

J. Robert Lunney 10/9/92

TH: When did you graduate from law school?

RL: I graduated Cornell Law School in 1954 and then I spent five years with the justice department as an Assistant US Attorney in the southern district of New York. And then joined Sherman and Sterling and that would have been in or about November, 1959, where I specialized in litigation.

TH: Were you aware of what was going on in the South in the Civil Rights Movement?

RL: Well, like any person I listened to the radio, watched a little t.v. and read my newspaper so I had a general sense of what was going on.

TH: Was it something you felt strongly about?

RL: From a personal context I'm not sure there were strong feelings evidenced one way or another but there certainly was an interest both as a lawyer, human being, practicing Christian and a person familiar with litigation because that would of course have been a focus I would have centered on for lawsuits, appeals and Supreme Court decisions. So yes, there was an interest, but not probably in the sense of a personal involvement.

TH: How so an interest as a lawyer? I think there was an article by Segal and Tweed about procedural equality. Was that something you were concerned about? Did you..that Blacks were being denied their rights of due process?

RL: Well, like many Americans, we were always concerned about the discriminatory practices in the South, but maybe because we were so far removed from it it was an intellectual concern more than a practical, realistic concern and of course the newspapers, and television and radio programs were pretty much filled with reports about what was going on during those times so that you couldn't help but have an involvement and a feeling toward it, but like many Americans you got up in the morning and went to work and had your own career problems and quality of life that you were pursuing at that time and I'm a man that had served in World War II when I was seventeen and I was in Korea when I was 22 and we were trying to get on with our own lives too at that stage. My schooling was interrupted twice by having to serve overseas in two different wars and so we were trying to get on with our own careers too but fully aware of what was going on in the South.

TH: Were you at the first meeting at the White House?

RL: No, the reason that I really became involved in going South was the fact that one of the partners in Sherman and Sterling, where I worked, Robert Knight, was invited to the White House by the president along with many other lawyers for a meeting with President Kennedy, who was addressing each of the disciplines or professions in America, and seeking to involve

them with a degree of responsibility, participation, or contribution of resources to a solution of the civil rights problems that were wracking America at the time. Indeed my memory serves me...he called together various religious leaders, business leaders, labor leaders and leaders in the legal community. And Sherman and Sterling was one of the largest, if not the largest law firm in New York with a lot of prestige and Bob Knight, whom I worked for, came back and spoke to me about it. And there came a time when the request was made of the Lawyers Committee of Civil Rights Under Law which was formed as a result of that meeting at the White House, and as I remember, each of the other professions and communities formed their own organizations. This Committee for Civil Rights Under Law which was formed by the lawyers called upon Sherman and Sterling for legal assistance and I believe it was the religious group that called upon the Lawyers Committee and the person they spoke to, to the best of my recollection was Bob Knight.

Incidentally, Bob Knight is still around at Sherman and Sterling. He is a fellow that you may want to talk to--a very decent man, a lawyer's lawyer kind of fellow and former professor of law, former Air Force officer of World War II, and he is now a very senior partner at Sherman and Sterling and he would have been one who attended that meeting at the White House and who was involved in setting policy for the Committee for Civil Rights Under the Law. He is the man who came to me and said, "Bob, we need a fellow like yourself that's got a lot of litigation experience and that..five years in the justice department to procede South." I think I left the next day for Clarksdale, Mississippi. And the date of that would have been on or about August 12th or 13th, I believe, because the only way I have of refreshing my own recollection is a New York Times article that was published August 14, 1963, which notes that the lawyers have acted in the racial crisis as a result of the committee having been formed, that is the Lawyers Committee for Civil Rights Under the Law and I was the first lawyer sent South and I accompanied the ministry that was formed.

TH: Was it Jack Pratt?

RL: Oh, sure, with Jack Pratt and any number of other people. I'm trying to recall the name of it.

TH: The Commission on Religion...

RL: The Commission on Religion and Race, that is exactly right and whether that is the committee formed as a result of the White House meeting, I am not sure, but certainly they were all ministers and indeed we thought it a piece of irony that the lawyer attending this trip South and giving them legal resources from the Lawyers Committee for Civil Rights Under Law was a Catholic, so we had a lot of fun teasing each other about that.

TH: When you went South, you were asked by one of the partners in the firm, so it was a new job assignment really. It wasn't something you had volunteered to do?

RL: In a sense he asked me if I were willing to go down because it wasn't anything they could assign anyone to and he sought me out because of my background and asked me if I would be

willing to go down. And I agreed to it. To me it would be something constructive, something useful, and some-thing that I could contribute to because a lot of what they expected was going to be litigation, court appearances dealing with law enforcement officials, relating to mayors and chiefs of police and things like that. It was something that I felt I could make a contribution to because of that back-ground.

TH: Were you reluctant or eager? To have somebody come in your office and say, "How would you like to go South?", I think would be somewhat intimidating or shocking.

RL: I didn't have any concerns or fears or trepidation about it. As I told you I'd had long years of service in the Naval Reserve and I've already served in places like Saipan and Iwogima and in Korea I served in China and North Korea and so I wasn't too concerned at all other than looking at it as a matter of where I could make a contribution so that....I know a lot of other people who went down later, cause we had to solicit other lawyers and I had to speak to other lawyers' groups, there was, to me, an undo concern for their own physical beings, which thought doesn't really enter my mind in many moments in my life. That's just because of my makeup perhaps or but other people seem to show a lot more concern over what you are talking about than I have ever experienced in my life in regard to anything.

TH: I imagine having been through two wars would calm you a bit about those concerns. Going to Mississippi is nothing like being on a battleship.

RL: Or serving in a combat situation overseas, so that, I imagine...what I am trying to say to you is that probably based on my own life experiences these things were not as foreboding as they would have been for many other people, and which I observed incidentally with some other people. For example sometimes they put conditions on their trips to the South. They'd only serve in Jackson, Mississippi, in principal offices in the city and not go out into Macomb, Mississippi or Hattiesburg or what have you and of course I had just back from those places and...I understood but I didn't necessarily sympathize with those concerns.

TH: So you flew down and what did you first do when you were down there on this trip?

RL: Well, the trip to Clarksdale, Mississippi, I recall was the first trip and I met with the representatives of the Commission on Race and Religion, in particular, Jack Pratt, whom I think had just graduated Columbia Law School at that time and incidentally was a minister, in my recollection and very much the activist within that group and what their plan was to aid, participate in, counsel, give advice and ministry to voter registration drives and I believe we met with Aaron Henry. He was the Clarksdale fellow, a Black man, whom I think was the head of the local NAACP movement in that area and they were forming voter registration drives..soliciting, handouts, encouraging people to get involved in the electoral process, voting _____. The Committee on Religion and Race met with them. I recall in church meetings in the South amongst the Blacks. A lot of the meetings took place in relation to a church facility, a church hall or indeed in the church itself, because a lot of the leadership in the Black community were the ministries, the Black ministry and my role would be to be in a sense, giving them legal

advice, legal direction, trying to relate to the law enforcement folks, and sometimes the mayor and the chief of police. And I always felt my role was to avoid any force or violence and maybe the times to work out a march or to stipulate as to where and how a voter registration drive could be organized, where they could be located vis a vis the courthouse voter registration and what have you. All of my trips into the South were working in direct relation to this Commission on Religion and Race.

TH: And so when you say giving legal direction what exactly do you mean?
Were you advising them prior to demonstrations ...about what?

RL: I guess you could say that. I would perhaps advise them not to block a thoroughfare for example. They could congregate on a sidewalk in a pedestrian area. I would gain some familiarity with the local rules and ordinances about handing out literature or distributing it door to door...posting signs... what they could carry in a demonstration..placards. I would sometime interface on their behalf with the police when there'd be confrontations. When there were arrests perhaps ascertain exactly what the charges were. In many cases a big problem was where the defendant was going to be lodged because it was not uncommon in those days that after a person was arrested it would be very difficult to locate them even sometimes the local precinct would deny any knowledge of it. It would be troublesome to locate the person to give them advice and counsel, to learn of their welfare, whether they could receive any visitors or where we could post bail if there was any bail to be posted, if a trial was to be had or an initial hearing, what the dates of it would be etc. Sometimes I would make those court appearances or appearances at the jail or seek out the chief of police, speak to the mayor and advise him of facts and circumstances that came to the attention of the Commission of Religion and Race.

TH: Did you find that many of the ordinances in the South were contradictory or came in conflict with freedom of speech or freedom of demonstration. that these ordinances were set up in order to discourage the activists from protesting?

RL: My impression of most of the laws, rules, regulations, ordinances were fairly valid on their faces but it was the application of them..the implementation of them that sometimes was abusive. It wasn't the use of the ordinance or statute, it was the abuse of it. When the voter registration drives were underway a lot of rules and regulations that seemed to apply in their face were used to discourage the voter registration drive and maybe where permits were needed for distribution of materials they would be used to discourage voter registration drives. So technically they may have had an argument for this being used for another purpose, for example an anti-littering statute could be used when handing out materials and materials are being discarded in a manner that cause littering you could be given a summons for that for example...or blocking a sidewalk or interfering with traffic etc. So that those were the technical aspects of what I saw occurring.

TH: Did you in what I assume were negotiations to a certain extent with the police, were you having to go back to the people who wanted to demonstrate and say, "This is what the police are offering."?

RL: I would try, as you suggested, in many cases, mediate by working with the leadership of the demonstration or march and with the powers that be in the village or city to avoid as much as I could any violence where people could get hurt, because my sense of what was going on was they certainly had rights and privileges that had to be exercised and the powers that be, so to speak, had to recognize that. So many times when a person like myself, who went in and at all times was dressed in a way that they could recognize me as someone that they could deal with I would be able to obtain perhaps more than maybe one of the leaders of the demonstration or march because a lot of them felt, either because of economic constraints or otherwise to identify with the movement that they had to be dressed in a fairly scruffy manner and didn't necessarily deal with the powers that be in a more moderate way. The demands were perhaps more vociferous and louder, without the give and take of working things out with the administration who had to balance a lot of problems and I always found...not always, but most of the time found that if you went in and sort of tried to work with the people in a reasonable way, you probably got some concessions from them. Many times you didn't get everything you wanted but they really wanted to work with someone that they could speak to and sit down and reason with. In many instances people in law enforcement didn't want any more violence than necessary because they didn't necessarily want a picture of their town or village or their chief of police on the front page of the New York Times. Many times I would use that on them. I'd say, "Now you really don't need this publicity in Time Magazine next week or Newsweek or the New York Times or the Washington Post. Here's what you can do to alleviate that condition because," I would argue that, "those photographers and reporters out there are waiting for you to do these things. Now let me give you some advice on how to avoid all that." And, you know, you'd be met by other arguments. I said, "But if you would allow them to congregate, work out their plans and plots of the city etc. or it you would allow them to walk on that side of the street and not obstruct that crosswalk etc. and be able to hand out this material on these corners etc." And many times it would be worked out, but other times there would be confrontations and clashes.

TH: Did you see your role as a middleman or were you more serving as a lawyer for the people in the movement?

RL: Well, both, because I see, even today I've had over thirty-five years in litigation, trial work, I see the role of the lawyer also to work out problems and to avoid litigation. Part of the role of the law is to ameliorate confrontation, adversity within society, and so yes, I would give them legal advice many times. For example, Jack Pratt who had just graduated law school and was a minister chose not to follow my advice and many of the ministers chose to go forward and do things which was something that they decided to do. We as lawyers can't really...what would you say, control a client, so to speak, if that Committee were my client, you can give them advice, you can tell them what the ramifications are or the results of taking certain courses of action and they choose to do that which they wanted and many times there were arrests and confrontations, but my role was, as a lawyer, to give them legal advice and counsel and also to work with the power structure of a town and to see what could be reasonable stipulated and report back, in many cases to the leadership, and whether that was agreeable or not, some-times

the procedures that they were organizing went forward and resulted in confrontation. Other times we worked out an agreement.

TH: Do you remember any specific times in which you came into conflict with the activists?

RL: The activist leaders of various groups? ("Right.") No, because I always felt that my role was simply to give the advice and counsel and work with the powers that be and they had their role and function to perform and having served in the military sometimes there are times to stand up and be counted and you've got to do your thing and I understood that so that I would feel that they had to do what they had to do and that was their intention and purpose and I would also be there to obtain information from the jail where they were arrested, make arrangements for posting bail or re-present them in the courthouse or be there when they had to plea or be tried so that I was not there as their leader and their director, I was there in a sort of a special role, and those are the instructions I got before I went to Mississippi and other places that I was not to become a participant, I was not to be "involved". They didn't need a lawyer to go down there to be arrested and put in jail or otherwise being in confrontation with the people in these villages and towns.

TH: You said when we spoke on the phone that you were always ...you seemed to be the voice of moderation in these things. What did you mean by that?

RL: Well, at times, as a lawyer, and as my role was understood by me, was to avoid confrontation wherever possible. I think that is a duty and a responsibility of a lawyer....I mean, by avoiding confrontation I mean avoiding violence, avoiding problems where people were going to get physically hurt because there was substantial evidence of firearms displayed throughout all these areas. I mean, police with shotguns, sidearms... you could see patrol cars coming by with arsenals of weapons in them, so that it was very clear that there could be shooting. I never saw any evidence amongst the civil rights demonstrators of weapons, but who knows what could have occurred so that my instructions were to avoid violence wherever possible and to see what could be worked out in representing these people with the officials. I would, when confronted with various rules and regulations and being shown statutes be able to argue that this was an exceptional time and an exceptional circumstance and in many instances worked out problems that would have occurred without my presence or the presence of a person like myself. I'm not trying to suggest that I had any magic. That it was just that it was very heated on both sides and there wasn't much communication so in many cases we resolved problems before they occurred.

TH: Did you see what Jack Pratt or others were doing as a bit radical?

RL: No, I feel that at times in society some people have to do things and I wouldn't call them radical. I'd call them activists. They were down there to be active; they were not down there as lawyers. I don't think Jack, albeit a graduate of law school, was down there wearing his lawyers hat, he was down there wearing his ministry hat as a part of this Committee on Religion and Race and my role was representing the Lawyers Committee for Civil Rights Under Law, so that

the sense of the direction I got was to apply civil rights under law. What their instructions were, how they carried out their own policy perhaps was different than what my role was. I was alone and I was singular and I was not with anyone else so that I was sort of on the spot advising them and counselling them and it was a very brave group of young ministers that I worked with and I admired them greatly. Many of them were very involved, both from a ministry point of view and a personal commitment and they were applying Christian faith in action and that, of course, may be a little different than applying civil rights under law.

TH: What kind of direction did you get from the Lawyers Committee? Did they tell you what to do before you went down or did they just put you on a plane?

RL: I believe I spoke with Bob Knight who had attended the meeting at the White House and who had conferred with the leadership in the Lawyers Committee for Civil Rights Under Law. I think it was Harrison Tweed at that time...and whether Mr. Segal was involved in that at that point in Philadelphia, but I remember reporting to and dealing with Mr. Harrison Tweed in addition to Mr. Knight and the general instructions to work as much as we could under the law and to give them the legal advice that was needed and to represent them on the occasion when it was necessary, so the instructions of course were not in great detail because no one really had the experience, nor knowledge, nor facts or circumstances of exactly what was confronting these people when they went down there. Indeed I was the first lawyer to go down so that I think what mine was a generalized instruction to work within the law as much as possible and in a sense to be the lawyer for the group.

TH: Were you given instructions not to interact with certain other groups such as the National Lawyers Guild lawyers?

RL: No, as a matter of fact, I was given no instructions in regard to who to work with or who not to work with. The Student Nonviolent Coordinating Committee, I remember was down there in Mississippi and very active and there were NAACP groups and there was a young lady I met down there..her last name is now Edelman...oh Marian Wright Edelman. I remember she was very active down there.

TH: There was a big article on her yesterday in the New York Times in the Homes section.

RL: Oh, is that right? Well, I remember her very much. I think she may have been from Mississippi or from the South originally. ("She is from the South.") And indeed one time I was on a matter in Wilmington, North Carolina, when one of the counsel working with me was William Kuntzler, so that my participation wasn't proscribed or limited in any way. It was to work with this religious committee and they would be involved with any number of different groups, furthering and advancing a cause of voter registration. The memory I have is that most of it was voter registration drives that were going on at that time.

TH: There wasn't any fear of more leftist or even Socialist or Communist influences infiltrating the activist or anything of that sort?

RL: Not that I could recall. I knew of Bill Kuntz's left wing affiliations and participation in left wing causes, Communist fellow traveler clauses, etc. and I knew of some of the other organizations who may or may not have support by the left wing, but the causes they were involved in in the South when I was there were the voter registration drives so that the ministers that I was working with were not furthering and advancing any cause other than voter registration so that no matter what your personal feelings were about some of the backgrounds of some of the people you could see what their goal was...at least at this stage was voter registration...was totally within the ambit (?) of what we all believe in in America under the Constitution. I recall in doing some other things working with the bar associations too and I remember that I visited with and conferred with the leadership of the Mississippi Bar Association seeking their help in obtaining legal representation of people who were arrested and jailed in Mississippi because most of the lawyers going down to Mississippi were not admitted to the bar in Mississippi, so whenever I appeared I had to get permission as an out of state lawyer to appear, so that was part of my role too...was seeking to get greater participation by local bar associations.

TH: Were those efforts successful?

RL: Well, let me tell you...my meetings with the leadership in the bar associations was always very cordial and very friendly and they explained what their problems were and they generally agreed, at least in a general sense, to my proposals and indeed the Mississippi Bar Association issued a statement saying that it would see that all people regardless of their politics would be able to get a lawyer.

TH: And did any change come with that? Did they follow through with that?

RL: I think slowly but gradually not only were a few members of the Mississippi Bar for example, using that state, coming forward to represent people but they were more flexible in allowing out of state lawyers to represent people too because as I argued with them and as they understood, their own profile was being affected as lawyers and as members of the bar in not projecting a perception to the rest of America that these people were getting proper representation in their court system. When I went down they still segregated the courtroom so that Blacks sat on one side or the other and I recall one case that I was involved in in Hattiesburg, Mississippi, the Blacks under the leadership of the Commission on Religion and Race and some of their other organizations chose to integrate the courtrooms and I advised them that that was the law that they had to comply with and they said, "No, we choose not to." I stood before the court and was ready to commence the trial and she said to me--it was a female judge--and she asked me to instruct these people that ..to sit on the right side of the courtroom and I said, "I've already conferred with them and they've chosen not to," and she ordered the marshalls or the bailiffs to clear the courtroom and everyone refused and that trial was well covered by the press and the media and she waited a few minutes and she realized that it was probably going to be a losing battle and she said, "All right, we'll proceed." For the first time the courtroom in Hattiesburg, Mississippi was integrated and so I guess that is an example of what

you may want to advise clients to do and what they chose to do otherwise and I had no problem representing to the court these people choose not to abide by your instruction. It is a very tense moment.. I remember it was a trial at night, the courthouse was ringed with I don't know how many hundred armed police, just roaming the area outside. It was disconcerting, perhaps very fearful for a lot of people in the community and in the building at the time. Those are the things that were going on in Mississippi that summer.

TH: That was the summer of 1963 and in, I think it was October of 1963, there was a meeting at the American Civil Liberties Union with members of the ACLU and some...I think William Kuntsler and Arthur Kinoy were there and some other lawyers from the South and the minutes say that you were there as well. Do you remember this meeting at all?

RL: Where was it?

TH: It was on 5th Avenue at the ACLU's headquarters, at the then ACLU headquarters.

RL: I'd have to review the minutes of it.

TH: Okay. But do you remember being present at any meetings where the formation of a new lawyer's group was discussed?

RL: Right now I can't recollect that because I had to attend any number of meetings between trips and after trips and at bar associations and had to speak at various groups now that I can't really recall thirty years later. Maybe I was at any number of meetings because having been in the South, having been involved I was one that was called upon to attend and speak at any number of meetings. It's vague in my head now and my memory, but if I saw something that could refresh my recollection that would be the best.

TH: So you were involved in discussions because you were somebody who had experience in the South?

RL: One of the roles I recall was recruiting because the bar associations had me address various groups to recruit more lawyers to make trips to the South, not only that summer, but I think that next summer etc. It was an ongoing responsibility by the Lawyers Committee for Civil Rights Under Law and the committee continued on and there were various changes of leadership and after awhile they were very well staffed and they got a full time administrative staff and their recruiting was more streamlined and the volunteers like myself sort of went on about their lives. We were the first down there...we were more or less were the cutting edge of the whole program.

TH: And do you remember anything about the Lawyers Constitutional Defense Committee? Is it a group you came into contact with at all?
Were you in Mississippi in 1964 at all?

RL: I don't think I was down there in '64.

TH: When the three people were killed.

RL: Was that in 1964?

TH: Yeah.

RL: I may have been down, yeah. I remember being in Indianola, Mississippi and Macomb, Mississippi, but it is vague in my mind now as to what trips in what years when I was down because I went to any number of places...Wilmington, North Carolina, Jackson, Mississippi, Clarksdale, Mississippi, Hattiesburg, Mississippi, Macomb, Mississippi. Was there a Yazoo City? I remember being up in Yazoo City... Jack Pratt may have more information in a chronology, because I do regret I never made any notes, because a friend of mine, a college classmate of mine said to me, "Bob, you should have been sitting down making all sorts of notes and you could have written a great book or an article on all of this. At the time it was, you know, something that I was doing, but the sense of it, in a historical perspective was not impressed upon my mind as much as it is in retrospect so that I didn't keep much in the way of notes and documents and a lot of things I have discarded as the years went by.

TH: Did your experience in the South change the direction of your life or change you as a person in any way?

RL: Well, like any first hand experience, in having been there and seen it, it certainly has affected me in being able to speak to these issues as they are evolving, even today, thirty years later and with a greater understanding of it. As you and I both know we are all creatures of television today and as much as you see it on television, to actually experience it was a very moving experience and relating to these people in the deep South which we in the North have never really seen. We understand Bed-Sty and we understand Harlem to some degree, but when you get into the villages and suburbs of many Southern communities and see how the people live and their humble ways and the way they were treated indeed (?) affects you. It helps understand the confluence of what's going on even today. I may have differences with the applications of a lot of these rules and regulations today, but undercutting it all is a greater understanding which I don't think many people have experienced and I was there, I can relate to it with greater sympathy and empathy. So it has....every facet of our life's experiences affects our own character and I believe each one of those aspects of my life have given me greater strength and understanding because no matter what the trials or tribulations are that each one of us go through, yourself and me, they don't bode so serious or detrimental when you reflect back on what other people have gone through and had to survive. Yes, it has made me a better person...better able to understand what they have gone through and what they continue to go through.

TH: Did you use your skills as a lawyer to similar ends at any other point?

RL: Well, perhaps in the course of the last thirty years when similar issues have come forward, I have reflected back on those experiences and been able to advise people with that judgement and maturity so that it has obviously helped me in many facets of my own practice unrelated to civil rights too. In relationships with the powers to be, so to speak. You and I understand that there's this great body of law out there, but there is a sense of how it is used and apply that we don't necessarily speak of too highly. We know that there are politics involved, there is race involved and any other number of aspects confronting the system even as we await various decisions from Supreme Court of the United States. There was a man who once said, "The Supreme Court breeds (?) the election returns." The more experience we have in the system the greater we are able to advise clients and the law is not as pure and exact as we were taught in law school. It is something that shifts and turns and we had a saying at the top of the moot court at Cornell Law School, "Law must be stable, yet it can not stand still." So I saw that in application as you and I have been living through it in the last several decades and you will continue to live through it so that was a great instruction for me.

TH: Okay. Well, thank you very much for taking the time to talk to me.

RL: Thank you for your interest in the subject. I'm a little surprised you found me.