

*Civil Rights History Project*  
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Interviewee: Jack Greenberg

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Location: New York City

Interviewer: Joseph Mosnier, Ph.D.

Videographer: John Bishop

Length: 47:20

John Bishop: Okay, this is room tone. There's fan noise, um, in the building we can't get rid of, so I'm going with the room tone. [Pause] Okay, that's good.

Joe Mosnier: Uh, today is Monday, July 18, 2011. My name is Joe Mosnier of the Southern Oral History Program at the University of North Carolina at Chapel Hill. I am in Midtown, Manhattan, with, uh, videographer John Bishop to do an oral history interview for the Civil Rights History Project, which is an undertaking of the Library of Congress and the Smithsonian National Museum of African American History and Culture. And we're just really delighted and honored to be with you, today, Professor Jack Greenberg, um, to talk about, um, some very, very interesting civil rights history and your role in a lot of that history. So, thanks for meeting with us.

I thought I might start and have you just talk a little bit about how you, um, evaluated the choice to join the Legal Defense Fund [NAACP Legal Defense and Educational Fund, Inc.] as a law school graduate in '49.

Jack Greenberg: Well, implicitly, I really made that choice before '49. Um, I started at Columbia Law School with no thought of being a civil rights lawyer. Because there was no such thing. I thought I would maybe do labor law or things that later would come under the label of civil rights. But I had a professor at the time, Walter Gellhorn, who gave a seminar, which he called Legal Survey. And in Legal Survey students worked for civil liberty, civil rights lawyers. Again, that label really didn't attach to anyone at that time. It was sort of a precursor of clinical legal education. We were working on real cases. And I saw this course, uh, listed on the bulletin board and I immediately ran – I still can recall running up two flights of stairs to Professor Gellhorn's office to become enrolled in the course.

A curious bit of history that the Smithsonian would be interested in is why he named it Legal Survey. He said if he called it Civil Rights or Civil Liberties the faculty might not permit him to teach it, because in those days, if you were a civil libertarian or a civil rights advocate, you ran the risk of being called a Communist. And, in fact, Professor Gellhorn himself was summoned down to Congress on two occasions to swear, "I have not – I am not and never have been a member of the Communist Party."

So, I took his course, and since the subject matter of the course was changed from week to week, depending on the cases you were working on, I took it for four semesters. I became chairman of the student body taking that course. Uh, after I got out of law school – well, to make the long story very short, I had worked on some Legal Defense Fund cases.

And there weren't a lot of lawyers doing that. The Legal Defense Fund at that time had three or four other lawyers. The American Civil Liberties Union, which now has hundreds of lawyers, had a single lawyer. There were three Jewish organizations that, respectively, had three and one and one lawyers. And that's all there was in the whole U.S., except some individual lawyers who handled some civil rights cases.

Anyway, one of the lawyers at the Legal Defense Fund, her name was Marian [Wynn] Perry, was married to a doctor who became – had some, got some official position with New York State that required him to be in Albany, New York. And so, she resigned, and there was an opening. And Thurgood Marshall asked, uh, Walter Gellhorn to recommend somebody, and he recommended me.

And so, that's how I got there. So, I was – had a disposition to do it, because I took this seminar for four semesters, but I hadn't planned to do it. It was not exactly planned for a career in which there were six lawyers in the whole country doing it.

JM: [Laughing] Right. [5:00]

JB: I'm just going to pause for a sec.

JM: Let's stop for just a minute.

[Recording stops and then resumes]

JB: Okay.

JM: Okay, we're back after a short break. Professor Greenberg, I thought I, uh, would extend the theme by asking you to describe that, um, that small band of Legal Defense Fund attorneys, obviously under Thurgood Marshall's direction, there in '49 when you joined. As you say, it's just a couple of folks.

JG: Right. There was Thurgood, who even at that point had become a national figure, because he had won the, uh, restrictive covenant cases, which I'll describe if you ask me to. He'd won some of the big voting rights cases, also. Um, his first assistant was Bob Carter, who was a judge here in New York, [at the time, retired]. Another fellow called Franklin Williams, who later went on to another position in the NAACP and then became ambassador to Ghana and the head of a foundation, Phelps Stokes Foundation. Uh, that was it. And there was me.

There was also a woman there who was a fulltime sociologist. I'm sure the only law office in the world that had a sociologist on its staff. And that was it.

JM: Um-hmm, um-hmm. Um, can you -?

JG: At that time, I might say, we were part of the NAACP. We were, uh, a separate and independent part. Well, the independence caused some tension between Thurgood and Walter White, who was head of the NAACP, but nevertheless, independent. And in 1957, for reasons related to tax exemption, we spun off and became entirely independent as the NAACP Legal Defense and Educational Fund.

JM: Right.

JG: And that later created some different kinds of tensions.

JM: [Laughs] Right. Yeah. Let me ask, uh, as a, as a young lawyer you, uh, you were very quickly in the midst of a lot of, uh, of very significant litigation in schools and – particularly in schools obviously in the early '50s. Um, I think you and Bob Carter tried the Kansas schools case out in Topeka.

JG: That's right.

JM: Yeah. Can you share some recollections of that experience?

JG: Oh, yeah. Well, the things you remember about the case are not the important things, because the important things are part of history, so you don't have to really mention it again. But the Kansas – Kansas had a peculiar statute. It was an optional segregation statute. In most of the Deep South, the schools were required to be segregated by law. In Kansas, high schools or high school systems could opt to be segregated, and Kansas had taken that option.

Uh, we tried the case on two different tracks, as we did all the other cases; that is, to show that the black schools were not equal to the white schools in what you might call tangible, measurable respects – number of books, teachers' salaries, number of square feet, gymnasium, playing ground, curriculum, laboratories, things like that. Um, but then, we also tried it on the basis of [phone rings in background] urging the court, with the help of expert witnesses, to understand that segregation itself constituted an inequality. [Someone can be heard answering phone, conversing]

JM: Exactly. Um, I know you probably have told this story many times, but let me ask you just to, just to recall your, um, reaction when the *Brown* decision [*Brown v. Board of Education of Topeka*] finally came down in May of '54.

JG: Well, that was a long time from the argument. You were talking about the argument, which was in '51, really, and then it was appealed to the Supreme Court in '52, and then argued two more times after that. Uh, well, everybody was kind of stunned by it. We've won lots of cases before and since, and there were big raucous celebrations. And it was just a silence descending on everybody. I think stunned is the only word. A cosmic decision.

JM: Yeah.

JG: And later turned out to be even more cosmic than we'd understood. We brought a case to challenge school segregation. [10:00] It turned out the decision swept away all state-imposed segregation.

JM: Yeah. Yeah. You were, um – were you surprised by the vehemence of the pattern of reaction that arose in the late '50s across the South to early efforts to desegregate schools?

JG: That's right. Other cases like that had been won, involving, uh, higher education, law schools, graduate schools, voting; and then in lower courts, things like golf courses, beaches, theaters. Uh, and, uh, there was sort of grudging acceptance of those. And the cases, those earlier cases, did not involve any vast numbers of people. The higher education cases involved one or two people. But integrating school systems involved large numbers and, more horrible to the segregationists, were men and women going to school together, and boys and girls. The biggest taboo was any kind of contact between the sexes.

JM: Yeah. I'm interested to have you, um, talk a little bit about how you measured the landscape of possibility when you became director-counsel in '61.

JG: Well, by then, a lot of things had happened. In '61, the, uh, Civil Rights Movement had begun, and students were being – sitting in in North Carolina, as you well know, and elsewhere in the South, and it was picking up like wildfire all over the country. And they were being arrested, and there were no ready defenses for them, because it had never been necessary to defend anybody against anything like that. Uh, but we – we understood the Constitution and legal landscape pretty well, and so we were ready with a bunch of defenses.

JM: Um –

JG: And we, I might say, we ended up by the time the Civil Rights Movement – I don't know that it ever ended, but by the time it reached some measurable stopping point, we'd represented about thirty-five hundred people and got them all acquitted.

JM: Yeah. I neglected, as we were talking there for a minute about the late '50s, I wanted to ask and have you, um, describe – you published in '59 *Race Relations in American Law*.

JG: That's right.

JM: Which, which was an unprecedeted volume. Can you talk a little bit about the effort to, to, to do that work, to, to do that volume, and, and what you were trying to do with it?

JG: Well, I, a lot of these things, you know, you don't have any ambitions beyond the thing itself, because you can't, you can't tell what's going to happen. But I was practicing civil rights law, and I was impressed by the fact that there was no book on civil rights law. And I was handling cases in all the areas that the book covered. And, essentially, I took my knowledge of those cases and put them into the book, which was the first volume on civil rights law since about 1919.

JM: What reaction did the book receive?

JG: It was curious in some ways. Uh, it got excellent reviews, but it was considered to be a, uh, a hot topic. For example, the *Columbia Law Review* did something I haven't seen them do, or any other law review, before or since. They published a pro and an anti review, as if it were a controversial subject.

Uh, and then, there was, uh, there were some academics who had expressed views on civil rights. Uh, there was one, uh – Herbert Wechsler wrote a famous article called "On Neutral Principles of Civil Rights Law." Then there was a legal philosopher at NYU called Edmund

Cahn, who wrote a book, uh, an article anyway, attacking the *Brown* decision for its use of social science data. Anyway, I didn't see how he could have anything against what I had written [15:00] and it would be quite a coup to get him to review the book. So, I sent him a copy and asked whether he would do a review.

And he called me and asked me to come to his office. And he said that he wanted me to know that he thought the book was an excellent book. But he didn't see how he could review it objectively because his son, and he was white, had married a black woman. I said, well, I didn't think that should make any difference. Well, he didn't want to do it.

JM: Hmm, fascinating. Wow, yeah. Um, can you – moving again to the [clears throat] early '60s, you've written and kind of used the phrase that the Movement in some respects in those – after February 1960, really shifted from the courts and into the streets there for many years.

JG: Oh, yeah?

JM: And, um, of course, you traveled extensively – had been traveling extensively from New York from the time you joined the LDF. Are there any, um, episodes or memories that really stand out in your mind as exemplary or, um, particularly vivid in recalling those early years of the '60s when the Movement was really active in the streets?

JG: Well, part of the traveling was, of course, going on railroads or airplanes, and, uh, the railroads were segregated at the beginning. Airplanes weren't, but a good many airport terminals were, even in North Carolina, even though they were federal facilities. Uh, so that was something noteworthy.

And we brought a number of cases, a fair number of cases, to desegregate airports. And I recall bringing a case to desegregate the airport in Atlanta, and the plaintiff curiously had the

name of Coke, so it was *Coke v. City of Atlanta*, which is the home of Coca-Cola. And, uh, I brought a case against the airport in New Orleans. My co-counsel was, uh, A.P. Tureaud, who for a period of time was the only black lawyer in New Orleans. Tureaud, um, I think it was his granddaughter; I think he was too old for that to have been his daughter – brought his granddaughter to the airport after we won the case. And she ran off just gleefully. She was able to buy an ice cream cone there, something she had never been able to do before, you know.

JM: Yeah. You mentioned Attorney Tureaud, um, which reminds me of, um, of the network of cooperating attorneys that the LDF developed over the years and pioneering black attorneys in the South who would very courageously take cases in conjunction with the Legal Defense Fund.

JG: Um-hmm.

JM: Um, but I also want to ask, in '63, on your own initiative as director-counsel, you launched a new training program that would become quite a significant mechanism for extending the numbers of black attorneys in the South.

JG: Oh, yeah. Right.

JM: And I wonder if you could talk about that a little bit.

JG: Well, I, uh – there were a lot of cities where there was no black lawyer at all, or maybe one. But in an amazing number there was none at all. And I got some money from a foundation that, if a black lawyer would agree to set up practice in a place where there were no black lawyers, we'd give him ten thousand dollars to buy a typewriter and a rug and some law books. And we got some great stars out of that: Julius Chambers in North Carolina, and then, uh, one of his law partners later on, who is now the congressman from Charlotte.

JM: Mel Watt?

JG: Mel Watt. And then, there's another congressman, um, who's in Georgia – and what in the world is his name? I'll think of it in a moment. Who, uh – he didn't want to, uh – he wanted to set up practice in Atlanta, but by then there were a handful of black lawyers in Atlanta, and I urged him to go someplace – he went to Columbus. He was the only black lawyer, and he's now the congressman from, from, uh –

JM: And Marian –

JG: From Columbus.

JM: Yeah, excuse me. Marian Wright also was, I think, in that first class.

JG: Marian Wright, yes. Marian Wright was one of them, yes. She's terrific.

JM: Yeah, yeah. Um, in the, in the run-up towards the Civil Rights Act of '64, particularly, say, by '63 when Kennedy has introduced legislation, some bill appears [20:00] increasingly likely to clear the Congress. It's always, you know, not perfectly certain, but there's momentum in that direction, particularly after Kennedy's assassination obviously. And the Legal Defense Fund, under your direction, is really working hard to craft a litigation program that will encompass all of this new legal terrain.

JG: That's right.

JM: And I'd love to have you describe how you were thinking about new opportunities and what you – the scope of what you hoped maybe to be able to do.

JG: Well, one of the things it covered were public accommodations: restaurants and bars, theaters, and so forth. That was pretty easy, because, uh, the, uh, ice cream parlors and the restaurants were happy to get the business. People would say that the market will take care of it, but the market did not take care of it. Nobody wanted to stick his neck out first. But they, uh – so, we did not have a lot of really, no real resistance.

There were some [efforts at subterfuges]. A lot of hotels set up, um, private clubs within the hotel. And I would recall going to a town and, being white, checking into the hotel and being handed a membership card in the club. It just sort of came with being white and registering in a hotel. If it was a black person that registered, it wouldn't happen and that would be pretty transparent, so -- though it took a little bit of while to figure out that's what was going on. Um, public accommodations, which was Title II [of the Civil Rights Act of 1964] was easy.

Title VII was employment, and that, of course, we were opposed not only to employers who may not have wanted to employ blacks. Well, many of them didn't care, would be just as happy to employ blacks as to employ whites. But, uh, we had to confront the fact that the labor unions, which on the national level were very pro-civil rights, on the local level were segregated, and there were white locals and black locals. And, uh, white locals didn't want blacks in, and the black locals often didn't want to lose their members to the white locals. So, that was a problem. Uh, and, uh, we had some of our bitterest cases against the labor unions.

JM: Yeah.

JB: Joe, let's pause.

JM: Let's take a little break here.

[Recording stops and then resumes]

JM: Are you feeling comfortable enough with the lights and heat and all?

JG: I'm fine. Okay.

JM: Yeah?

JB: We're back.

JM: We're back after a short break. Um, I'll come back to, uh, to ask another question or two about, uh, Title VII and employment, uh, later in the interview, but, uh, obviously, um,

you were attempting in those years, too, to find some way forward with schools. And Title VI helped maybe a little bit on that front, but the schools question would remain very difficult for, through the late '60s.

JG: That's right. Um, a lot of, um, white parents did not want their kids to go to school with black kids. And, uh, it didn't take a lot to stir up enough opposition. So, uh, when we got an order to desegregate the schools, there'd be resistance, and it'd be litigated very vigorously. And it not only involved schools, but the real estate values that depended upon the schools in the neighborhood, so it involved the value of the property people owned. And these cases were vigorously litigated and became the subject of big political fights.

Nixon had what he called the "Southern Strategy." He was going to be opposed to integration. But he was – he had no ideological convictions about this. He just as soon be segregated or nonsegregated. He wanted to do what would work for him. Uh, and, uh, after we took a case to the Supreme Court, essentially defeating him and the Congress – won the case, and he didn't get in the way, and we had very widespread desegregation, a case called *Alexander v. Holmes County Board of Education*, 1969]. [25:00]

I really enjoyed taking that case. It's a great example of how the laws, all the legal documents are interconnected. We, uh – the way the case came up was we had won some cases which indicated that the next round of cases might lead to a Supreme Court decision that schools – or even a Court of Appeals decision that schools had to be desegregated immediately. And, uh, when Nixon, or rather, Senator [John] Stennis of, uh, Mississippi – after whom a recent aircraft carrier has been named [laughs] – Stennis, uh, saw this was going to happen, he, um, refused to bring the Armed Services Appropriation Bill to the floor of the Senate. I think he told the President that, um, his people in Mississippi needed him down there to commune with them.

And so, Nixon had to, um, ask his Secretary of Health, Education and Welfare to ask the Court of Appeals to send the cases back to the District Court without deciding them, and, um, in the District Court, um, then reconsider whether or not they should order immediate desegregation. And that's what happened.

JM: Yeah.

JG: Um, his Secretary – I think [Robert] Finch was his name – [JM sneezes] um, asked the, um, Court of Appeals through the Justice Department to, um, not decide the cases. Well, at that point, your option to go to the Supreme Court is very limited, because the law is that the Supreme Court will hear cases from a final judgment, and the thing that Nixon was asking for was that there *be* no final judgment. So, we had to appeal from the absence of a final judgment instead of from a final judgment.

Well, there is an ancient common law writ called certiorari. It's not the, uh, writ of certiorari that's in the statutes which the Supreme Court uses to review almost every case it gets. But there's another statute, which says that all the writs known in common law are available in the federal courts. And the ancient writ of certiorari – *not* the statutory certiorari, but called the common law certiorari – says you can bring any case to any court you want. You know, it doesn't happen very often, doesn't happen successfully.

So, I still recall with sort of, in what I'd call mock bravado, telling the staff: “‘My left flank is in disarray, my right flank is under attack, my center collapses,’ and as Marshall Foch said at the Second Battle of the Marne, ‘I attack.’” [Laughter] And we did, and the Court agreed to hear it and ruled with us.

JM: Yeah. The, uh, the – a further high-water mark on schools, of course, would be *Swann [v. Charlotte-Mecklenburg Board of Education]*, the *Swann* Charlotte schools case in

1971. And I wonder if you can share your recollections on the *Swann* case and its significance, particularly on busing.

JG: Well, *Swann* was the first substantive case the court heard on how you desegregate, and Chief Justice [Warren] Burger wrote, uh, a very avant garde opinion in which he called for quotas, uh, and busing, uh, and, uh, integration of teachers, uh, and everything that any civil rights advocate ever asked for. Um, that was his first opinion after Nixon had appointed him.

Um, so *Swann* – but as the case began in the Supreme Court, uh, it was not at all certain we would win the case, because following the argument, the preliminary vote among the lawyers, among the judges was that they would, uh, uphold the lower court, they would not, uh, enter the order we finally saw. But as the, um, conferences among the judges went on, Burger, who was the leader of a minimum decision, found himself, um, outvoted by the other justices. And Earl Warren [30:00] told me, and I still recall the phrase, he said, “There he stood naked.” And, um, he, um, he had – [phone rings] let me turn this thing off.

JM: Let’s take a brief break. Yeah, we’ll come back.

JB: Sorry, Joe.

[Recording stops and then resumes]

JB: We’re rolling.

JM: We’re back after a short break. You were just saying that, that, uh, Chief Justice Warren had remarked to you that Chief Justice Burger “stood naked.”

JG: He had no votes. Well, the, um – so he would be a dissent, and, well, if he’s in the dissent, he can’t assign the opinion. And he wanted to control the opinion, so he switched his vote and decided to vote as the court went so he could assign the opinion to himself, which is what he did, uh, and he assigned it to himself. But he wrote something in the last paragraph of

the opinion that said one of these days this is going to have to come to an end, and they're going to reconsider it and not going to require anybody to do anything, something of that sort. He couldn't really predict how it was going to come out. But after about ten, fifteen years, that's what happened, relying on that last paragraph of *Swann*.

JM: Yeah, yeah. I want to ask, um, thinking about schools – I know the LDF, I think, was only in one of these two cases, but I'm interested in your thoughts about – thinking about how, you know, how the schools question arced forward from *Swann*, as you say, it kind of maybe reached a high water around 1980 or so, and then the numbers shifted back and the courts shifted back on the question. Um, but I'm thinking about *Milliken [v. Bradley]* in '74 and *Rodriguez [v. City of San Antonio]* in '75, the first being the metropolitan consolidation question, obviously, and the second one out of San Antonio being the funding question.

JG: Right.

JM: And I'm interested in your thoughts on those cases and how you gauge their significance.

JG: Well, *Milliken* was significant in that it made the, um, the distinguishing point between city and suburbs just the political boundary between them, because, obviously, if you have two families living, each like fifty yards on either side of the boundary line, the distance is not very great. Um, two different political systems, one from one county and one from another, but, uh, you can work that out. Um, so, obviously, the court was making the boundary – the city and the suburbs having separate, different kind of school systems. Um, and that was, that was a very political decision. [Sound of door opening]

JM: Excuse me one sec. [Sound of door closing] We had to break there for a moment. You were talking about *Milliken*.

JG: So, the decision to make the city-suburban boundary the, the, um, defining factor in whether to integrate was political. I'm not saying that's a pejorative term. Uh, you had to use some sort of principal. But, essentially, it had political consequences of which they could not be unaware. Uh, and, uh, that then essentially insulated the suburbs from the integration of the city, because you had blacks crowding city, city housing, and not moving to the suburbs, because housing was difficult to find and also out of their economic reach. So, essentially, it continued segregation by some other means.

JM: Yeah. It kind of confirmed white flight in that sense.

JG: Yes.

JM: Yeah, yeah. What's your, what's your view of, um, the *Rodriguez* case?

JG: Well, the *Rodriguez* case was similar, essentially, in isolating the economics behind the school.

JM: Yeah, um, both five-four, both with [U.S. Supreme Court Justice Harry] Blackmun in the majority, interestingly enough.

JG: That's right.

JM: Yeah, yeah. Um, let me take you back to, uh, the Title VII and employment arena, um, and take you back to [clears throat], not to '64, in fact, but to '65, because, of course, there was that one-year lag in the effective date of Title VII, and just have you reflect about the LDF effort to build out that law, both on the procedural and then later on the substantive side, because the landscape was so new and for a lot of times, I mean, for a good while there, there was a lot of confusion inside the EEOC. [35:00]

JG: Well, there wasn't confusion. There was this, um, lack of will to act. And, um, I suspect that when Lyndon Johnson signed the thing and then appointed FDR Jr. [Franklin D.

Roosevelt Jr.], one of Roosevelt's sons, to run it, he essentially expected nothing much to happen. And that's what didn't happen.

Um, but, um, he didn't take into account the right to bring private suits, which is what we did. And, um, we set up – it shows something about the futility of careful planning – we set up, uh, an economic and manpower study to decide where to bring our cases. We'd bring the cases where there were a lot of blacks who were not fully employed, who were capable of, um, doing to work required in the area, um, and a lot of industries that needed manpower and were not employing blacks.

And so, we did studies to find out where these areas were, which I think was a pretty intelligent way of going about it. Of course, we had no way of knowing that the steel industry would collapse and it would all move to Japan and Europe, no way of knowing that, um, um, tobacco, which was one of the big things, was going to come under fire. And so, Pittsburgh was one of our big targets, but Pittsburgh went out of the steel business.

JM: Yeah.

JG: Shipbuilding, too.

JM: Yeah.

JG: Korea and Japan were building ships.

JM: Yeah, yeah. Um, so that whole, that whole massive de-industrial shift in the American economy did undercut the effort to –

JG: Yeah, but we still brought a lot of successful cases.

JM: Yeah, absolutely, and on the back-pay question in particular.

JG: Oh, yeah.

JM: Yeah. Um, let me ask you about *Griggs v. Duke Power* in '71, the *Griggs* case and disparate impact, and just have you reflect on that case.

JG: Well, I argued the *Griggs* case, and it was, um, it was a pleasure to argue because, um, I'd say on the face of it, the outcome is not – is counterintuitive. A business is going to hire somebody who can't do the job, well, then you have to stop to figure what is the background in which this all happened. So, *Griggs* worked very well. And recently, *Griggs* has been adopted by the European Court of Human Rights in cases involving Roma, or Gypsies, which I'm doing some work on now that, um [phone rings]. The, um, European Court of Human Rights had a case against the Czech Republic, called *D.H. v. Czech Republic*, um, citing *Griggs*, how that, um, if you give tests which determine what school people go to, and all the Roma, or Gypsies, end up in the same school, segregated, that's an unacceptable result.

JM: That's fascinating. Yeah, that's a wonderful example of one of the long, um, sort of legacy impacts of that litigation from the '60s and '70s. Um, let me ask, too, about, um – you really tried to grapple, um, in your tenure as director-counsel, you really tried to grapple from the '60s forward with the, with the poverty, all the implications of poverty, and you set up the NORI [National Office for the Rights of the Indigents] office.

JG: Right.

JM: And I'd love to have you describe that and your vision and hopes on that front.

JG: Well, there are a lot of, um, issues that affect people just because they're poor. But since a disproportionate number of blacks are poor, it affects them. One case we had, and again that I argued, had to do with the, um [phone rings] – I'm going to turn this thing off for good – had to do with the, um, garnishment of wages. If you buy something on time and don't make your payments, then the, um, seller can get your wages paid to him or her rather than to you.

And so, the court handed down a series of cases which are now very big in the civil procedures area, um, [40:00] providing that there be a full and fair hearing on the garnishing of wages or seizing property.

JM: Yeah. Um, another of the things you did quite early, really, was to –

[Recording stops abruptly and then resumes]

JB: It's back again.

JM: Okay, so we're back, John?

JB: Yeah.

JM: Okay, we're back after a short break.

JG: Okay. Well, I'm pleased to say that, um, um, I was the founder of MALDEF [Mexican-American Legal Defense and Educational Fund, Inc.]. And the reason is that we were in a number of cases asked by some Mexican-American lawyers in the Southwest to help them out or take over some cases. And they were – at that time I had a survey made. There was no Mexican-American lawyer who had a full set of the *Federal Reporter* in his office. So, without that, you really couldn't handle a case in federal court.

Um, I said, "You guys ought to have an organization of your own." Said, "How do we do that?" And I recall we were sitting in an Argentine restaurant on Broadway and around 54<sup>th</sup> Street, um, and, um, we were looking for a Mexican restaurant and we couldn't find one at the time. [Laughter] You know, that was the closest we could come. [Laughter] And I called a friend at a foundation and got some money from him.

And we went out and we hired somebody, uh, hired a lawyer called, uh, Mike Finkelstein, who now teaches part-time at Columbia Law School, to do a survey of the, uh, Mexican-American lawyers, and what their facilities were, and what their capacity was. We then

took that to the Ford Foundation and some others and said, "There's a need for this thing." And we got a few million bucks to set up MALDEF.

JM: Um, there's so much landscape here of all the work that LDF has done during your tenure. I, I, I want to at least acknowledge, um, LDF did the early work to desegregate hospitals across the South.

JG: Oh, yeah. The first big case was against Moses Cone Hospital in, uh – I think it's in Charlotte [Greensboro, North Carolina].

JM: Yeah. And, uh, so much work on criminal procedure, death penalty, um, prison reform.

JG: We had the first big prison reform case, uh, and desegregated pretty thoroughly a number of – and also just upgraded a number of prison systems throughout the South, yeah.

JM: Yeah, yeah. So, I just – we don't really have time to delve into all of these, but the history is so rich and so wide that I do at least want to acknowledge that work in, in brief. Um, Professor Greenberg, let me, let me ask you to – this is, again, a question that, you know, you've fielded many a time – but looking back, how do you, how do you add up the impacts of this work? I know that you moved on to Columbia Law in '84, and Julius Chambers took the director-counsel position.

JG: Um-hmm.

JM: But looking back on your long tenure at the LDF, from '49 to '84, you were right in the thick of all of this history, and I wonder how you gauge and evaluate its impact.

JG: Well, it had a big positive impact. You can always measure it against what, when some people write books saying, "It all would have happened without *Brown*," and so forth. Maybe it would have and maybe it wouldn't have, but it did.

[Recording stops and then resumes]

JM: A few more minutes to wrap up. Whenever you're ready, John. Okay, we're back on. The question, Professor Greenberg, was –

JG: Okay.

JM: Impact and legacy. [Pause] We're back on after a short break. I'm sorry for the interruption, yeah. But just your reflections on impact and legacy of all that work.

JG: You can't quantify it. I think it had an impact. Um, there are the usual detractors who say it never would have happened, or it would have happened anyway, or it didn't amount to anything. It just depends on how you want to evaluate it. I think most people who've lived through it – some guy wrote a book called *The Hollow Hope* and said [45:00] the cases didn't amount to anything – if you tell that to anybody that lived through it, they say that's just total nonsense.

JM: Right. That was the book – I remember that book sort of taking up the question of, the broad question of the pursuit of social change through litigation, obviously. Yeah. Yeah. What's, um – what are some of your – just to finish up, what are, um, what are some of your assessments of, of the impact of – I think of Nixon and Reagan, um – I think of Reagan going to Philadelphia, Mississippi, for example, to kick off his campaign in 1980.

JG: Um-hmm, um-hmm.

JM: Um, I guess I'm asking the question about the relation of the state to the question of race in our culture. Are there perspectives on that front that you would have to share?

JG: Yeah, I think that Reagan had to know – [laughing] or maybe he didn't know anything, but the people around him had to know – that he was essentially, um, trading on anti-black hostility. And, um, it's hard to understand why there are people like that, but there are.

JM: Any final thoughts or observations?

JG: No, I guess something I've come to the conclusion about, which I hadn't thought earlier: In the last analysis, you can't escape the politics. You can do something about them. You can do something notwithstanding the politics, but you're going to have to deal with them. And all the progress we made, nevertheless, has to deal with the political implications of it.

JM: Yeah. Yeah. It's really an honor and a privilege to be with you, Professor Greenberg. Thank you so much.

JG: Thank you.

JM: Thank you.

[Recording ends at 47:20]

END OF INTERVIEW