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Some Recollections of My Career

The Honorable Constance Baker Motley*

Ladies and gentlemen, first of all I want to thank you for coming out to see this "all girls show." You know we're running against heavy competition. There is the antiques show next door, I gather, and then there is that "all male show"¹ out of Washington.

I trust that you have noted that all of the speakers who have preceded me have one constitutional gripe, so to speak, but I have two. I am supposed to tell you about some of my personal experiences over the last forty years as a black and a woman in the legal profession but let me note first that during that period I have spent most of my time trying to decide who is in the good guy camp and who is in the bad guy camp. As a result, my view of the world is that men fall into two categories, the good guys and the bad guys.

Now the one thing that most people have been curious about regarding my career and have always asked me about is, how I happened to study law. What made me decide to become a lawyer? That's a difficult question really because it is a very complicated question. But let me try to simplify it again for you. Let me say that my becoming a lawyer was the result of the commitment of one of the good guys. When I graduated from New Haven High School in 1939—those of you who are as old as I am remember that this Nation was trying to pull itself out of a depression and there was not much by way of opportunity for many people in this country and certainly not much opportunity for black people.

I became active in local community affairs and began attending adult meetings. As you see I am very tall and at age fifteen I could pass for twenty. At age fifteen I was president of the New Haven Youth Council and secretary of the New Haven Adult Council. I appeared at a meeting one night at a community center which had been built in New Haven for black people by a man whose name was Clarence Blakeslee. Mr. Blakeslee was a very successful businessman and one of the things he did with his money was to aid black people and others to secure an education.

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1. Iran-Contra Affair Hearings.

He was concerned that the community house which he had built was not being used by the black people in New Haven. So he called a meeting to try to find out what could be done to get black people to participate in this facility that he had built for them. When I appeared at the meeting, I had graduated from high school about a year before. I said that I thought the problem was that the board of directors of the community center did not have any black people on it and therefore black people were not really concerned. All the leading black people in the town who were there were very annoyed with me for having brought up this very delicate subject at this public meeting. Mr. Blakeslee was not. (You have to remember that this was the Fall of 1940.) The next day he asked the director of the community center to have me come to his office to see him. I went there and Mr. Blakeslee said to me "How come you're not in college?" He said "I looked up your high school record and I see that you graduated with honors." I said "Well, Mr. Blakeslee, I don't have money to go to college." He said "Well, I'd be glad to pay for your college education, what would you like to do?" I said to him, "I'd like to study law." He said to me, "Well I don't know much about women and law but if that's what you want to do, I'm ready to pay for it."

I went home and told my parents this story. They didn't much believe it. But they didn't oppose it. They had never encouraged me to become a lawyer. That was not in their dreams for me. They thought I should be a hairdresser. I even thought I should be an interior decorator when I was in the eighth grade. But anyway, I went off to college in February 1941. I graduated from New York University in October 1943 with a bachelor's degree in economics. Thereafter, I was admitted to Columbia Law School. When I got there in February 1944, it was against the background of the fact that the dean of the law school had earlier voted against the admission of women to the law school. In that atmosphere the few women that were there nevertheless survived and graduated. When I graduated in 1946, you would not have been able to find a single person ready to bet twenty-five cents that I would be successful in the legal profession. I didn't believe it either. But the problem with us was that we could not foresee then, as we cannot foresee now, that post-war America would be dramatically changed by two revolutions which would carry blacks and women into the mainstream of American life.

Just before I graduated from Columbia Law School, I was fortunate enough to get a job as a law clerk on the staff of the NAACP Legal Defense and Educational Fund. The chief counsel was Thurgood Marshall. And there was another one of the good

guys, because if it had not been for Thurgood Marshall's liberal view of how women probably ought to have the same chance as men to become lawyers, I probably would not be standing here today telling you about my career. Having joined that staff in 1945, I was on the ground floor of the civil rights revolution as it has come to be known. Because we were a small staff and it was not very fashionable in those days to be working on civil rights, I got an opportunity that few lawyers graduating from Columbia Law School with me have had an opportunity to do and that is actually to try major cases, take appeals to the courts of appeal, and to argue in the United States Supreme Court.

In those very early days our work entailed creating the legal theories on which we would have to win our cases. We became legal craftsmen in that respect. As you know, our early work in civil rights involved segregation in education which culminated in the *Brown*² decision in 1954.

During the course of my work with the NAACP Legal Defense and Educational Fund, I traveled around the country trying school desegregation cases and other kinds of desegregation cases. One of the early cases I appeared in as a trial lawyer was a case in Mississippi involving the equalization of black teachers' salaries in 1949.³ I remember that case very well because the local newspaper had a big story that day when the trial began to the effect that there were two Negro lawyers from New York who were going to try the case and one of them was a woman. The courthouse was packed; not only because this was the first case in this century in which blacks in Mississippi sought to attack the establishment and to try to end segregation but because, as the local newspaper said, here was this Negro woman lawyer from New York.

Among others, I represented James Meredith in his long fight to enter the University of Mississippi,⁴ Charlene Hunter and Hamilton Holmes in their fight to enter the University of Georgia⁵ and many other cases of that kind. One of the things I remember about my career in the 1950s and early 1960s is being the only woman in the courtroom. I think on one occasion in the Fifth Circuit there was a woman, a patent lawyer, an elderly woman who argued a case. In the period 1949 to 1964 I tried school desegregation and other cases in eleven southern states and the District of Co-

2. *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

3. *Bates v. Batte*, 187 F.2d 142 (5th Cir. 1951), cert. denied 342 U.S. 815 (1951).

4. *Meredith v. Fair*, 202 F.Supp. 224 (S.D. Miss. 1962), rev'd, 305 F.2d 343 (5th Cir. 1962).

5. *Holmes v. Danner*, 191 F.Supp. 394 (M.D. Ga. 1961).

lumbia and in that time I saw only one woman argue a case in the Fifth Circuit.

As I've indicated, the opportunity which I got to actually try cases, to argue appeals, and to argue cases in the United States Supreme Court led to my future career. In 1964, I was elected to the New York State Senate, and as you've been told, I was the first black woman to sit in the New York State Senate. There was one woman who preceded me and was there for a brief period of time, a white woman, but I was the first black woman in the New York State Senate. My stay there was very brief, February, 1964 to February, 1965, when I was elected president of the Borough of Manhattan. I remember that at our farewell dinner in the Senate, which they had every year, one of my colleagues came over to me and said, "How have you enjoyed your stay here in the Senate?" I said, "Oh, very well." And he said, "You remember me don't you, you know my name?" I said, "Not really." He said, "How come?" He said, "I spoke to you before." I said, "That's because all you guys look alike to me." There were only two black males in the New York State Senate at that time, both of whom became New York State Supreme Court Justices, one in Brooklyn and one in the Bronx.

Well, as I said, shortly after that I was elected president of the Borough of Manhattan. In that position I was the only woman on the New York City Board of Estimate. Now that's a peculiar New York City institution and don't ask me to explain it but the long and short of it is that until last year we have not had another woman to be president of any borough in the City of New York.⁶

In 1966, as a result of my work in the civil rights field, I was appointed to the United States District Court for the Southern District of New York by President Johnson—the first woman and the first black. Thurgood Marshall had been appointed in 1961 to serve on the Court of Appeals for the Second Circuit.

I remember after being appointed going out to Berkeley, California to attend a school for new federal judges. At that meeting the chairman of the group, who was a federal judge, whose name I have forgotten—it's just as well—he introduced each new judge at the meeting. In doing so, he told those assembled about how great each new judge was, how each had distinguished himself in the law. When it came to introducing me, he said simply that I had been on the Board of United Church Women, and I had been on

6. New York City as you know is composed of five boroughs: Manhattan or New York County, Kings County (Brooklyn), Bronx County, Queens County, and Richmond County (Staten Island).

the Board of the YWCA, and that was it. Former Supreme Court Justice Tom Clark, who was co-chairman of the meeting, grabbed the microphone and said, "Just a minute Mr. Chairman, I would like to say something about Mrs. Motley.⁷ She has appeared in our court and argued, I don't know, twenty cases." I said, "No, it's only ten." But anyway after that little session we were having lunch together and he said to me that he had been earlier that day in the locker room after he had had a game of golf with some of the other men and he overheard the conversation in the locker room and this had to do with the appointment of Shirley Hufstедler to the Ninth Circuit. And he said to me these men were just running this poor woman down. He said "You know what I said to them, I said do any of you know this woman?" And, he said, "Of course none of them did."

When I was appointed in 1966 there were only four other women serving on the federal bench. One of these was Sarah Hughes in Texas, the other was Burnita Matthews in the District of Columbia, the other was Florence Allen who was a Court of Appeals judge on the Sixth Circuit, and the other was Mary Donlon who was on the Customs Court. I was the fifth woman appointed. There was tremendous opposition to my appointment, not only from southern Senators but from other federal judges, but I finally made it through the Senate. I was nominated January 25, 1966 but not confirmed until August 1966, thanks to Senator Eastland of Mississippi. I have managed to survive twenty years. I recently took senior status, after having served for four years and four months as the chief judge of our court. I am now a senior judge and I hope to continue in that position for some time to come.

We now have, I understand, about sixty women on the federal bench, most of whom were appointed by President Carter when he was President some time ago. What I think we really need now is an affirmative action program for women. We are always ruling on somebody else's affirmative action program, but I think that the reality is that although women have made tremendous progress in the legal profession there is not going to be much change without an affirmative action program in the federal courts.

I am personally pleased by the amount of progress which we have seen in the last twenty years. I remember when I first went on the bench in New York women were not hired in the U.S. Attorney's Office on the criminal side. They were limited to the civil

7. He called me Mrs. Motley because that is how he addressed me when I argued 10 cases before the United States Supreme Court while he was there.

side and then I think there were only a couple of women at that time. Now it seems to me every time I look up I see another little girl who is going to try a great big Mafia case that some said could not be done by women twenty years ago. I think I have license to say *little girl*, but I know a judge who got in trouble for that in a New York State court. It is true that there has been a tremendous change and I expect that, as some have indicated, it is going to be largely a woman's profession in the next century. I think if we are going to see any real change in the federal bench soon we are going to have to get after the United States Senators and the President, who appoint federal judges, to get them involved in some kind of affirmative action. Thank you very much.