

Interview with **Judge Robert Carter**

November 5, 1985

Production Team: A

Camera Rolls: 159-164

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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 159]

[sound roll 1130]

CAMERA CREW MEMBER: EYE ON THE PRIZE. WITH—INTERVIEWING JUDGE CARTER.

[cut]

CAMERA CREW MEMBER 1: SPEED. SOUND FIFTY-FOUR.

[sync tone]

CAMERA CREW MEMBER 2: HE DIDN'T GET IT.

[sync tone]

CAMERA CREW MEMBER 1: SECOND STICKS. THANK YOU.

INTERVIEWER: GIVE US A DESCRIPTION, A SORT OF WORD PICTURE OF LIFE IN THE SOUTH BEFORE BROWN IN THE EARLY '50s. YOU WERE TRAVELING—YOU'RE SOUTHERN-BORN YOURSELF AND—LIFE FOR BLACKS IN THE SOUTH AT THIS TIME?

Carter: Well, before Brown the South was, was segregated. It was accepted that—by both, by

both sides North and South that segregation was a way of life and there were departures from it. Some blacks went over the line but if you were in the South, I gather, you knew exactly where, where the line was. It became—it was difficult for someone from the North who was a Black to go South because you weren't used to the patterns and so you would cross, cross the line and if, if one did there would be there was likely to be a great deal of trouble about it. It wasn't you know the lynching and so forth that went on but life in general was a way in which people knew where their, where they were going where their place was. Blacks knew this; they didn't like it but they did, and it, it didn't appear to me when I was going South that there the vehemence of racism. Overt racism which I encountered immediately after Brown. There seemed to be less of it and that was because the white, the white in general didn't expect any, didn't expect any, didn't expect things to change.

00:02:08:00

INTERVIEWER: DO YOU REMEMBER ANY PARTICULAR STORIES OF THE, OF THE TRAVELLING AS YOU WERE, AS YOU WERE DOING THE BROWN CASES IN THE LOWER COURTS?

Carter: Well, I, we didn't have, I didn't have any while I was in Court I really didn't have any, any particular problem. I, I think the—I wasn't doing Brown but the only memorable, well there were a couple of memorable things as a matter of fact, but they didn't occur during Brown. One was I, I my first case in Mississippi and I went down to Mississippi with Judge Martley. It was her—the first Black woman to appear in, in the courts in, in Mississippi and we were in the Federal Court and we were putting these it was a school teacher salary case and we were putting these people on the stand and asking them questions and the Courtroom was full of blacks and so forth. And, the at one time I recall that the superintendent wanted to ask me a question I said, no this is this is this is my, this is my ballgame not yours. I ask the questions and you answer it. And the Judge of course had to, had to say that was correct. Afterwards all over town in the barbershops and so forth there were reenacting Connie Motley and me questioning these folks. That I recall but that wasn't that wasn't during Brown. I don't recall anything being particularly you know, you know on the, on the what, I think what I think you might be interested in. I don't believe that I have anything memorable during Brown.

00:03:48:00

INTERVIEWER: NO, I, ACTUALLY IT DOESN'T HAVE TO BE BROWN. I WAS JUST MERELY TRYING TO GET A SENSE OF, OF THOSE KINDS OF STORIES AS YOU WERE JUST TELLING THAT, THAT GIVE A SENSE OF THE SOUTH THAT PEOPLE WHO DON'T UNDER—

Carter: Well in another instance I was South in a case before a three judge court and I was arguing a case that with the attorney gen—I think it was in Tennessee and the attorney general and stuff that was arguing law to the, to the judge, three judge court, and the judge when I got up I said that's not true that's not what the law means and the, the attorney general got up and said, are you calling me a liar? And the judge said, asked me to apologize. I said

you've lost your mind. I'm not apologizing. I'm not—I didn't tell the man he was a liar. I disagree with him on the law. I have a right to do that. And that was, that was a big story, I was shocked at that though, at the reaction of the judge but, but that's how things are—or were I should say.

INTERVIEWER: LET'S STOP FOR A LITTLE JUST MAKE—

00:04:48:00

[cut]

[wild audio]

CAMERA CREW MEMBER: ROLL STOP PLEASE.

00:04:49:00

[cut]

[sync tone]

INTERVIEWER: I'M GOING TO ASK YOU TO TALK ABOUT SOME OF THE WAYS IN WHICH THE COUNTRY HAD CHANGED IN THIS PERIOD SINCE WORLD WAR II COMING INTO THE 1950S AND MAYBE SOME OF THE KINDS OF FACTORS THAT WERE CREATING A DIFFERENT CLIMATE FOR CIVIL RIGHTS. THE RETURNING BLACK VETS, ANYTHING TO DO WITH THE ECONOMIC SITUATION. I DON'T KNOW WHAT OTHER FACTORS YOU MIGHT MEAN.

Carter: Well, before—after World War II there were, there were a great many factors that, that occurred that brought about impatience. One was the war. We were fighting a war to end racism against Nazi Germany. Second was the entry of Japan into the war which eliminated the myth of white supremacy and then it was the presence of, of blacks in the, in the army and when I went in the army was segregated. And the, the segregation was eliminated shortly afterwards. I think it was after my service in the army I'm not—time, time has coalesced so I'm not sure but we started out segregated with the, with the blacks not being officers and so forth in the army and as a matter of fact the group I was with from New Jersey went to a place in Ala—in Georgia and about one, one third of the people had—of the men had a high school col—I mean had college degrees some of which had had graduate degrees. I had a masters in law at the time and about half of them at least half had high school degrees and we went down to this place and the first thing that the sergeant—I'm sorry it was a black sergeant who was an old army officer there, and the captain of the group met us and the first thing he said, he said you know I don't believe in niggers being educated and don't think that don't think that because you have a little education that you're going to get away with any anything here. So for a while all we did was to—we didn't do anything really to help all we were doing were cleaning brush and so forth around and there was no use of the intelligence and skills of these people. Then the opportunity came to, to they opened up the officers

candidate school. All of this—these kinds of things I think created a restlessness on the part of, of all of us, that we were not going to take—

[cut]

00:08:05:00

CAMERA CREW MEMBER: THANK YOU.

[sync tone]

CAMERA CREW MEMBER: THANK YOU.

INTERVIEWER: AND YOU WERE SAYING.

Carter: The—it created, I think, a sense of restlessness that we weren't really going to take the business of, of, of being pushed around, discriminated against without, without a fight and that, that was the problem. Even in, in before the war even in places like I, I, I lived and grew up in New Jersey in East Orange, New Jersey. Very nice suburb and com—community, better than New York bedroom, but they had a, a swimming, one of the best swimming teams in the country and all of the people that went there, all of the whites that went to school at the time had to swim and had to learn how to and pass various tests but when at gym class when the time for the whites to go to the swimming pool the blacks were not allowed to go—we were only allowed to go in the swimming pool on Friday after school. And then they would wash the-water out for the, for the, for Monday. The Supreme Court of—in Trenton ruled that in a case that blacks could not be excluded from school facilities. So I read that in a paper and the next day in school when the, the whistle blew for all to go down I went down there and of course I created a sensation and so forth. And I, I insisted on, on being a part of that until the end of the term I graduated. They closed the pool down afterwards and just gave up the whole business of this excellent swimming team and the effort on that basis but this was a part of the feeling in the country. And I think that as it was going on we were talking about democracy and, and how, how much equality was here, here and so forth but at the same time blacks were being asked to accept the subservient position and so it, it was very hypocritical then, then the Myrdal Study, came along the American Dilemma, all of which helped the intellectual fulcrum on this whole question. So this was what was building I, I think before—

00:10:59:00

[cut]

[wild audio]

Carter: —from the war in, into Brown.

INTERVIEWER: STOP FOR A MOMENT. CHANGE HERE.

00:11:06:00

[cut]

[slate]

[change to camera roll 161]

CAMERA CREW MEMBER: ROLL SOUND PLEASE.

[sync tone]

CAMERA CREW MEMBER: SEVEN.

INTERVIEWER: ARE WE READY?

Carter: The build-up or the development of Brown started in the '30s. Charlie Houston who was the chief counsel at the time for the NAACP had the idea that the way to end segregation was to require all the Southern states to duplicate all the schools. In other words, grad—the graduate schools, law, medicine, journalism and everything. There were all these segregated schools were in the South but there were no graduate schools and what was happening was that the South would pay part of the tuition for blacks to go outside the state. And what he did was the first case that the NAACP brought was a case in Missouri called, I guess it doesn't matter what the name of the case was, but it was in Missouri and it was against the law school. A black had applied to the University of Missouri Law School and was turned down. And the case was brought and it went to the Supreme Court of the United States and it reached there about 1937 I think and the Court ruled that the blacks could not be excluded from the University of Law, Law School unless the facilities provided for them were equal. The University of Missouri had no, no separate law school. And then from there, there was a case in there was a, a period the war intervened and then then next Thurgood Marshall came had come on and they were involved in voting and the Texas primaries and then the school came up again after the war. I think right after the war I came on the staff. And the next case was one in a law school case in Oklahoma and a woman applied her name was Lois Sipewell, I believe, and she applied to go to the University of Oklahoma Law School and they turned her down and the Supreme Court—that went to the Supreme Court—the Supreme Court held that, that was discriminatory she had to be admitted on the same basis as everyone else. The next case was in 19—in the 1950's I think. It was McLauren versus the Board of Regents another Oklahoma case. First case that I argued in the Supreme Court and in that case the—McLauren was admitted to the Graduate School; he had the same teachers, same books, and so forth, but he was required to sit in the classroom in a special seat, special table in the library, special table in the cafeteria and the Court held that he was denied equal educational opportunities because of this, this kind of separation. We said on that point that at this point that they can't with that decision they have to hold that Brown is—they have to hold that segregation in the public schools are unequal. I should add that before that in the same time that McLauren was decided the case was decided in Texas in which the black had applied to

the University of Texas and the, the Supreme Court set a standard in that case that it wasn't the physical facilities it was the intangibles that were, that were required to, to be equalized and under those circumstances they held that the—Texas had a separate school, law school. But they held on the basis of the intangibles that there was no, no equality. So we thought that those two decisions—I think they were decided in 1950-laid the groundwork for, for Brown. And that's when we, we decided to launch an attack on public school—public school segregation.

00:15:35:00

INTERVIEWER: IT WAS A WHOLE, IN OTHER WORDS IT WAS A, A STRATEGY THAT YOU WERE TALKING ABOUT FOR TWENTY YEARS THAT WAS, THAT WAS GRADUALLY WORKING WITH, WAS IT TARGETED ALWAYS TOWARDS THE SUPREME COURT?

Carter: Yes. Oh yes. It was targeted, it was—I have to go again. It was targeted al—always targeted towards the Supreme Court because the point was to get a definitive decision on the constitutional law on the meaning of the equal protection clause of the Fourteenth Amendment and the due process clause of the Fifth. And so it was—all of our cases were designed to go to the Supreme Court. And when I left the, aside, when I left the NAACP and went to private law firm the difference was really amusing because I'd get a case and I'm ready to get it ready for the Supreme Court and these commercial cases, of course, what you want to do is have them settled, you don't want to have, have a judge decide what, what they are if it's possible so you know that's the one thing you don't want to do, and you know that's the difference. We had, we were preparing every case we, we took was its, its destination was the Supreme, was the Supreme Court of the, of the United States.

00:17:00:00

INTERVIEWER: NOW WHY WOULD EDUCATION RATHER THAN PUBLIC FACILITIES? WAS IT EDUCATION BECAUSE IT WAS AN EMOTIONAL ISSUE? BECAUSE—

Carter: No it wasn't. No it was it wasn't just we, we went on on public facilities. We brought cases before the Interstate Commerce Commission about, about segregation on, on trains, interstate transportation. We brought a case to the Supreme Court involving segregation of buses, Morgan versus Virginia, application of, of, of segreg—of the Southern state laws to interstate commerce. I don't remember actually any case on hotels and things like that I don't recall that. But, it was, was really a broadside attack. The—we, we had started in the, in, in schools, and we were kind of concentrated on law because we thought that the judges would better understand what, what we were trying to, to show in, in a law school. But, our attack really was, was broadside.

00:18:20:00

INTERVIEWER: NOW COMING TO THE BROWN CASE. WHY TOPEKA, KANSAS?

WAS IT A PARTICULARLY BAD SYSTEM?

Carter: Well, no. Chance.

INTERVIEWER: SORRY, CAN I ASK YOU TO—

Carter: Topeka, Kansas and Clarendon County and all, all of the places we took broad cases were, were purely by chance. We had chapters, branches, in var—various parts of the country. In 1950, we announced to our membership that we were going to take the ca—the cases now making a direct assault on segregation. And [coughs] what we took were—when the various branches had said we want you to bring a case here and so forth that's what we did. So we went to Clarendon County first and then Topeka, Kansas was our sec—it was the second case and then there was a case in Wilmington, Delaware and there was a case in Virginia. All of this came about by virtue and then the two cases in Washington. By virtue of the fact that we had active branches in that area and they were able to get the people interested in bringing a case. We did—people think that we did this as sort of a scientific analysis that wasn't true.

INTERVIEWER: STOP FOR A MOMENT.

[cut]

00:20:04:00

CAMERA CREW MEMBER: THIRTY-EIGHT.

[sync tone]

Carter: When we decided to, to make an, an, an attack on the segregation per se we—I, I think at least some of the people on our staff and some of us decided that we, we weren't going to put all our eggs in one basket. And what we did was to make the attack on segregation per se that you couldn't possibly be equal u—utilizing the Supreme Court's analysis about the intangibles that it were necessary for equality. Using Charles Sumner's argument about—against segregation in the Boston public schools which he argued just after the Civil War indicating that there, there couldn't be any equa—equality in a segregated society. And at the same time we argued that the separate schools were not providing equal educational opportunities in terms of various of the, of the defects that they had. We utilized that argument all the way when we went to the Supreme Court when all those cases. We abandoned the physical equality business. We took the case to the Supreme Court on the thesis that the physical facilities were equal. And said nonetheless there is unequal education. And that's how the, the, the whole argument developed. But it was a, it was an argument, it was a strategy some of us felt that we should abandon it so we wouldn't get caught in this. And others more cautious felt that we had to carry the two, the two arguments just in the event we lost one we would, we would win the other.

00:22:04:00

[cut]

[wild audio]

INTERVIEWER: NOW IN THE BRIGGS CASE, I'M SORRY DO YOU NEED TO CHANGE? IN THE BRIGGS CASE THERE IS AN ADDITIONAL PIECE OF EVIDENCE THIS IS THE KENNETH CLARK EVIDENCE AND I WONDER IF YOU COULD TALK A LITTLE BIT ABOUT WHY YOU ASKED—WHY HE WAS ASKED TO GIVE EVIDENCE—

Carter: OK.

INTERVIEWER: —AND THE KIND OF CONTROVERSY, WHY HE WAS SUCH A SUPPORTER OF IT. [pause] SLATE PLEASE.

00:22:34:00

[cut]

CAMERA CREW MEMBER: SOUND THIRTY-NINE.

[sync tone]

Carter: When we finished with, Brown—not I'm sorry with—

INTERVIEWER: START AGAIN.

Carter: When we finished with the, the case in one of the Supreme Court victories in 1950 with the Oklahoma case McLauren versus the University of Oklahoma, and Swett versus the University of Texas, which was the law school case, we decided the time had come to attack the public school segregation. The problem was that in the graduate school and in the law school, we had an advantage in showing the teachers, the, the quality of, the teachers the what, what one could do, the, the, the offerings that were available and so forth and the prestige of the school. When we went to the public school, we had, that advantage was lost. And we were looking around for ways to find, to convince the Court that these schools were unequal and I had read a study and I'm sorry I think his name is Oppenheimer, but I can't recall his name, by a psychologist who had made a study of blacks coming into Philadelphia and his—the import of this study was the longer they were there, the higher their educational—the high—higher they, they scored educationally. And that led me to think that maybe we could use this kind of psychological evidence. And I went to him and he said no, he didn't think he would be interested but he pointed me to Kenneth Clark. And Kenneth and his wife had done a study of, of the impact of race on children with—by the use of dolls—and a white doll and a black doll—[coughs] the which, which is the most beautiful, the best and so forth. The black child would always choose the white doll. And so I asked him would he be helpful and he said yes; he got very interested in it and, and became our advisor.



Testified in several cases as his wife did, tested some children in, in Clarendon County and also got us a number of other people in the psychologists and psychiatrists, sociologists who committed themselves to the principle that segregation was an evil and so forth. So that's how that came about.

00:25:44:00

INTERVIEWER: THERE WAS A CONTROVERSY ABOUT USING IT, WAS THERE SOME FEAR—

Carter: Well, well the there wasn't so much a contro—there was a controversy about using it but it was among the arrogance of lawyers who felt that social science was not a hard science. It was soft and that all of this was just opinion and so forth. So I had a great deal of difficulty with the lawyers who were sort of dismissing all this, this psychological and sociological information as being worthless and fortunately Thurgood was the boss so Thurgood stood, stood with us and we kept Kenneth in. But that's that's, that's how it happened there was it—lawyers, a number of the lawyers didn't feel that this was worthwhile—they, they looked down on the social science as a science.

INTERVIEWER: COULD YOU TALK ABOUT THURGOOD MARSHALL A LITTLE BIT AT THIS TIME? AS YOUR BOSS? WHAT WAS HE LIKE TO WORK FOR, WAS HE—

Carter: He was very, he was very, you know, he was very easy going and, and very supportive. He what he did was to have a lot of us around him and—

[sound roll out]

[cut]

00:27:33:00

[slate]

[change to sound roll 1133]

CAMERA CREW MEMBER 1: ROLLING?

CAMERA CREW MEMBER 2: YES.

CAMERA CREW MEMBER 1: SOUND.

[sync tone]

Carter: He—

INTERVIEWER: YOU WERE DESCRIBING THURGOOD—MAYBE YOU COULD START WITH HIS NAME.

Carter: Well, Thurgood Marshall was, very good to work, work with, and he was very supportive. He's easy, happy go-lucky, easy going person. And, I was his sort of chief of staff and what he allowed me to do was to argue—go in left field and argue these things and against people with the other lawyers around who, on our committee, who might not agree and, and invariably he'd choose to go in the, in the more radical direction. So that, that's how it happened. I think what he was doing was getting these opinions and forcing those of us who wanted to attack segregation head on or do various other things to defend ourselves against the more conservative people who were supporting us and well from my point of view conservative, I dunno. And then he'd make the choice and then—it was very, very good to work with him. And he would protect, he protected us from all the politics in the organization. And we were free to, to—I was free and the rest of us were free to present any kind of, of idea that we wanted as long as it, we thought it made sense if it didn't make sense he'd, he'd laugh you out of it, but you could you, you were really free to present it, no fear about that. And, the, you were fully protected from, from any, repercussions from any of the ideas that you brought forward or operate. It was very good working for him.

00:29:36:00

INTERVIEWER: NOW, COULD YOU TALK ABOUT AT WHAT POINT YOU BEGAN TO THINK THIS MIGHT ACTUALLY BE IT, YOU MIGHT BE WINNING FINALLY. WAS IT AFTER THE FIRST ARGUMENT? AFTER THE CHANGE IN CHIEF JUSTICES? AFTER THE SECOND ARGUMENT, EVER?

Carter: Oh, I thought, quite frankly, I—there wasn't any question in my mind, I don't think in Thurgood's mind, that we had to win. Couldn't possibly lose that case. We'd just come out of a war and we were fighting for democracy. We were, we were involved in foreign policy and attacking societies that were, that were keeping people deprived. We were fighting totalitarianism and so forth. And it seemed to me or almost to all of us that we couldn't lose. The issue was how big was, was the victory going to be. Was it going to be a narrow one or a big one? And that's how we, that's how we all looked at it.

00:30:43:00

INTERVIEWER: WERE YOU SURPRISED WHEN YOU WON THE BIG VICTORY? THE UNANIMOUS DECISION?

Carter: I, I don't think surprised. I think ex—exhilarated I suppose is a better—is the term. Because I, I think we were, we felt, we felt actually that we had won the war but we hadn't, unfortunately. But our view was that if we'd won that decision on—about segregation that we had licked the race problem. What we didn't realize then that the real race problem is, is not, is not in segregation itself that segregation was a symptom of it, now what the real problem was white supremacy. And that until that was eliminated you weren't going to have

this equality. But we didn't realize that in 1954. We thought that by doing this everything would be, would be over. We had been advised as a matter of fact to obey the law. I remember I was in the army and I used to have hard times with my superiors because I was really against the segregation and they would tell me well you have to obey the law and so you, you did. But when it, the shoe went to the other, other side and there was a law that said segregation was, was unconstitutional you had a great deal of difficulty with the white in accepting that and the obligations to obey the law. That, that was a, that was a disappointment.

00:32:30:00

INTERVIEWER: DID YOU GO OUT AND—THIS IS A QUESTION. DID YOU GUYS GO OUT AND CELEBRATE? DID YOU GO OUT DRINKING? DID YOU MAKE MASSIVE SPEECHES TO EACH OTHER?

Carter: There was a celebration. All of the lawyers involved in the case but, but myself were in Washington when the case came down. Thurgood was there, Boist [sic] and Wash—the Washington staff and several other people all were in the Supreme Court. I was in New York. So I didn't get my picture, picture taken with, with all the other lawyers. But he called us. Thurgood called us and came back to New York and we had a celebration at, at our headquarters. Quite a big one, we called everybody in and we had quite a time.

00:33:20:00

INTERVIEWER: WHAT EFFECT DO YOU THINK THAT THE, THE DECISION HAD ON THE BLACK COMMUNITY PSYCHOLOGICALLY? I MEAN YOU WERE TALKING ABOUT RESISTANCE. WHAT DO YOU THINK THE IMPACT WAS?

Carter: [pause] Well, I think the, the impact on the black community—

00:33:40:00

[cut]

[wild audio]

Carter: —was tremendous. I—

CAMERA CREW MEMBER: WE'RE SLATE—HOLD UP. HIT IT AND HOLD UP.

00:33:53:00

[cut]

[sync tone]

CAMERA CREW MEMBER: CAMERA ROLL 163. OK.

Carter: The impact on, on the black community was very profound, it—not in terms of schools. Because actually I think the, the statistics show that there are probably more segregated—more blacks attending segregated schools, all black schools or nearly all black schools today than in 1954. That's because of the migration of blacks to the urban centers where there's concentration and segregated housing and the schools follow those patterns. But what the Brown's legacy I think is that it, it transformed blacks from being accepting and subservient to being aggressive, demanding, militant. You, if you're told that you have a right to, to equal justice and that you have a right to come into this courthouse and that's your basic right that you're not coming in here by, by virtue of the, the goodwill of somebody else and they try to keep you out you're going to fight. And so blacks began to demand their rights in the, in the justice and justice and that's why you found that this whole transformation from a—the image from a sort of a docile, accepting group to a fiercely demanding group insisting on their rights. That's not gonna change.

INTERVIEWER: STOP FOR A MOMENT.

[cut]

00:35:40:00

[slate]

CAMERA CREW MEMBER: SPEED. SOUND.

[sync tone]

CAMERA CREW MEMBER: OH, I DIDN'T SEE IT.

[sync tone]

CAMERA CREW MEMBER: GOT IT. JUST A SECOND. OK WE'RE READY.

Carter: Our view was that we were bringing the, the Supreme Court to interpret the fourteenth amendment in the way it was intended and as a matter of fact all of the cases that we had brought were designed to show that equal, equal rights, equal educational opportunity, and equal, equal protection required an elimination of discrimination throughout and fifteenth amend—the fifteenth amendment as well as the fourteenth amendment. And the Court beginning in—when it started interpreting the fourteenth amendment to eliminate discrimination and equal protection clause to require equal laws of people similarly situated it did that on an individual basis. Gaines, for example, the first case that we brought from Missouri, he was entitled to attend the school immediately. Sipewell, the woman from Oklahoma Law School, was entitled to immediately enter the law school. What the court did in Brown was to interpret the fourteenth amendment on a group basis. It, it did not require, and this is the first time the court has made that interpretation, it did not require the

immediate admission of these blacks into the school. It was “all deliberate speed.” It was faced with what it felt was a, a problem of acceptance and so this was what I guess what one calls judicial statesmanship but it did not—it was a departure from the traditional interpretation of the meaning of the fourteenth amendment which is an individualized protection and in that way the court thought that it would—this great change would, would require less upheaval, but it didn’t, it did not and if it had done—had required immediate the admission of blacks and had not broken with its traditional analysis interpretation of the fourteenth amendment—I don’t really think it would have made any difference as a practical matter, but it would have, I think, it would have made at least, I talk for myself, it would have made me feel a little bit better that the court was not compromising a principle in order to, to deal with a political problem. Because I think that whatever it did there would be this resistance and, and which I think continued for roughly about ten years until you know Congress passed the Civil Rights Act of 1964 and then it began to more and more to enforce, enforce the matter. So that things calmed down, but you—we had to go through this sort of upheaval. I mean, the court was trying to avoid it but it, it couldn’t possibly do that.

00:39:46:00

INTERVIEWER: COULD YOU TALK JUST ABOUT WHAT, WHAT I SEE IS CONSIDERED AS THE FIRST EXTENSION OF BROWN THAT IS THE BROWDER CASE. DID YOU SEE THAT AS AN EXTENSION OF THE BROWN DECISION INTO OTHER AREAS IN EDUCATION? DID YOU SEE IT AS A, AS A, AS A, A CONNECTION, THE SUPREME COURT’S DECISION DESEGREGATING THE MONTGOMERY BUSES. I’VE SEEN DESCRIBED AS THE FIRST TIME THEY TOOK THAT DECISION OF YOU CANNOT HAVE SEGREGATION IN SCHOOLS AND SAID YOU CANNOT HAVE SEGREGATION IN SOME OTHER AREA.

Carter: Well, the problem is that the, the court can’t, couldn’t do anything, it couldn’t do otherwise. What had occurred was that the Montgomery boycott after Brown there were segregated golf course—golf courses, buses and, and interstate commerce. No, I’m sorry, intrastate commerce, within the city limits. Segregation of interstate commerce had been, had been abolished in 19—1948, 1950 by court decision. But intrastate, within the state, had not, and when the Court handed down Brown vs. The Board of Education it had to apply that across the board. Because what Brown meant was that segregation in American life was through, was finished, it was legally dead. That you couldn’t have segregation any, in any of the other public reaches of American life. That’s what Brown meant. It wasn’t—they couldn’t just apply it to the schools, it had, it had to have an, an, an overall im—implication and that’s, that’s what, so that, that’s what happened. And so that when Browder, which had been tried before, came to the Supreme Court and these cases, another case came from Baltimore, the Court mere—granted it so cherari [sic] and then sent it back on the basis of Brown vs. The Board of Education. So that, that’s, that’s, the full meaning of Brown is that segregation is dead legally in the United States. No law is valid that supports segregation.

INTERVIEWER: CUT ROLLING.

CAMERA CREW MEMBER: CUT.

[cut]

00:42:06:00

[sync tone]

Carter: As I think I told you, as I think I said, the Brown transformed blacks into militant, demanding their rights. And there was, I think, roughly about a ten year period when everything was more or less quiet only the, the law we were trying to mop up and go into legal activities and we had a lot in the South where to do where they, they were passing laws barring civil rights lawyers from—and in effect being involved in, in litigation. Charging them with battery and so forth and so on. And so those things were passed and then the, the effort was made as a matter of fact to outlaw the Association. The Association hadn't really been, been of much interest until Brown to people in the South. And then I think, it was unleashed in the, in the marches and student protests and so forth that came, that came, that came in the '60s. And, it seems to me that what's involved of course the un—the things that have to be done now is that there has to be more effort made on, on the economic front which I think is, is the, the place where a great deal has to be done, and a great deal of effort has to be made and there has to be a great deal of effort made also in—on the political level. We're in a period it seems to me now where things are very quiet and as a matter of fact it they're not quiet, they look like as if there's a regression during this whole period. But I am old enough to feel fairly sanguine. Historic—historically we have, in America, there's been this movement back and forth like a clock and you, you go forward three steps and back two, and so, it seems to me, it seems to me that that's what is occurring now, occurring now. That we are in a point of regression, but it'll be over and we'll move forward.

00:44:55:00

INTERVIEWER: AND AT THAT POINT OF 1965, DID YOU FEEL THAT THE CLOCK HAD GONE FORWARD OR BACK—

Carter: Oh.

INTERVIEWER: DID YOU SEE, DID YOU SEE THE TURMOIL OF THE 1960S—

Carter: Oh there was no, there was no question but that the 1965 with the Civil Rights Act that it had, had moved forward. Personally, for example, when I was going to law school and to college, I think, I knew about every black who was in college or in law school across the country. And this had been a, a sort of a small group that had not grown very much from, I guess, roughly 1900. But with—in 1964 with the Civil Rights Act that group of people have just expanded so far that no one black can possibly know, as I did in my era, every black in every college if you're a college student, know every, every black in the country that's in college, nobody, or law school, no one can do that now. And so it, it meant a great deal that the middle class, black middle class expanded; white collar jobs expanded for them. And the blacks that were not middle class but pushing upward into, into the middle class area

expanded rapidly, and that group is shrinking now but it's not going to be completely eliminated.

00:46:38:00

INTERVIEWER: IS THERE ANYTHING ELSE THAT YOU THINK WE SHOULD KNOW ABOUT THE BROWN CASES? ANY STORIES, ANY...

Carter: No, I, I—you, you, you have to—what you have to do with these things is you have to, to prod me for them because I can't—[laughs] I'm, I'm, I'm, I'm difficult about bringing that up. Ok.

INTERVIEWER: HOLD FOR A MOMENT. STOP PLEASE.

[cut]

[end of interview]

00:47:01:00

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