

Interview

with

BARRY NAKELL

October 1, 2003

by Malinda Maynor

Transcribed by Laura Altizer

The Southern Oral History Program
University of North Carolina at Chapel Hill

Index and tape on deposit at
The Southern Historical Collection
Louis Round Wilson Library

Citation of this interview should be as follows:
"Southern Oral History Program,
in the Southern Historical Collection Manuscripts Department,
Wilson Library,
The University of North Carolina at Chapel Hill"

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BARRY NAKELL: In response to your first direction and then you can remind me of the others.

MALINDA MAYNOR: Okay.

BN: I became a member of the faculty of the UNC law school in the spring of 1970. Sometime in 1973 I got a telephone call from a wonderful woman named Janie Maynor Locklear, and that was the first time that I heard about the Lumbee Indians. Janie told me a little about the Lumbee Indians and about a situation involving Old Main on the campus at what is now UNC-Pembroke. Janie asked to bring a group of people from Pembroke to talk to me about the situation and I agreed. We scheduled a meeting, and a group of people came to meet with me. As I recall the group included Janie. I believe it may have included her husband Nick. It included Dexter Brooks. It included Carnell Locklear, and there were some other folks. I'm not sure I remember off the top of my head who else was in that first group. They came and told me about the Lumbees, about the history of the Lumbees, about the problems of the Lumbees, about Robeson County, about the history of Robeson County and various matters. We met for quite a while. They told me about the situation involving Old Main. I agreed to help them in connection with their struggle to preserve and protect Old Main. I enlisted the aid of a colleague of mine, Professor Tom Schoenbaum. It's S-C-H-O-E-N-B-A-U-M, to help me because at that time he was very interested in statutory provisions for protection of environmental matters. He was getting into environmental law, and these also involved protection of historical buildings et cetera. So he agreed to help me with this matter, and we did set about trying then to save Old Main. I think we were very successful. Our legal effort I think delayed the destruction of Old Main and eventually the political

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remedy came through. I believe Governor Jim Holshouser promised to save Old Main, and as I recall about this time Bruce Barton started the *Carolina Indian Voice*. In an early edition of the *Carolina Indian Voice* there's a big full page ad saying that the white man has made us many promises and kept very few of them, but Governor Holshouser promised to save Old Main and he has come through on that. I remember that very clearly. So we were able to save Old Main, and as we were doing that the folks I was talking to including Janie and Dexter and many other people had become involved. Carnell was very involved.

I began to meet more people in Robeson County and began to know more people, and they all began talking to me about the fact that Old Main is a symbol of education and of the interest of the Indians in Robeson County in education. But that there were issues, real issues involving education they wanted to discuss. I talk about the Indians in Robeson County because during this time I learned that not everybody was happy with the name Lumbee. There was a group of Indians calling themselves Tuscaroras who were concerned that one of the problems that afflicted them was the name Lumbee for various reasons. So they were kind of an independent group, and I worked with both the Tuscaroras and the Lumbee, starting to work with the Tuscaroras after I'd been working with the Lumbees. I believe actually the Tuscarora group was very involved in the Old Main struggle also. They had actually been lying down in front of bulldozers to protect Old Main. So that was another important effort that had delayed destruction of Old Main until our legal efforts could go into play, and they delayed it until the political efforts could be effective.

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So when we started talking about the situation of education in Robeson County, we talked about various problems of oppression, racial oppression of racial tensions, but one that stuck out as one that we might address next, should address next was the problem of double voting. That's a very clear name, very expressive name. It's not exactly right. It was more like partial double voting. The situation was at the time that there were six boards of education in Robeson County. One was called the county board of education. Five were called city boards of education. There was a Lumberton Board of Education, a Red Springs Board of Education, et cetera. By the way feel free to interrupt me at any time.

MM: I will. You're doing great. But I'm sort of making a few notes but keep going. I will if I need to.

BN: Well, you may be familiar with this general situation, but I'll describe it.

MM: Yeah, please do.

BN: The law at the time provided that--well, let me back up a little bit and say that the county, each board of education had jurisdiction over the schools within its area only. So the county board of education was responsible for the schools in the county area only and had nothing to do with the governance of the schools in any of the city areas. The city boards of education governed the schools in their area and had nothing to do with governing the schools in the county at all. They were all separate and ran the schools in their separate areas, much like right now we have a city and county school board in Orange County here, but the county school board has nothing to do with the city schools. So the name county school board is a kind of a misnomer. It ran the schools outside of the cities. But it did not run all the schools in the county. It had nothing to do

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with the schools, governance for the schools, in the cities. So that's the way, so all the six boards of education were all entirely separate. All ran their own schools. The election process was our concern. The law at the time provided that anybody who lived any place in the county would vote for the county school board, but only people who lived in the cities could vote for each, lived in each city could vote for each city school board. So, the upshot was that everybody in the county elected the county school board, but only people who lived in Lumberton elected the Lumberton School Board. Only people who lived in Red Springs elected the Red Springs School Board. Only people who lived in Maxton elected the Maxton School Board et cetera. As it happened, most of the Indians in Robeson County were in the county schools, the schools administered by the county board of education. The upshot of this meant that because people who lived in the cities could vote for the county school board, the people who lived in the county area, which were largely the Indians, did not control their own schools. They were controlled instead by people who lived in the cities. Whereas people who lived in the cities, each city, they controlled their own school board. So the name double voting meant that the people who lived in the cities could vote for their own school board plus the county school board. I call it partial double voting because the people who lived in the county, largely Indians, could only vote for the county school board, couldn't vote for the city school boards.

MM: What about African Americans? What was their situation?

BN: Well, the African Americans were spread among the various school boards, I think, and my recollection is that the Indians were the dominant racial group in the

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schools in the county. But there were white and black students in the county school board as well. It wasn't totally Indian.

MM: Do you feel like African Americans had any more say so over the city school boards than say Indians would have, Indians that lived in the cities or—

BN: I'll tell you generally I thought the blacks and the Indians were both oppressed groups in Robeson County at this time, and we're talking in the early '70s. That they were equally oppressed, that there were a number of devices that were used to oppress them, a number of ways that they were kept powerless, that this is a device, this double voting so called was a device that had a greater impact on Indians than on blacks. So it was of particular interest to the Indians and the elimination of double voting itself didn't help blacks as much as it did Indians. But I know, I did know about a lot of other devices that oppressed blacks and also kept blacks and Indians from working together.

MM: Talk about those a little bit. We can get back to the double voting structure. But I'm sort of interested in that moment when you came down here, what you were observing.

BN: Well, I wouldn't say in the moment, I spent a lot of time in Robeson County. I came down often. It's not a matter of, I mean things were pretty clear from the beginning. But the more I was there the more I learned, and the more I learned about it. The one matter related to the education system that I thought was a concern both the blacks and whites was that the education system was deliberately kept at a low level of quality. At that time and it think still Robeson County depended for its economy on low wage industry. In order to attract industry to Robeson County, folks promised low wages. One way to maintain low wages was to have a large group of uneducated, even

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illiterate, citizens who would be willing to work for the low wages. So the education process was kept at a poor level in order to be able to produce people who would work for low wages. Another strategy that I learned about was that the county was fairly evenly divided between the three races, not precisely certainly, but there were pretty strong proportions of each of the three races. In order to keep the whites and blacks from joining together in political races in order to win a race for, win a political seat, a political position for a member of one of those two races, the whites would often put up candidates from the white and/or black races to run against other candidates to divide the vote. So if there were a serious black candidate or a serious Indian candidate, the whites would put up a black or Indian candidate to divide the vote, divide the Indian or black or minority vote, and enable the white to win. That was a pretty effective device and it was very strongly used. So those are a couple of things.

MM: Do you have any sense of because across the South in many places obviously it was difficult for blacks to vote period. When you spent time down here to what extent were Indians and blacks participating in the voting process? Was it extraordinarily high to you or what did it--

BN: That was a subject that Dexter Brooks was particularly interested in, I think, shortly after we met. Dexter at the time was a junior college math teacher. So he was very good at working with math and numbers and statistics. He did a lot of work on that. A lot of his work was in connection with our double voting case, but he was also doing some work on voting rights and voting rights patterns. I remember him sitting in my office and going over figures that he'd worked on. But frankly I don't remember

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becoming directly involved in voting rights litigation about that. So I'm not sure exactly what came of that.

MM: Okay. But you would say that by the time you became familiar with the struggle here that Indians and blacks were certainly trying to participate and had been doing so running candidates and things like that for a while.

BN: Yeah, and let me say that I learned that this struggle over double voting was a struggle that involved more than just the schools. It was really a struggle over political power in the county because there were-- Let's see, I think when I came down there, there were no Indian lawyers. There was a Lumbee who was a lawyer named Brantley Blue, and he was on the Indian Claims Commission, so he was not available to provide any legal services. I seem to recall, I don't think there was any Indian doctor. There was an Indian pharmacist, Dr. Brooks. But by and large most of the educated Indians in Robeson County were teachers, predominantly teachers. Many of these worked for the county board of education. Some of them of course worked for some of the city boards of education, and some of them worked outside the county. But a great number of the most educated, best educated Indians in Robeson County worked as teachers for the Robeson County Board of Education. As long as the Robeson County Board of Education was under the control of the people who lived in the cities, that is largely the whites, these people, many of whom were the natural leaders of the Indian population were afraid to express themselves. So there was a lot of fear among teachers, administrators, among the Indian population in the county board of education about speaking out on behalf of the rights of Indians, about running for office, about speaking out in support of Indian candidates et cetera, for fear that they would lose their jobs. I

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think it was a pretty realistic fear at the time. So that gave the issue even more gravity. I thought it was very serious as an issue of education of Indians, but it also had a major impact on the political situation for the Indians in Robeson County.

MM: So the county board at this time was all white.

BN: The county board of education was predominantly white. If there was, I'm trying to, I can't remember if there might have been an Indian on it. But it was definitely predominantly controlled by whites, yes.

MM: So tell us a little bit then about the constitutional issues involved in your litigation against that system.

BN: Well, by this time the United States Supreme Court had developed some new constitutional doctrines about voting rights, particularly the general right that every qualified citizen is entitled to one vote, one person, one vote. A number of decisions about equality and fairness in voting rights. Under those doctrines it was crystal clear that the double voting system that I've described was unconstitutional. I don't think there was much question about it, but we had a lot of difficulty establishing it. The first thing we did is we went to the legislature to try to get some help. There was only one member of the Robeson County delegation who supported us and that was Joy Johnson. Joy Johnson was a black member of the legislature, and the blacks didn't, as I say, have a great interest in this double voting issue, but Joy Johnson supported us a thousand percent, which I thought was great. I remember one of the nicest experiences I had in the legislature, I met a senator there named Wade Smith. Wade Smith continues to be a good friend of mine. He's a fine, excellent lawyer in Raleigh and he was very supportive of us as well. He was very concerned about the situation. Generally speaking on a matter of

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particular local interest the legislature will defer to the local delegation, though. With Joy Johnson being the only local legislator who would support us, we were unable to get legislative relief. So we turned to the courts. We filed a lawsuit in the United States District Court for the eastern district of North Carolina. The case came before the Honorable Algernon L. Butler as I recall. Judge Butler turned us down. So we had to appeal, and we went to the United States Court of Appeals for the fourth circuit, which sits, holds argument in Richmond, Virginia. I remember the day up there very well. We were suing the Robeson County Board of Elections and the State Board of Elections. The Robeson County Board of Elections was represented by an attorney from the Attorney General's office. Excuse me the State Board of Elections was represented by the Attorney General's office. The local Robeson County Board of Elections was represented by Mr. Britt who later became a federal judge in the United States District Court for the eastern district of North Carolina where he served with distinction and is now I think on senior status. But we argued the case, and a great number of Indians, both Tuscarora and Lumbee, came up to Richmond for the argument and filled the courtroom. It was quite an exciting event because the court was very open and fair-minded. It was very clear from the argument that they saw the unconstitutionality of the double voting system, and it was really a very euphoric occasion. I think we were very confident after the argument based on the comments of the judges, and after the argument we went outside and kind of celebrated. Bruce Barton took some pictures, wrote a nice story in the *Carolina Indian Voice* about the argument. I remember, though, feeling kind of sad about one thing, which is the only person who could talk to the two groups at the time, the Lumbees and the Tuscaroras, was myself. Well, I guess at the time Bruce Barton was

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still welcome in both groups, but shortly after that the Tuscaroras stopped talking to him. So his front-page story about the argument had two photographs of the group there, one photograph of Lumbees with me in the middle and one photograph of Tuscaroras with me in the middle. They insisted on being photographed separately, which I thought was unfortunate.

But I might tell you a little story I guess. This was a little story about when we filed the lawsuit. You asked about the AIM folks. So maybe I can back up a little bit and tell you when we decided to go forward with the lawsuit, I had been working with the Lumbee group that I described to you. But as I was working on it, I began working with some of the Tuscaroras as well. They became supportive. So I actually had separate meetings with both groups. I met in Pembroke at a restaurant as I recall with a huge number of Lumbees, and I presented the draft of the complaint to them and got their support. While we were meeting, Russell Banks [actually, Dennis Banks] and another Indian from the AIM movement came to the meeting and spoke. I kind of waited until they finished, and they left, and I spoke to the group again, and I said--I don't remember exactly the words--but I essentially said I don't think you need to take to the streets. I think we have legal remedies available. I'd like you to support this lawsuit and see if we can begin getting legal remedies. I think this is the way to proceed. Most people I think supported that effort. I know there were some people who supported the AIM movement. I know there were some actions, barn burnings, I remember, and other things attributed to the AIM folks. I think about this time there was a big sit-in at the Department of Education in Washington as I recall or at one of the departments in Washington. I think it was largely the Tuscarora group that was involved in that.

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I then had a meeting with the Tuscarora group. This time we met out in a rural part of Robeson County in a large one-room building, and there were a good number of people. I would say there were a good hundred people at that meeting. At the time the chief of the Tuscarora tribe was a guy named Kever Locklear. See, Kever had been one of the people arrested in the sit-in in Washington. At the time Kever and I didn't know each other very well. Since then we've become very good friends. But on that date, in front of this assembled group, I began talking about the proposed lawsuit, and then I read them the complaint. I read paragraph one of the complaint, and I said, "The plaintiffs are a group of Lumbee Indians from—" And I didn't finish the sentence when I felt myself grabbed from the behind and wheeled around a knife at my throat. There was Kever Locklear holding the knife and several of the other Tuscaroras were surrounding me. "What have I done wrong? What is this?" Well, things calmed down in a little bit, and I learned that I had used the term Lumbees, and that's when I learned that the Tuscaroras thought that that name was the source of all their problems.

MM: Um hmm. Could you talk about that for just a minute?

BN: Why was that the source of their problems?

MM: Why was that the source of their problems?

BN: Let's see. This is taking me back a little bit. Generally I think that they thought that Lumbee was a name given to the group by white political leadership. I believe there was a statute, state or federal, that first used the term Lumbee and then another statute, state or federal, that used the Lumbee. They thought there were a number of original tribes. Tuscarora being one. Croatan being another. There were several others. I'm trying to remember them. I know at least one other tribal name, and they

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thought that the Indians in eastern North Carolina were actually members of these several tribes; that they had been amalgamated together in consideration by the government as Lumbee; that as Lumbee they were non-tribal or non-reservation Indians, and really non-tribal Indians. This was just a name that was taken from the Lumber River and was not a name that any of the Indians groups had used before the name was given to them by the white man. They thought that, and they were quite right that, the Indians in eastern North Carolina were not federally recognized. There was a statute that called them Lumbee didn't give them all the rights of recognized Indians, and so they thought that this name deprived them of their identity and was the reason they couldn't get their rights. I think they also thought that back in the Roosevelt era some Tuscaroras had been tested, blood tested by the New Deal government to determine whether they were really Indians and had been found to be Indians. They thought that the descendants of these people had particular claim to federal recognition. They were among the Tuscaroras. So they thought the Lumbee name actually denied them, deprived them of their identity and that the Tuscarora name and the Croatan name et cetera were more descriptive, more accurate about their tribal history and background and that by, if they used the Tuscarora name rather than the Lumbee name, they would be more successful in getting federal recognition and the rights that they were entitled to.

MM: So it's a historical difference sort of interpretation difference.

BN: Historical, right.

MM: Is there, were there other differences that you observed, political opinions or economic realities or--?

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BN: Well, generally speaking, my sense was, that generally speaking the Tuscarora were less educated than the Lumbee. That's not, there were less educated Lumbees also, but the more educated Indians tended to be Lumbees. The Tuscaroras tended to be largely farmers and skilled workers or unskilled workers et cetera. So I think there was also an economic disparity between them. The Lumbees were talking about people who were all exploited, but the Lumbees were a little better off than the Tuscarora generally, and politically I'd say that the Tuscarora were more radical, more action-oriented than the Lumbees. So—

MM: Well, it's interesting—

BN: But I think, I'd like to make clear that although I started out with the Lumbees, they're the people who first contacted me, I began working with the Tuscarora, and as long as I was working with the group, I think I was supportive of both and working with both groups. I thought both groups were working in the common interest even though from other directions. I just thought it was kind of sad that they couldn't work together, and it's kind of the human condition I think that when you get a little bit of power you start dividing it. They didn't have much and even when they didn't have much they were fighting over what little bit of power they've had. I think some of those power struggles have been hurtful to the Indians in the same way they are to other groups.

MM: Well, it's interesting that a sense of political radicalism doesn't always accompany greater poverty, but in certain situations in the country during this time those two things seemed to work together. I'm just sort of curious about your thoughts or

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perceptions of why that combination might have happened among the Tuscarora in the '70s.

BN: Well, that's a good question. When we say radicalism, that's kind of a loaded, weighted term. The Lumbees were certainly ready to stand up for their rights. I mean the time was right, and all they needed to do was throw off some shackles. One of those shackles they needed to throw off was white control of the county school board. Once that shackle got thrown off, we were successful in the double voting suit, that made a huge difference in the political power of the Indians. It made a huge difference because many of the natural leaders of the Indian community who had been held down, burdened by that shackle, felt free to soar. So they began to express themselves politically, become active politically and so that's kind of a form of radicalism if you will. They really threw off an oppressive system. I think it's probably to some extent had more to do with level of education and economic level although those are associated. I think the more educated people may have been able to understand the legal process and perhaps the political process and the importance of those, more than some of the less educated people who were more accustomed to just taking more direct action.

MM: Because I think when people hear this interview, they're going to be reminded of the split within the African American community between say Malcolm X and Martin Luther King although the parallels aren't exactly there. That's sort of the general historical trend that on the surface of it the Lumbee and Tuscarora conflict would kind of fit into. Would you have anything to add to that or a way to kind of make that more specific or more local for other people doing research?

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BN: Well, I think my sense is that one characteristic of the human condition is that we try very hard to divide ourselves and to find differences, and we try to elevate ourselves by that and no group is immune from that. Every group does it and that that's kind of what happens when people get a little bit of power. In that sense I think it is a, you draw a fair parallel even though the exact definition of the difference between the groups may be different. But of course, there is another parallel is the difference between the more radical or direct action or action-oriented group and the group wanting to take more of a legal and political process and use non-violence to achieve their ends. That is a natural difference as well.

MM: It might be more accurate actually to say that it was more like some of the difference at the time between the NAACP's approach and Dr. King's approach, but of course it depends on your perspective. Can we just go back one step? I had had a question about when you took the double voting case to court. On what grounds Judge Butler overturned, not overturned—

BN: Refused to—

MM: Refused to lift it.

BN: To tell you the truth, I don't remember exactly what his rationale was or if he actually gave much of a rationale. I really I don't remember there was much to an opinion that he wrote to tell you the truth.

MM: What about Mr. Britt's argument on the behalf of the school board, Robeson County School Board.

BN: Yeah, good question. What was his argument? To tell you the truth, Malinda, I'd probably have to go back and look to see. It's hard after all these years to

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think of any possible argument they could have made. I don't really remember exactly what they were trying to say.

MM: Okay. Well, we can sort of—I'm sure we can do some research.

BN: I remember the attorney from the attorney general's office was a very decent fellow, and I remember he made, I remember thinking he made a reasonable argument, but I think there wasn't much to it. That's why I say in the oral argument in Richmond it was pretty clear that we were going to win. There just wasn't much to their argument.

MM: Do you feel like the federal government's growing involvement in school desegregation had any impact on this case, the Justice Department and the office of education in Washington?

BN: Well, that's a good question. I can't say that I noticed that at the time, anything about that.

MM: Yeah, I think, did you know Helen Sheirbeck well at that time?

BN: Who?

MM: Helen Sheirbeck.

BN: Now that name does sound familiar. Who was she?

MM: I guess she was working in the office of education in DC then, and I just, that's sort of another part of the story I need to kind of flesh out. She had some involvement in local matters here, but I don't really know what they were.

BN: I recognize the name, but I don't remember any more than that.

MM: Okay. Okay. Well, you talked a little bit about the impact of breaking double voting for Lumbees. Tell us, once the court case was won, what were the kind of sequence of events that took place to put the whole thing into effect, enforce it?

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BN: All right. I think as soon as we won the case or maybe shortly before, the county school board gave the superintendent a new contract for four years, which was the maximum they could give him. So they were trying to protect their power through the superintendent. We, once we won, we tried to get that contract set aside. We went for emergency relief before one of the judges in the Fourth Circuit from North Carolina who was Judge J. Braxton Craven, a judge for whom I have always had immense respect. But he turned us down. He said he thought we were not going to suffer irreparable harm, that we could wait out the four years with the superintendent and then have the new board elect a superintendent. So I was kind of disappointed by that. But then the new board was elected. It was primarily an Indian board. It did elect, appoint Purnell Swett to be the first superintendent of the new county board of education. So that was a major accomplishment.

MM: Were you involved in sort of recruiting votes for that new board or—

BN: I didn't have anything to do, I left that with the local people. No, I didn't have anything to do with that. I do recall, we also did, there was a fellow named Oxendine who had been appointed to the state board of education. I must say, generally speaking, that Jim Holshouser was elected governor. Jim Holshouser had come through Robeson County and promised to save Old Main and had gotten the ear of people in the county and a number of Indians changed their registration from Democratic to Republican because they liked Jim Holshouser and his promises.

MM: I think, can you hang on just one second. I think you're sort of fading out again. Are you there?

BN: Yeah.

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MM: Uh.

BN: Can you hear me again? Maybe the batteries are going down. I'll try another phone. I've had that problem before too. [sounds of movement] Hello.

MM: Hi.

BN: Is that better?

MM: That's great. So back up for me to Holshouser had saved Old Main.

BN: Yeah. Okay. Governor Holshouser had promised to save Old Main, and he eventually did when he became governor. That thrilled people, and he also appointed a number of Indians to positions in his government. One of these was, I'm trying to remember his name. He was one of a group of brothers who had good positions in education. His name was Oxendine, but I don't remember the first name now. I remember being at his funeral.

MM: Hughes.

BN: Huh?

MM: Was it Hughes?

BN: Hughes, Earl Hughes Oxendine, exactly right. Fine, fine guy. When we won the double voting suit and the county board of education still tried to reappoint, give the superintendent a four-year contract, Earl Hughes had been appointed to the state board of education, which had to approve the contract. I did go with him to a meeting of the state board of education where he tried to get them to turn it down. He was unsuccessful. It was after that that we went to the Fourth Circuit. First to Judge Craven, and then I think to a full panel, and we were unsuccessful. So there was a little delay in-- We then did have an election, and the Indians did win, and then they were able after the

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four-year contract of that superintendent to appoint Purnell Swett and begin getting control over the county school board.

MM: You were saying that a lot of Indians had switched from Democrat, their registration from Democrat to Republican. Did that influence this process?

BN: I think that it did enable a number of Indians to get good positions, appointed to good positions in the Holshouser administration, and I do think that the Holshouser administration generally was concerned about the interests of the Indians in Robeson County. I do remember--and I tell you this is very poignant for me--but Janie Maynor Locklear, the person who contacted me from Robeson County and who had been a leader in all of these struggles developed an illness. I did a little legal work for her in trying to get some help from her health insurer in connection with this so I was in touch with her and then unfortunately she passed away. I went to her funeral and I was very pleased. We were sitting in there when I saw Jim Holshouser walk in and sit down at her funeral. I thought that was very nice. It brought back a nice memory of what an excellent governor he had been on behalf of the Indians. I must say actually Governor Jim Martin also was pretty good for the Indians. I think to some extent this might be because, are you there?

MM: Yeah.

BN: The Democratic party largely controlled and still controls Robeson County. So politically I think it was a good move for them to help the Indians, but I think both Governor Holshouser and Governor Martin were sincere about that, and I was impressed with what they did for the Indians in Robeson County.

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MM: It's interesting I think to some historians the fact that Indians obviously a large number of them, but still fairly isolated regionally and economically from sort of the mainstream, would carry that kind of political weight on a state level. Do you have any thoughts about that?

BN: Well, I think the explanation is that actually there was a fellow running for Attorney General at the same time that Jim Holshouser was running for governor. He didn't win. I don't remember his name now. I'm trying to think of his name. He was a good fellow. He was very interested in and supportive of the Indians. He and I became good friends at that time because he talked to me about legal issues involving the Indians, and he went to Robeson County and campaigned among the Indians. So I think my sense is that the Republican Party saw an opportunity for an inroad into the Democratic control of the county. I think they did achieve some success in that respect although the county is still largely Democratic, and I think the number of Republicans among the Indians to my sense has diminished.

MM: So Indians at this time tended to vote together, you would say. Was the racial situation part of the reason they felt they had an inroad or--

BN: Right.

MM: So it was kind of a way to split the vote.

BN: The racial situation, there were things they could do for the Indians and there were things they did do for the Indians, and I think the Indians were very appreciative and supportive of people who were helping them.

MM: So tended to bring in votes for that candidate that would do those things.

BN: Right.

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MM: Okay.

BN: I don't want to be totally cynical. I do believe that both Holshouser and Martin understood the issues, understood the plight of the Indians and sincerely wanted to help them. I do remember hearing a report of a conversation that Governor Martin had with Joe Freeman Britt later. There was a new judgeship created that was designed by the legislature that was to be for a minority. Dexter Brooks applied for it, and Joe Freeman Britt decided to apply for it. I heard, I don't know if it's true or not, but I heard that Britt had a conversation with Governor Martin when Governor Martin explained to him that the seat was designed for a minority. Britt said, well, Governor in Robeson County I am a minority. I'm white. Governor Martin said that's not what the legislature intended by minority. So I was kind of impressed with stories like that that I heard about Governor Martin and his real understanding and support for the interests of the Indians.

MM: Let me see. That sort of reminded me of something. Well, I guess I was thinking about, this is again going back a little bit, to the expansion of the county school board and correct me if I'm wrong but I think I remember reading there were seats added to the board that were designated for minorities.

BN: Is that right? I don't remember that.

MM: Okay. Okay. Well, I--[blank space]

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MM: Okay. Once we won the lawsuit.

BN: Yeah, then I was not quite so involved on a regular basis. I didn't necessarily keep up with everything that was going on there.

MM: Okay. Okay. Well, all right. Then I'll have to make sure to ask a series of questions then to some other folks about the sort of implementation of the case, of the lawsuit.

BN: I need you to speak up now. I can't hear you very well.

MM: Oh, is that better?

BN: Much better yeah.

MM: Well, I guess I'd like to get, again go back a little bit in time maybe and talk a little bit about your own background and getting into law and sort of how that relates to the passion you obviously developed for the situation here speaking from your own experience. For example when you were in law school or became a law professor, what drew you to the issues here?

BN: Well, I think it's fair to say that I had my own social and political consciousness aroused by the civil rights movement. I was in high school when the civil rights movement was getting strong, and I had my eyes opened to discrimination then. It was all around me, but I hadn't noticed it. So I became very concerned about the unfair treatment of other people, and I think that probably my senior year in high school I became very much interested in that and started learning about it.

MM: You went to high school where?

BN: I went to high school in Michigan.

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MM: Go ahead. I'm sorry.

BN: I think when I was in law school of course, I think that was a large part of my motivation. When I was in law school I worked one summer for, or part of one summer for it was called LSCRRRC, L-S-C-R-R-C, Law Students Civil Rights Research, I don't remember the name. But it was an internship program for law students who would go down South and help work with lawyers from the North who were coming down for limited periods of time. I worked for Marian Wright, who is now Marian Wright Edelman, in Jackson, Mississippi in the civil rights movement and also I spent, I took a week out off of law school and went down to Selma, Alabama during all the voting rights demonstrations there. So a large part of my what was shaping me then I guess was the civil rights movement.

MM: Then you decided to go into law and law school, I mean, I'm sorry, a professor of law specifically to sort of teach others or—

BN: Well, I don't know that I specifically had that in mind but certainly when I joined the faculty of the law school, I was in civil rights and continued my work in civil rights generally. I think my work with the Indians when Janie and the group came down to talk to me, it was right away very clear that that fit right into what I was interested in. So I was glad to work on that.

MM: Did you have any particular response when you learned about Indian history here in North Carolina? Was it surprising or typical in some way? How would you describe your reaction to it?

BN: Well, as I think I said I had never heard of the Lumbees, and I think I probably didn't know anything about Indians in North Carolina until Janie and the group

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came to talk to me. After that I talked to a lot of people and did quite a bit of reading about the Indians in North Carolina. Actually at one point I think had, I believe it was a Tuscarora group brought to me a massive quantity of documents that they were putting together trying to get federal recognition, and I reviewed all that. So in the process of doing that, attending a number of Indian cultural events there, getting to know a lot of Indian people, that's when I began learning about the Indian history and plight in eastern North Carolina. I really can't say that before that day that the group came to see me that I was particularly well informed about that although of course I was generally informed about it.

MM: Well, talk, speaking of getting to know some people, talk a little bit about Dexter Brooks and your working relationship with him.

BN: Sure. Well, yeah, Dexter was a gem and was a very special, a very special person. He was very dedicated to the Indian people, and he was very helpful to me. We worked together very closely during the time of the double voting suit, and I mentioned he talked to me about other plans he had on voting rights issues that I was not ultimately involved in. But I think I'm proud to say it was the work that we did together that encouraged Dexter to come to law school and very pleased that he was very successful. I was also one of his professors in law school and we were good friends. I was very pleased to see Dexter go back into Robeson County and start a practice and begin delivering legal services to Indians and build up a practice. Also Dexter was very genuinely devoted to increasing the numbers of Indian lawyers in Robeson County, and he and I worked together to try to bring Indians from Robeson County to one of the law schools. We tried to bring at least one Indian to the UNC law school every year and tried

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to also encourage Indians to go to North Carolina Central and Duke as well as other law schools. Dexter was really the guy in the county doing all of that, and I often met with students and talked with them and also talked with administrators and tried to develop a program for bringing these folks, and Dexter was very successful. When people graduated, he had room for some of them in his law firm and helped others set up their own practices, and then Dexter also helped start a legal services program in Pembroke. He recruited Julian Pierce to be director of that program, and Dexter served as president of the program. It was a time, it was very timely because legal services was, this was a time when legal services was beginning to grow. They were getting more support from the federal government, and North Carolina had developed a program called Legal Services of North Carolina, and there was funding available for legal services. It was very organized and supported, and I was also involved in legal services in our area here, and so Dexter and I shared interests in developing legal service programs. I met Julian Pierce with Dexter and then on many occasions and thought the world of Julian Pierce also.

MM: Talk about Julian some also. When you met him, the same sort of things that you mentioned about Dexter in terms of what kind of work he did and—

BN: Well, Julian was the first director of legal services in Robeson County, legal services program, which was critical. This whole scheme, of course when I went down as I said, when I first was invited by Janie and Dexter and Carnell and the group down to Robeson County, there were no Indian lawyers there. There was a tremendous need for Indian lawyers, and the absence of Indian lawyers of course left them vulnerable, left the Indians there very vulnerable to a variety of problems, not just the systemic problems

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such as double voting but a variety of problems. There was a great need for Indian lawyers. So actually one of the reasons that I began having less to do in Robeson County after we won the double voting suit, at least for a while, was because there were more Indian lawyers there. Dexter was down there and others were down there, and so the need for bringing somebody from outside the county was diminished. It wasn't gone, but it was diminished. There were actually times when even Dexter would call me and say there was a problem where they needed someone from outside the county, a lawyer from outside the county to come down because it was too hot even for him or lawyers in the county. So that was a tremendous development. A lot of these, a lot of the Indian lawyers were working for poor people and were not able to make the lawyers might make in other places. There was a tremendous need for legal services program to fill a gap even below that because there was still a lot of poverty among the Indians in Robeson County as well as others. Legal services program was not just for Indians. It was for poor folk from all races. So the legal services program was started and was terrific for all the poor people in the county. Julian was just a perfect choice. Julian was brought down as I recall from Washington, DC, terrific guy. He fit in very well with the legal services folks generally. I ran into him often because I was involved in legal services generally, legal services circles, I was involved in our own legal services program here, and also I started a legal services program for prisoners. So I was involved in running two legal services programs, and so I was running in legal services circles and often saw Julian Pierce there, and Julian pierce was beloved, one of the favorite people in the legal services community. He was very highly regarded, and he was a guy who was committed and dedicated to his work and he was really a nice guy, very bright, very nice,

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very bright guy. He did consult with me on a couple of cases that he brought, and he was doing not just what we might think of as standard legal service case, individual representation. He was bringing test cases to improve the condition of people in Robeson County and was doing a great job. He was involved in the first case trying to challenge the disparities in financing in the schools. I worked with him on that. But there he called on me as a consultant and I helped him to the extent he asked. Julian there in the county as well as Dexter working on that case, they didn't need an outside lawyer to the same extent that they had before. So they really filled a major gap, and they really, they meaning Dexter and Julian as well as Indian lawyers they brought down there, but particularly I would say Dexter and Julian really were responsible for improving the political process and the conditions for minorities in Robeson County.

MM: Yeah, it sounds like within a sort of a ten-year time frame from I guess '73 when you first came down to, was legal services started about '83—

BN: Sounds about right.

MM: '82, '83 the opportunities for Indians headed sort of through the legal process had exploded perhaps largely as a result of the double voting success. Yeah. Well, is there anything you feel like I've left out to ask or—

BN: About that period?

MM: About that period, about anything else you feel is important.

BN: I think that's all I can think of now about that period. There was another period that began after that, but that's a whole separate story I think.

MM: In terms of, that had to do with schools or that had to do with—

BN: Well, in the schools I think—

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MM: Merger.

BN: It had to do with schools. I think, there was the Eddie Hatcher incident, the Julian Pierce murder and situations surrounding that that led to the merger of the school system. So it did have something to do with schools.

MM: Well, I think that would certainly be an important part of how this story kind of ends. I guess if there is an appropriate ending point. I might if it's all right with you, we might come back to that at some point later in the year.

BN: I think that is a separate story.

MM: Yeah. When I kind of gather some more information about this earlier period. I think I would like to know more about the late '80s, Julian's murder and the school merger and basically the sort of, there's a second wave it seems like of Indian control politically that was being struggled for in the county. So yeah, I'll be coming back to that in the springtime some time. So good. Well, I appreciate your time as always.

BN: Well, thank you Malinda. It's nice to talk—

MM: And your help.

BN: To you.

END OF INTERVIEW

Transcribed by L. Altizer, November 14, 2003