWER: LET ME ASK YOU ABOUT THE 1957 CIVIL RIGHTS BILL. COULD YOU, COULD YOU TALK ABOUT IT IN TERMS OF LINKING IT TO THE PRESIDENT'S RESPONSE TO BROWN AND WHAT YOU FELT IT WAS AS AN ACHIEVEMENT.

Brownell: One of the, one of the, you might say, the fallout from the Brown decision was the gradual realization on the part of President Eisenhower and those around him of the lack of federal power to intervene in cases such as Little Rock. He—the only instrument that the federal government had was a two man civil rights unit in the Department of Justice with an appropriation which amounted to two salaries. There was no instrument under which the federal government could effectively act. Therefore at his direction we developed the Civil Rights Act of 1957 and when it became law it was the first civil rights act of Congress since the Reconstruction days following the Civil War. It provided that the, that there should be a new civil rights division in the Department of Justice, headed by an Assistant Attorney General and appropriate, an appropriation large enough to really command attention on the part of, of the public generally. It provided for the establishment of a Civil Rights Commission which would recommend additional measures from time to time for the enforcement of the Brown decision and enforcement of all other civil rights. It provided basically for voting rights—blacks throughout the country. And it contained another provision which was later stricken out by the Senate that any time there was a violation of civil rights that the Attorney General should have the authority to move in and represent the Federal Government in curing that violation. I, I say that was stricken out by the Senate, but the rest of the bill became law and it was an important development. Because it—for the first time since the Civil War since the Plessy case anyway, interpreting the Civil War legislation, the federal government had a direct role which was supported by Congress in the civil rights picture.

00:43:55:00

INTERVIEWER: I THINK YOU SAID TO ME AND, I WONDER IF YOU WOULD, IF YOU WOULD, WOULD TALK ABOUT THIS, THAT WHAT THE, WHAT THIS ACT DID WAS IT MADE ALL THREE BRANCHES OF THE GOVERNMENT FINALLY WORK TOWARDS CIVIL RIGHTS, THAT, THAT IT, IT, IT WAS EFFECTIVE IN ALL THREE BRANCHES. COULD YOU TALK TO THAT?

Brownell: The federal government was impotent really when you come right down to it, at the time Eisenhower came into office, of having a direct role in the enforcement of civil rights by the Federal Government. The court, the Supreme Court that let the judicial branch of the government change that when the it came down with the Brown decision and for all practical purposes nullified the old Plessy rule. The Congress changed by reason of the fight over the Civil Rights Act of 1957. Up to that time it had been routine that civil rights laws would pass the House of Representatives and go to the Senate and be referred to the Judiciary Committee and then filibustered to death. Well, there had been no legislation since the Reconstruction days. We in our time there were able to forge a coalition in the Senate between the Republican leadership and the moderate Democrats. So that instead of having the bill go to the Judiciary Committee when it came over from the House it went directly to the floor of the Senate and eliminated that bottleneck and the rules were effectively changed from that time on. So that there was a method of abolishing the filibuster and getting a direct vote on civil rights legislation. So that meant that the, for all practical purpose, the legislative branch of the government was on board and had a, a method by which it could bring changes about in the civil rights laws. And the executive changed when—under Eisenhower from the passive role to the direct role as exemplified by Little Rock and by its advocacy of the Civil Rights Act of 1957—

INTERVIEWER: LET'S STOP FOR A MOMENT.

[cut]

00:46:26:00

CAMERA CREW MEMBER: FLAGS.

[sync tone]

Brownell: During the Eisenhower administrations and leading up to President Kennedy's election the role of the federal government in civil rights changed completely. The Supreme Court of course had handed down the Brown decision and eliminated the old Plessy doctrine. The Congress had passed the Civil Rights Act of 1957 and, and done away with the southern filibuster and the executive had changed to one of direct action by reason of the President's action at Little Rock.

INTERVIEWER: GOOD. THAT WAS VERY QUICK.

[cut]

00:47:15:00

INTERVIEWER: WHAT IF THE FEDERAL SYSTEM—

CAMERA CREW MEMBER: FLAGS.

[sync tone]

INTERVIEWER: —WOULD THAT HAVE BEEN THE FAILURE OF THE FEDERAL SYSTEM?

Brownell: Of the, if the federal government under President Eisenhower had not intervened at Little Rock I think it would have been a clear signal to the opponents of the Brown decision especially in the Southern states that all bets were off and they could go on just as they had gone on up to the Brown decision. I think they would have felt that they could—that there was not going to be any enforcement of the Brown decision. That they could go ahead with segregated public schools. I say that because the decision of President Eisenhower to intervene in Little Rock was supported by the moderate southern governors. Even the moderates in, in Arkansas. And that they would have felt abandoned and let down if he had failed to act and would have been, it would have been then very obvious that in order to be a governor of a Southern state you had to oppose desegregation.

00:48:44:00

INTERVIEWER: DO YOU THINK THE PRESIDENT FELT ANY REGRETS ABOUT ANY PART OF HIS ACTION? THAT HE WAS—DID YOU FEEL ANY REGRETS?

Brownell: I never felt any regrets over our decision to intervene in Little Rock or to support the first civil rights act since the Civil War or to support the Brown decision. I think it was clearly in the best long run interests of the United States. It was—it established our credibility abroad in an important way and at, at home in a way with conflict between blacks and the whites in many, many communities and supported those people who not only believed in a, in a—

00:49:35:00

[cut]

[wild audio]

Brownell: —good public education for all people but specifically believed that it could not be accomplished for many people unless you had integrated schools.

00:49:48:00

[cut]

[end of interview]

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