

START OF TAPE 1, SIDE A

WILLIAM C. "BILL" BARCLIFT  
May 29, 2003

WILLOUGHBY ANDERSON: Today's date is Thursday, May 29, 2003. I'm here with Bill Barclift at his law offices of Baxley, Dillard, Dolphin, McKnight, and Barclift, here in Birmingham, Alabama, and the interviewer is Willoughby Anderson. If you could please say your name?

WILLIAM BARCLIFT: William C., or Clarence, Barclift.

WA: Okay, so let's get started. Why don't we start with a little bit of your family history.

WB: Okay, sure, I might prefer to call it a personal mythology or family mythology.

WA: Okay.

WB: In fact I thought in the Diane McWhorter book that she got a lot of what we say sort of family myths intertwined with actual factual events. I was born in Birmingham November, 1949. My parents Clare Barclift and Mary Chapel Barclift, my mom's father had been president and editor-in-chief of the *Birmingham Age Herald* which became the *Birmingham News* before he retired. In fact there's a little *Time* newspaper article referring to him as the "bulldog of Birmingham" when he retired in, I think, 1956, at approximately 54.

My background was probably a little different than at least a lot of the kids growing up in Mountain Brook because my parents were FDR type democrats. There were older parents. My mother had actually done something so radical as, in the 1940s, went out and taught black kids in Loundes County. Apparently her parents had been members of the Birmingham Country Club, had discontinued their membership, perhaps because it wasn't being used, but then my mother became a real fine golfer and they wanted to get back into the country club, and part of the family mythology is that that was just a huge controversy whether to let a family back in. She was not going to be the member. Her dad would have been the member, but whether to let him and his family rejoin since they had a daughter that had done something so very close to communism as to teach black kids.

That piece of personal mythology I was able to sort of triangulate and confirm in a Virginia Van Der Veer Hamilton book about her recollections of growing up. She's written *Hugo Black: The Alabama Years* and other state histories, when she mentions that she went to visit Mary Chapel at a school in Loundes

County. It's kind of difficult for me to imagine my mother as an educator, although I think you would be proud, Willoughby, to know that she scored 165 on the Stanford-Binet.

Growing up with her in particular and my dad, my mother was a very assertive kind of personality, and so my household experience was coming in from whatever I did in the afternoon after school and sitting down in the living room with my mom and her sister, often Cecil Abernathy, who was Dean of English I believe at Birmingham Southern, and his wife and engaging in debates of whatever the issues of the day were, occasionally being subjected to *Under Milkwood*, a scratchy recording of Dylan Thomas reciting his work, perhaps something you could relate to. That's the type of issues we would debate.

I can recall getting into a fierce argument with my mother. Part of what we would do is just take contrasting views just for the sake of argument. But she was very distressed, for instance, that the Birmingham newspapers were not covering, this would have been probably around the relevant time period, the beginning time period on your study here, but having initially a debate but ultimately a slamming door kind of argument over freedom of the press versus responsibility of the press with her going off in a way that said her father would be turning over in his grave that the *Birmingham News* was not reporting what was really going on in Birmingham, and you had to watch the national news in order to keep up with local events. For the sake of argument I suggested that perhaps by not highlighting what was going on locally perhaps they were trying to keep some of the red necks, and what would you say, white rabble rousers from being drawn to downtown Birmingham.

That was a least possible, but I guess my point in bringing that up, one, it actually relates to your subject matter, and two, just in terms of my own personal story or mythology. I didn't get into trouble with my parents over keeping my room clean, or being a good boy, or making A's, but I would get into these brutal debates over civil rights, or freedom of speech, or some presidential election, or whatever, just political events were debated and often in sort of a boozy, Dylan Thomas intellectual way by my mom and often ended in harsh words and hurt feelings which would be sort of resolved as the evening went on, but a different sort of childhood, I think. So.

WA: So after, where did you go to college?

WB: I went to Auburn University in a surprise move. My parents wanted me to get out of the South for perspective. I had grown up in a household where my dad was a huge Alabama fan. I'd gone to

the Alabama football games and all of that sort of thing. With mediocre grades, I'd applied at Vanderbilt where my grandfather had been on the board of trustees and they likely wrote back and said if I was interested in the School of Business they were interested in me, but I wasn't interested in the School of Business. I was signed up pretty much to go to The University of the South in Sewanee, but The University of the South was not coeducational at that time, and that began to weigh on me as the months passed and it was beginning to be time to go off to school. I had also applied at Birmingham Southern, Alabama, and Tulane, and I guess I could have gone to any of those places, but Southern seemed too close to home. Tulane really didn't appeal to me, and over half of my graduating class was going to Alabama, and that didn't seem like an option.

I had some friends who were going down to Auburn for summer semester right after high school. I thought I was probably too late, maybe two weeks before summer session, and called down there, and somehow got them a transcript, and went down, and found it to be a very, very pleasing place to be at that point in time and I suspect still today, and actually a fairly good school once you got past the very large freshman required courses. I had a nice time at Auburn, and actually in those courses that suited my fancy probably picked up a bit of education. I was a political major. I had enough for I think a second major in economics if anybody was really keeping score and wasn't too far behind in history with English sort of filling out the bill.

I accomplished something that I think very few Auburn graduates of that era did. Auburn at that time produced more officers in the military than any non-military school. It may be still true to day, but they had mandatory ROTC. I never fulfilled that requirement, so I guess I live in fear that my diploma could be revoked. I also managed to get through Auburn without taking any natural science, which I think I achieved by taking things like psychology, and sociology, and maybe an extra calculus course. You really had to look ahead. They had blocks of electives, and if you didn't plan it from the earliest elective you could easily trap yourself into having to take biology, or chemistry, or something like that, but I was way too clever to let that happen. Auburn was a nice experience.

Continuing, I assume you want me to with educational matters, coming out of Auburn I was relatively clueless, and my parents pretty much, although they were financially supportive and emotionally supportive, were not given to telling me what I ought to do. In this case it might have been helpful if they

had told me I needed to get applications into law schools well in advance. I suppose sometime in the spring I wrote Alabama and Cumberland School of Law at Samford for application information, and was a little bit appalled to learn that they had pretty much closed out their incoming freshman classes. Being an honest sort, although I was offered a job as a manager of a clothing store in Auburn, after two weeks on the job and selling lots of suits I returned to Birmingham.

At that same time I guess my wife, Lindsey, who you know, she and I had been dating for over a year, maybe two years. Rather than go our separate ways we discussed what we wanted to do, and so we got married. I was twenty-two, and she was twenty-one. So I got married and actually started to work on the docks at Sears.

Banks apparently were not interested in putting someone into management training who was a person who was only going to be there for a year. So, perhaps, honesty is not always the best policy. It seemed to limit my options to manual labor, but it turned out to be a very, very educational year because you got to meet a lot of regular folks, many of whom had perfectly good sense. There were some smart people there who just had not had the same opportunities that I had and were trapped selling large appliances and the bigger commission jobs, and they didn't seem overall that happy with their career moves.

I think it sent me to law school with a different perspective, unlike certain people I know. I always thought education was sort of a con game where people wanted you to memorize the things they wanted you to memorize. I was fairly pigheaded about saying what I wanted to say and not really wanting to buckle down and do things other people told me to do. But all of a sudden all that changed once I saw that while my personal purgatory might have been becoming a management trainee at what was then First National, now AmSouth, and perhaps having my own branch bank some day, I didn't think I would end up unloading trucks for a living.

It occurred to me that here I was with enough privilege to have parents who were, no questions asked, willing to support me and pay for law school, and clothe me, and feed me, and put a roof over my head. I don't mean their roof. I mean an apartment and then a house. It would be sort of foolish not to take advantage of that so I went to law school with a far greater determination that I had brought to bear at Auburn.

In fact, I never in my worst semester in law school, I did not dip as low as my GPA at Auburn, and I would say—if I'm not going to brag on myself I don't know who's going to do it for me—I came out of first semester in law school first in my class. Now a fellow did come up to me afterwards who asserted that before the three years were out he would be number one. In fact, he finished number two, and I responded to him. I said, "Well, Lloyd, I don't know whether you will be number one or not, but I can assure you I will not because I have obviously overshot my objective," which was top five percent. I said, "I will be adjusting accordingly." Anyway, law school was a good experience, some good professors, some not so good. I guess my education continued clerking for Richard Reeves in Montgomery. In fact, when you interview Baxley on his wall of fame the one federal judge I see up there is Richard Reeves. No, I'd say there two. Frank Johnson is up there too. So, Willoughby, what will you ask?

WA: So tell me a little bit about clerking for Justice Reeves.

WB: Well, he was an eighty-year old guy when I went down there. Here I was Auburn, Sears, and Cumberland. His other clerk had gone to Harvard undergraduate, Yale Divinity School, and then back to Harvard for law. You, I think, would be pleased to know that primarily because one of the other clerks down the hall, actually one of Judge Gottbold's clerks, Ray Mavus, who went on to become governor of Mississippi, had gone from Old Miss to Harvard Law. Clay, the Harvard/Yale/Harvard grad, frequently made a point to let me know that there was a big difference between Harvard law grads and Harvard undergraduate grads, which I thought was important to my base knowledge of such matters.

Judge Reeves was an interesting guy. He had gone to Tulane Law School, I think, for a year. I'm sure there are probably some biographies of Reeves out there somewhere that would provide better and more reliable information, but my recollection is that he went to Tulane for a year, maybe had financial problems, came back to Montgomery where he what they call, "read the law." He read the law. He apprenticed as a lawyer. In those days you didn't have to graduate from a law school to become a lawyer. You could just sort of serve your apprenticeship, and I don't know what the rules or requirements were, but this greatly venerated judge was not a law school graduate. He had practiced with various folks.

I don't even know if I need to get to that. Before I do, I guess this is true of people who become federal judges that they often need to pick a political party and be active in the party. He was very active in, of course in those days there was really one party, he was, I believe, Bill Graves's campaign manager for

one or more of his gubernatorial elections. I think he was probably a contemporary of Hugo Black, knew Sparkman and Lister Hill, and Big Jim Folsom was an occasional visitor in the office. Reeves was just a very, very respected guy.

For the first six months I worked for him, and I found it to be kind of a continuation of my education in that he was in a very kind and gentle way very demanding of your work product. He would hit the books, but he would also expect you to go back and get it absolutely right. The lesson, I guess, just being don't be satisfied for anything less than your very best.

Politically the cases I was involved in with him—it's not as though we sat around and chatted politics or anything along those lines. He had a son who had gone to Sewanee who had died in a car wreck, I think sometime during the '50s when he had been part of a federal three-judge panel that had basically, as I understand it, and again this may be more mythology than fact, he didn't tell me this, I don't know if this came to me through reading or through conversations, but the general understanding was that he had been involved in opinions that followed *Brown v. Education*, and his son's grave was desecrated there in Montgomery by individuals who were offended by that.

At some point during my year there Judge Reeves married the widow Frazier whose husband apparently had been sort of a right wing, evangelical minister who had passed away, and Judge Reeves had been widowed some years before. I think when he set up house with the widow Frazier at eighty he began to slow down a good bit, and so I ended up, the two Judge Reeves law clerks basically were assigned to Judge Gottbold who also was a Fifth Circuit judge there in Montgomery. Gottbold was a very nice and engaging fellow. I never really felt like I was truly one of his clerks, although I think he pretty much evenly divided up the cases and treated us all with respect.

WA: So after Montgomery did you come back to Birmingham?

WB: No, Birmingham at that point in time, aside from politics and the subject of what you're dealing with, was a very dirty, nasty city. I had clerked one summer for Soroti Permit. Every morning coming over the mountain, of course I suppose summers are particularly bad for inversions, and air quality, and U.S. Steel was still belching out lots of particles into the air, but it looked like you were descending into a soup bowl. It occurred to me that that might not be what I wanted to do every day for the rest of my life.



Montgomery was not the kind of town you would want to be in as a single, but I was married. It seemed to have a nice pace of life. People kind of wanted you to know that it was an old Southern town, but they weren't too absorbed with their own pedigree, or at least didn't expect you to be too overwhelmed with it, and so I kind of thought, "Well, gosh, I kind of like this slower pace of life." I'm from Alabama. I feel comfortable being in Alabama, but I think I'm not going to really—I may have applied to one firm up here, two firms up here, one where my dad had a buddy. That would be Lange Simpson, and then John Samford encouraged me to apply at Spane Gillin, a firm that did all of Liberty National's work at that time, John being the son of the chairman of the board and that sort of thing. I really focused my job hunt on Montgomery and Mobile.

I did have an interesting thing. I guess maybe it's nice to be in a small state. I got a call one morning. I was home sick, likely the only day I stayed home sick that entire year. I get this call, "Bill?" "Yes." "This is Albert Brewer." Albert Brewer was a former governor at that point. "I wondered if you might be interested in coming down and talking to our firm?" So I went. Robinson, Bellser was the name of the firm, I believe. I went down and interviewed there. I had an offer from them. I also went down to Mobile and interviewed with Hand, Arrendal and Inge, Twitty. Inge, Twitty was a small, boutique-y sort of corporate and defense firm. Hand, Arrendal was the biggest firm in town. Really those were the three firms that I recall making good firm job offers. The pay scale in Mobile was, oh I don't know. What would it be? Like twenty-five, thirty percent higher than it was in Montgomery, plus the Montgomery interview had a lot to do with me being willing to join civic clubs, and go to church, and do what I could to drum up business which I found a little bit alarming. Between Hand, Arrendal and Inge, Twitty, Hand, Arrendal offered a little bit more money, but I would have been the umpteenth lawyer on the letterhead, whereas at Inge, Twitty it seems like I was the seventh lawyer on the letterhead so I took the lesser amount for the idea of being in a smaller, more workable sized firm. I kind of had this idea that big was not good.

I would tell you as an aside that Mobile is a very different town than Montgomery. It's some older, but not way older, but whereas Montgomery people might want to tell you that their dad had the first car in Montgomery, or their great-great grandfather played the first round of golf at Montgomery Country Club, they kind of wanted to slap you on the back and just sort of keep going. Whereas in Mobile they thought reverential silence should be devoted to ancestors from Mobile.

The law firm that I joined, Mobile will have you know that Mardi Gras in the United States originated in Mobile, not in New Orleans, and that the oldest Mardi Gras society in the United States is the Order of Myth. The six lawyers ahead of me on the letterhead were all members of Order of Myth. The great accomplishment of the one non-Mobilian in the six was that he was a non-Mobilian who had made his way into Order of Myth. Maybe not his only accomplishment. He was a very good lawyer as well. It was a very different environment. My attempt to extrapolate Montgomery into Mobile would not be my last mistake, but I certainly did not understand or appreciate exactly how different the two relatively similar sized Alabama cities would be. So I was down in Mobile really from '77 through '80, which I guess takes us scooting past your time frame.

WA: Okay. Then quickly let's talk a little bit about the 1977 trial, the Chambliss trial. I know that you were down in Mobile, but if you remember hearing about that or what your impressions were.

WB: Certainly. It was big news. I never do anything quickly. My buddy John Samford was a journalism major, a dedicated, liberal kind of guy. He sort of thought before this, he always liked Baxley a lot. I saw Baxley and Beasley on TV, and I thought they were both just sort of pure politicians, just sort of taking slightly different angles to get where they wanted to go. But I thought that taking that on was something that needed to be done, but I also thought it exhibited a certain amount of courage on Baxley's part given at least my perception of the state as predominantly white, largely rural, and not terribly forward looking.

I don't recall beyond that. I'm sure I would have talked with my parents about it some. I know that I was very pleased when Chambliss was convicted, but I was sort of embarrassed that it took Alabama fifteen years to get around to dealing with it. You kind of had the impression that everybody sort of knew who was involved somehow over that period of time, yet nobody really stepped forward. Now, of course, it's easy to have those opinions from afar, and it's another thing to have enough evidence to prosecute someone criminally and prove their guilt beyond a shadow of a doubt.

WA: How did you see the reaction to the trial?

WB: I think in educated circles, I don't really know. And again, my view of what was being said in living rooms around Birmingham or Mobile for that matter might be somewhat twisted. I think this probably would come more from Birmingham, but I kind of had the impression that educated people



thought the bombing was horrible even if they didn't totally agree with the civil rights movement. They just thought the bombing was horrible, and I think the general feeling was, "We've finally done something right. This is somewhat redemptive," if I'm using that properly. "Alabama has done the right thing, and we've prosecuted this guy, and this is good."

It's a little less clear to me what the less educated would have thought about it, but I was kind of pleased with my feeling of say, suburban Birmingham or suburbanites in Mobile, how they viewed the event because a lot of people whose politics I might consider to be somewhat conservative, bordering on reactionary, still gave me a reaction to the prosecution that was positive, which I thought was a good thing.

WA: Do you remember the bombing itself from when you were—?

WB: Yeah, I do.

[TELEPHONE RINGS. TAPE IS TURNED OFF AND THEN BACK ON.]

WB: Of course I always go off on tangents. I can't really help it. I mean, I remember just thinking how horrible. It was just a horrific event, but somehow it seemed very remote and removed from my life. Now, you know I have a very close work associate, in fact somebody you may want to see if she would grant you an interview. She's now Director of Personnel at Liberty National, named Shirley Taylor.

Shirley is a black lady who knew, was it Denise McNair, and maybe had some acquaintance with one of the other girls. In talking with Shirley it was not obviously something that was—to me it was horrific. It was frightening. It was terrible, but I didn't feel personally threatened by it. I don't know how to say that. It was disgusting, and I spent time imagining how horrible it must have been for the girls and for the families, but it didn't put me in fear of my own personal safety in any way. But talking with Shirley who would have been approximately the same age I was at that time. I was thirteen. What was Shirley? Well, she might not want me to say. Maybe a year or two older. Let's not quote me on that in print, at least not very specifically. She actually felt not only anger and disgust but some degree of intimidation and fear.

Somehow as a kid I would ride—it was such a different era. We had a lady who was our cook. She wasn't a maid. She didn't clean house, but she came and she cooked. She had been with the family like forever. She was the kind of woman who today, goodness knows what she would have done with herself because she was very bright and very energized. She would go down to Tuskegee. I can remember her going down to visit. I don't know the proper name, but Booker T. Washington, the museum of his

accomplishments where I guess they would have—what would you call them? I go blank too often. I'd say artifacts of his achievements and his life, and coming back, and just being swelled with pride in Booker T. Washington, and what he did, and what he meant to African-Americans in the state and nationally, and sitting down and talking to her about it.

I think she would probably ride the bus to our house, but we would take her home every night, and I usually rode with my dad and Inez, Inez Trammel, to take her home to Inglenook. We would go down—oh gosh, I wish I could remember. It's the road where the central bank processing center is just off of—is it Highland or University? I don't know where one stops and the other begins. There's an African-American church over there. They had steps going down into the basement. Somehow as a thirteen year old we would drive by there and I would, I guess, imagine that that was the church and how horrible it would have been. I'd see those steps. Every time we'd go by there I would think about those little girls. I don't know where I was going with all of that. What was the original question, if you recall?

WA: I think I asked you if you remembered the bombing.

WB: Okay.

WA: So when you got back to Birmingham after college -- that would have been what, in maybe '69?

WB: No, that would be '72.

WA: Seventy-two. Okay.

WB: I was in Birmingham '72 to '76.

WA: Okay.

WB: I know you think I'm smart enough to have finished Auburn in a year, but—and I probably was.

[BOTH LAUGH.]

WA: My math is not ( ). So did you see changes in Birmingham in terms of race relations, in terms of the economy, the downtown area?

WB: That's an interesting question. Occasionally if you were at someone else's house, you know, so many suburbanites are so conservative here. I guess I'm thinking sort of country club sorts because that would have been my exposure, I suppose, to some extent. You would hear concerns about

black people being given preferential treatment for jobs. The issues sort of shifted, and it was easy to draw sort of a perception that the feelings on that issue were much more personally felt in the eastern section of town, but obviously there was some evolution in where things stood.

I guess I thought at the time that there had been greater evolution with the civil rights act because I knew conceptually what it said. I knew my parents were all in favor of it, and I assumed its implementation occurred much more quickly and completely than it really did. I suppose it was only later when I was in a position to try to help ensure that a large corporation was complying that I saw the challenges were still there. The progress had not been as great as you might have thought it should have been.

Also historically I have some perspective on the whole evolution of pricing of insurance sold to African-Americans. It perhaps shouldn't have surprised me that it really wasn't until the mid-60s that that practice was discontinued. A lot of the ordinary companies, the ones who aren't currently involved in litigation. One reason they're not currently involved in litigation is almost all of the large so-called white companies that were writing the bigger face value, smaller price per thousand policies were simply just not writing African-American risk. It's companies who actually sold insurance to African-Americans who are now involved in litigation.

Going into the relevant time periods, I have seen and have read—the company I was involved with looks like it sort of ceased the sale of the so-called race based policies at about the same time everybody else did. There followed a period called socio-economic underwriting which was more centered on the occupation of the applicant for insurance. Plaintiff lawyers today assert that it was a continuation of the prior practice. I think that would be very difficult to establish, but Liberty National appears to have been the first company to have discontinued that. They didn't discontinue the socio-economic underwriting, to pick a date, until April 1, 1974, and that would have preceded most of the other companies by about six years.

But it's only as an adult or not an adult, but later in life that I now have perspective to say, "Well, gosh. Everything didn't change with the Civil Rights Act." I knew that there was resistance out there from conversations I would be involved with, usually not with friends so much as you're in someone's home, or you pick up a comment, or you're sitting at a table at a restaurant, and somebody at the next table is bemoaning how all the good jobs, or how her husband's going to be forced to hire all these black applicants

or whatever. But somehow being still in that liberal household where advances in civil rights were hailed and, what would you say, considered to be very positive, and then the little boozy, intellectual circle of friends that my mother kept, their conversation was always very positive so in a funny kind of way I probably was shielded from the fact that the progress had not been as great at that point in time. Because I was hearing good things, and positive things, and laudatory things I don't think I realized the shortcomings of what was going on.

WA: When you said that you think—

WB: While I'm thinking about it, Willoughby, another person who you might want to interview to help you achieve some balance with the white suburbanites and politicians that you may be talking to might be Jim Poole. Poole is an African-American employment lawyer at Liberty. He's not prone to sensationalize or overstate things. When his dad died a few years ago among the testimonials was a white minister from Atlanta who talked about how Jim's dad had hidden him out during the time of demonstrations when Bull Connor and other people were looking for him. I don't know how forthcoming Jim would be, but he might be another source of somebody growing up during that era who would have a different perspective than a white kid from the suburbs.

WA: Great. When you said resistance, or if was more personally felt in the eastern section of the city, what do you mean by that?

WB: Well, the people who maybe felt they might not, people who were wage and hour employees or applicants for wage and hour jobs. It was my perception, and this is probably more from the news and interviews, where the more strident voices were coming from seemed to be people who were possibly seeking employment where they would be in competition with African-Americans where in the past they would not have been, prior to the Civil Rights Act, or the time-delayed fuse on the Civil Rights Act. Blacks were relegated to janitorial positions, bottom of the barrel manual labor, save for entrepreneurs who were involved in, I guess, forming the black middle class or something.

You know, I've read decades worth of minute books, and when the Civil Rights Act was implemented it was kind of like, and I don't want to personalize this to Liberty, but it's like, "Okay. We're going to meet with the blacks. We're going to meet with this group. We're going to meet with management. We're going to talk about it. We're going to comply with this." The intent was to comply,

but looking at it historically, which may be something I could let you look at someday when this litigation is all resolved. It's one approach to the management people.

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BEGINNING OF TAPE 1, SIDE B

WA: Okay, go ahead.

WB: Okay, I was going to say, and perhaps did say, that one set of meetings with the management employees, of course they were all white. Then a meeting with the wage and hour white employees seemed to have a slightly different tone as commemorated in a memorandums that were written after these meetings occurred. Then there was another meeting with the janitorial and maintenance people where they pretty much were told they could apply for other jobs. They could now eat in the cafeteria. That's kind of astounding, just to think of the amount of change and actual progress that has occurred even if it's not perfect. But then there's some mention in the memo that whoever the boss of the janitorial people was came back and said, "We're not really sure we want to eat in the cafeteria." It was a different time. But, how did I get there?

WA: I asked you about the eastern—

WB: Oh, okay, and the competition. Okay.

WA: If we can talk a little bit more about race based insurance pricing. Can you maybe explain a little bit more about that. I don't know how much you can talk about it.

WB: I can talk a little bit. Of course, I've followed other cases, and I'm involved in the defense of two different cases. I guess I need to be a little bit cautious. I've gone back and read a lot of reports of the insurance commissioners and other contemporaneous documents.

It's obvious that early on that most of companies that were writing black risk were black companies, and that there was a lot of concern about the solvency of the companies. A lot of those companies wrote merchandise burial insurance and were not adequately reserving and, no doubt, couldn't afford actuaries and, in some cases, were probably run by charlatans. Perhaps because there was a market to be developed white companies, and they were white companies, gradually went into the market. The truth is that African-American mortality is still significantly worse than white European mortality.



In fact, since I have been involved in this case I've been more attuned to articles in the paper. There was a recent report of the Alabama Department of Health where they broke it down, various categories and causes of disease and this sort of thing. Or you'll hear an article on NPR that the federal government's going to have an initiative to encourage black males to seek medical intervention earlier in the treatment of problems. The NPR person said apparently in some, probably lower economic strata, part of the black community is considered not to be very manly if they go to the doctor. They're trying to change all that. Access to medical care. There are a lot of reasons for it, but apparently the differences continue today.

Going back in time I believe it was probably Mutual of New York, maybe it was Metropolitan, developed some race distinct mortality data based on their insureds which showed African-Americans had much higher mortality, and then these numbers were used, these statistics were used by companies going into those markets to develop products that were presumably priced accordingly. I'm not an actuary. There's so many factors that would go into pricing a product if you were going to look at this segment of the population versus that, including lapse. If you have a product that has a high lapse rate it's going to be more expensive than a product that stays on the books because your acquisition costs or first year commissions and stuff like that are going to be so much higher.

One thing that I ran into, and I don't think any other companies came across this, and the way I stumbled into it is when Liberty would acquire companies they would box up materials, records from the old company. It would come to Liberty and probably people were afraid to subject those records to the normal document retention practices, so the boxes would just go to a warehouse, so they served kind of like little time capsules. I was able to find that beginning in 1938 the Alabama Insurance Department mandated minimum rates for burial insurance, merchandise burial insurance, which required higher rates for African-American insureds. The phrase then was "colored" and "white," and the white rates were significantly lower than the colored rates.

There were solvency concerns. It was clear that solvency concerns were driving that. It wasn't just some random desire. In this case I know there was a lot of, what would you say, sort of hate based discrimination that went on, but here it looked like they were more concerned that companies not write

insurance and then inadequately reserve. Now, prejudice may have gone into that assumption, but just looking at the documents you don't find documents that smell of bigotry, if you know what I'm saying.

So the department issued these separate rates in '38, then in 1940 they issued a bulletin that said, "We promulgated these rates, and if you want to be licensed in this state you've got to utilize these, and if you're already licensed and we find that you're not using these rates or complying with these guidelines, we will revoke your license." Then in 1948 the insurance department reissued rates to be used for colored risk. I'm not really quite sure why they did that. All I found was, "Here are the rates you are to use." Then as late as 1957 the department came out with a new set of rates. This set standard and sub-standard rates, but if you were savvy to insurance-speak, especially insurance-speak of the day, it's quite clear that those were black and white rates. And, again, mandating higher premiums for African-Americans, and burial insurance was probably, if the companies that I'm looking at would be any guide, it was probably about eighty percent or so in Alabama of the insurance being written on African-Americans, life insurance anyway.

So you have sort of an odd conundrum. I don't want to forgive what the companies did, but on the other hand they really had no choice. Insurance is regulated by the states, and the state was mandating these rates. Now, I will say I first found out about race based pricing in 1988 when the N.A.I.C. sent out a survey, the National Association of Insurance Commissioners. It basically asked if you had ever written any of this business. Did you still have any on your books, and were you still collecting premiums?

Liberty was one of a handful of companies that answered truthfully to the questionnaire basically saying that we did have such business. I did urge the company at minimum to cease collecting premiums. In other words, take the policies that were still in premium paying status and move them to paid up status, and we did do that in '88, so at least I had some degree of sensitivity to the issue. More than saying that you had what the so-called industrial companies, the companies that collected weekly premiums door-to-door, the big fancy companies that wrote the large policies on ordinary monthly plans of insurance were just simply not writing black risk as far as I can tell.

I don't know when that began to break down. Obviously, I think probably the Civil Rights Act would have hastened all that, and I know Liberty spent a good bit I think of 1965 gearing themselves up developing the new series of products that were going to be the so-called socio-economic. I don't know if it would be interesting to go back and see the effective date of legislation, but 1966 is when Liberty came out

with the non-race based insurance. Then the socio-economic period for most companies as far as I can tell from what I've read and, again, if you were really going to report this you'd have to almost independently try to validate it, looks to me like it probably went through 1980 for most companies. So, any more you want to know about race based?

WA: What are the current law suits about specifically?

WB: Well, they just assert violations of 1981, 1982, relating to the sale of those policies, and then there are myriad of legal issues. No court has actually said that it's a violation, but everybody or most companies have rushed to settle. We're sort of sitting there thinking about going down swinging. I don't know. It will be interesting. I guess we feel like there was a justification. It was a different world. This is sort of akin to trying to rewrite history.

When we found out about it, or when more or less current management found out about it in '88 we paid up all the policies. After these law suits came in with them asserting, I didn't even learn about socio-economic at that time. I don't know that I knew about it until these law suits came up, and we basically took all the premium paying socio-economic and moved it to paid up status in 2000 once we knew it was out there. I guess there's some feeling that we've acted responsibly, but who knows how all that will unwind. Most of the suits have resulted in settlements. There's still a handful of cases ongoing.

But, you know, an interesting thing will be, and I really wouldn't want to be quoted on this, if you could go in and develop statistics, race based statistics out of the underwriting of ordinary products. I'm talking typically products \$50,000 and over where a more complete and detailed medical questionnaire is asked, often para-med has to come in and take your blood pressure, weigh you, ask you a bunch of questions. You may have to go take a full physical. The bigger the policy, the greater the requirements, plus stair-stepped age and face amount. But if you could statistically analyze, and then come up with an average premium per age for African-Americans and non African-Americans, I suspect, and I'm not talking about Liberty National, I'm talking nationally every company that engages in detailed underwriting, you would suspect if black mortality remains worse than white mortality, and it's not like Jim Poole or Shirley Taylor applied for insurance and they came through their physical with flying colors, then they would get issued just whatever your standard rate for a person of a given age and given face amount. But on the other hand if statistically blacks have higher morbidity and mortality, that ultimately is going to be reflected in the

average premium they pay, although that's nothing we really want to raise in the defense of the law suit. It might just give the plaintiffs an idea for their next law suit, but it would be pretty hard for them to pursue, I think. Any way, sorry.

WA: Well, so—

WB: I've got to go home for dinner now.

WA: You do?

WB: I thought you were looking at your watch.

WA: No, I'm—

WB: I was channeling you there for a second. I apologize.

WA: So what haven't I asked you? Is there anything else that you've thought of?

WB: That jumps out at me?

WA: That you want to talk about.

WB: Not that I really can think of. I guess it's on the one hand gratifying how far race relations have come, but it's also disappointing that we never really quite seem to get over the last hurdle, and maybe we never will. I don't know. It seems to me you still have things that feel like white culture and white society, and you still have things that feel like black culture and black society. I can kind of understand that nobody should really want to give up their European or African heritage, yet on the other hand I guess I would like to personally see more merging of the cultures, more—not to sound clichéd or something—more interracial marriages.

I guess in my own personal growth I always felt like I had some residual racism because I always thought if I had children I wouldn't want them to marry an African-American. I would sort of justify it by saying life would be more difficult for them and that sort of thing, but I felt like being honest that I had that resistance. But at some point in time, and I think it probably came from becoming very close friends with Shirley and Jim, and a whole host of other African-Americans at Liberty National, but particularly those two who were just very, very good people, very close, worked very closely. I depended on them a ton, that a some point in time I just thought, "If Mary Frances came home with a black date, it's just not an issue." If she came home and was real serious with a black date I might say, "We'd love for you to live in

Birmingham, but you might want to think about it really carefully." Hopefully that's all gone, although sometimes in a parking lot at night when—

END OF TAPE 1, SIDE B.

END OF INTERVIEW

TRANSCRIBED BY SHARON CAUGHILL, SEPTEMBER 2003