Historical Society of the New York Courts
Rule of Law Podcast Series
Constance Baker Motley Episode Transcript

Allison Morey Introduction

0:10
Welcome back to the Historical Society of the New York Courts Rule of Law podcast series.

0:15
My name is Allison Morey, and I'm the executive director of the Historical Society of the New York Courts.

0:19
This season. This series seeks to highlight a variety of important, influential, and inspiring individuals in New York legal history, including lawyers, jurors, advocates, and leaders in the legal profession.

0:30
This episode features Presiding Justice Dianne T Renwick and attorney Alan Levine discussing the life and legacy of the incomparable trailblazer Constance Baker Motley.

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Their conversation begins with Motley's childhood in New Haven, CT, and then traces her career as a lawyer at the N.A.A.C.P. Legal Defense Fund, working on the most important civil rights cases in U.S. history.

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It concludes with her shift to New York politics and the federal bench.

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Motley would become the first Black woman to argue for the U.S. Supreme Court, the first woman to serve as Manhattan Borough President, the first Black woman elected to the New York Senate, and the first Black woman to become a federal judge,

1:06
sitting in the U.S. District Court for the Southern District of New York. Discussing Motley's life and career is Dianne T. Renwick, Presiding Justice of the Appellate Division, First Department of the New York State Supreme Court.

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Her 2023 appointment marks the first time in New York's history that any of the four departments has been led by a woman of color, and only the second time a woman has led the First Department since it was established in 1894.

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Justice Renwick began her legal career as a staff attorney at the Legal Aid Society's Criminal Defense Division in the Bronx and then as a federal defender in the Eastern District of New York.

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In 1997, Justice Renwick ascended to the bench with her appointment to the New York City Housing Court and was elected to the New York City Civil Court later that year.

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She was elected a Justice of the New York State Supreme Court in 2001 and was appointed to the First Department as an Associate Justice in 2008, making her the first woman of color to serve on that court.

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She's a graduate of Cornell University and Benjamin N. Cardozo School of Law, and she serves as Trustee and Vice Chair of Special Projects for the Historical Society of the New York Courts.

2:07
Justice Renwick will be in conversation with Alan Levine.

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Mr. Levine currently serves as senior counsel at Cooley LLP.

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In his career spanning over 50 years, he represents clients in complex commercial Securities Litigation, white collar and regulatory defense.

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Mr. Levine has served in leadership roles in various legal organizations, including the American College of Trial Lawyers, the American Bar Association, the New York State Bar Association, and the Legal Aid Society, which he chaired from 2007 to 2011.

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In 2000, he was called upon to represent the Legal Services Corporation in a landmark case involving federal legal service funding, which he argued before the US Supreme Court.

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He's a graduate at the University of Pennsylvania and of New York University School of Law and is currently Co-chair of the Advisory Committee for the Representation of Justice at the Appellate Division, First Department, the president of Legal Aid Society and the executive Vice President of the Historical Society of the New York Courts.

3:02
We hope you enjoy this episode.

3:03
And now to Mr. Levine...

Conversation Begins

3:04

Good morning, Justice Renwick.

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It's a pleasure to talk to you today about Judge Constance Baker Motley and her extraordinary life.

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I'm really excited to be here and to have the opportunity to speak about someone who I have admired for so long.

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She was really a trailblazer, we know that, such a true advocate for fairness and justice.

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She was smart and brave and resilient, and she had to be, frankly, given what she encountered and how much she accomplished and what she did.

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So I have always thought of her as a true civil rights icon.

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And just an overview for the audience.

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She was admitted into the New York State Bar in the first department,

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I'll say, in 1948, she was the only the second black woman to attend and graduate Columbia Law School.

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She was the first black woman to argue before the Supreme Court, United States Supreme Court, first black woman to be a New York State Senator, first woman to be a Manhattan Borough President, first black woman to be a federal judge in the United States District Court, and first black woman to be chief judge of any court of the United States.

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She was awarded the United States Presidential Citizens Medal in 2001 and the United States Heritage Stamp was created in her honor in 2024.

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She had a very full life, and it all began in New Haven, CT.

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So she is the daughter of Caribbean parents who hailed from Nevis and arrived in New Haven in the early 1900s,

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turn of the century, and she was born in 1921, and she was one of twelve children.

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She was the 9th of 12 children.

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Three were lost in childbirth.

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And unfortunately her eldest brother died at 21 of appendicitis.

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He wasn't at home.

5:16
He was in Boston.

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Probably if he was at home, he would have survived because one of the things she says is just how great the area that she grew up in was.

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And it had, what turned out to be later on, Yale New Haven Hospital.

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But she comes from a large family that she describes as lower middle class.

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Her mother didn't work and her father spent his entire career working in the Yale food service.

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She was born, if you can imagine, in the third-floor apartment of a three-family house with two attic rooms and one hall room.

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And they only moved when she was in the 5th grade.

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They moved into her house, she described with a nice big yard.

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It was a large home, but she said it was like living… people would say you, you have you come from such a large family.

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She would say it was really like two families because her sister, who was a year and a half older than she was, was seven years younger than the next oldest child.

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So really she felt like she was part of two families.

6:23
So just, I think that just how she leaves New Haven to go to college is really interesting and speaks of how talented she was as a as a young person having graduated from high school.

6:47
Can you tell the audience about Mr. Blakeslee?

6:53
Yes, yes.

6:53
Well, you know, she, I just want to say that she had a lot of influences because I think her childhood really influenced her.

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She had parents who, you know, she was part of a church that had deep roots to the black community.

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And she learned a lot from the leaders of the community, those who were black.

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There weren't a lot of professionals, obviously, but she learned a lot from the people who were in her community and she speaks a lot about them and what they gave to her, white as well as black, offering her opportunities to experience what it would be like if she were to go to college because they believed that she would go to college.

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So there was some… a couple of white women who would invite her and the other kids to tea and have conversations and introduce her to books.

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And there were black women who were influential in the community.

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One developed a home for young women who didn't have homes and were coming to look for work and introduced her to a number of people.

8:03
So I think that the way she grew up and the influences that she had in her community were very important to who she became.

8:13
But she says that she found herself in high school.

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She graduated in 1939.

8:21
It was part of the Depression.

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She hadn't felt much racial or gender discrimination in New Haven, she says, but poverty was everywhere at that time.

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She was definitely aware of the great social divide.

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And she wanted to go to college.

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And she meets Blakeslee, and she meets him because in high school she was very active and she led a number of groups.

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He was very influential.

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He had really built all of the roadways, waterways, everything.

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And he had built this Community Center.

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And no blacks were going to the Community Center.

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He wanted to know why.

8:57
She at the time was president of the New Haven Negro Youth Council, which she had started in high school.

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And so she attends the meeting, and he asks why.

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And she says, well, all the people on the board are from Yale, and black community had no real input and they didn't consider it their place.

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So they didn't go.

9:21
And that really caused a stir.

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So he asked for a meeting with her, and she went.

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And of course, at the meeting, he had already looked up her high school information, so he knew all about her.

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No privacy there.

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And he asked why she wasn't in college.

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And she said, well, she had no money.

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And he agreed to pay.

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He said, well, if I could pay for my son to go to Harvard, I can pay for you to go to Columbia.

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And by the way, interestingly enough, to show the level of diversity in the community she was raised in, she went to high school with his grandson.

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So they were in the same class.

10:02
So he told her at that meeting, never be afraid to speak up.

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He says Abraham Lincoln said an independent voice is God's gift to the nation.

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I don't know if that's an exact quote of Lincoln's, but it's something that she held onto.

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So he offered to pay for her right through college and law school.

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Now, he was already 77 then.

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She was a little bit nervous about that, but he introduced her over the years to his son and son-in-law and told them that they were fine men, which she took to mean that they had his values and would support her...

10:39
...And, you know, throughout her career.

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And she also came to find that he had supported many people in the community, especially during depression.

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A lot of people had lost money.

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People couldn't continue their education.

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So she was very, very fortunate to have met Mr. Blakeslee because what she learned when she went to Fisk, and she had wanted to go to Fisk for a long time, she really wanted to be a part of that culture.

11:05
And what she learned was that some people had to delay because of the Depression up to 8 years before they ended up going to college.

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She fortunately had two years that she was out of college before coming into contact with Blakeslee.

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She'd never been to the South.

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And I think what happens to her on the way down is kind of important.

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But just one thing she did when she got out of college, she and some white friends went to a beach club in Milford, CT that didn't allow any blacks and they knew it.

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They wanted to test it out.

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So they go and they ask, you know, for tickets and they're told we're not going to sell you tickets.

11:42
And they're turned away.

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So I guess that's what she expects, nothing more, nothing more than that.

11:49
So she has her ticket to go to Fisk.

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She gets on the train from New Haven to New York and from New York to Tennessee.

11:59
But she's taken off the train along with everyone else when she gets to Ohio, which borders Kentucky.

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And there's another train that's put on the back end and it's rusty and old, older than all of the others.

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And when she they say, go, OK, board the train, she gets on where she had gotten off.

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And the Porter, the black Porter says you can't get on there.

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You have to get on in that car, the car that says “coloreds.”

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And that was her first exposure to what it might be in the South.

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And she describes herself as frightened and humiliated.

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And that's kind of telling, given this woman who then for years later goes into the South.

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But her first foray into the South and her first experience frightened her and humiliated her.

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And of course, that was a result of a case that she would fight later on.

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Plessy v. Ferguson, decided in 1896 by the Supreme Court, which said separate railroad cars in Louisiana were OK. Blacks and whites.

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It was legal to be separated, and that was Supreme Court.

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So it was the law of the land.

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And there were many unpleasant train stories from her fellow classmates at Fisk.

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But she loved Fisk.

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She found it intellectually stimulating.

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She had great pride in being there.

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She said they were exceptional students, several second and third generation students.

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The niece of the Delany sisters.

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If you remember the Delany sisters, they were third generation people who she had met there.

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Delany sisters were doctors.

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They had doctors who were their parents.

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Fisk is the Black Ivy, and that is why she wanted to go there.

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She wanted to have an opportunity to be among students who challenge one another intellectually.

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And she says that she couldn't have been happier intellectually or socially.

14:07
And she describes that.

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She says, you know, there was a man who was a friend of her parents who actually left and went to Liberia early when she was about 10 years old.

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And she was really troubled by that.

14:21
She didn't understand why he wanted to leave.

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It was the whole Marcus Garvey.

14:25
He went to Liberia with him.

14:27
She didn't understand it.

14:28
She writes about her time at Fisk.

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She says I know what Mr. James was looking for in 1927 when he left New Haven with his family for Africa.

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She said it is one thing to be an equal in the political sense.

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It is something quite different to be an equal in the social sense.

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And she felt very connected to the people who were at Fisk, as I say, both intellectually and socially.

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So she loved Fisk, but World War II began and that was in December of 1941.

15:04
She'd been at Fisk for about two years.

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There were prominent professors there.

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In fact, she had left Fisk for one summer after her first year to go to NYU to avoid the tough grading in a French class.

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So she was, you know, quite satisfied with the rigor of the school.

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But after the war began, prominent professors began to leave Fisk for higher paying government jobs, and she feared that it would lose accreditation.

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And she obviously wanted to get to Columbia, to a highly ranked school.

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And so in June of 1942, she left Fisk for NYU.

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But before leaving, she so loved it and loved that social connection and the intellectual stimulation that I discussed, that she went to the last conference at Tuskegee in Alabama.

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It was the All Southern Negro Youth Conference in Alabama.

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And that was her first exposure, she said, to a politically sophisticated black youth organization with exceptionally accomplished young black spokesmen.

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She met many young blacks who were active in the anti-war movement as well as other adult leaders involved in the struggle for black equality.

16:28
She also met Paul Robeson there, just to give you an idea of the kind of people who were there.

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But he was there because he was visiting Tuskegee at that time.

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He was already well known.

16:38
So she's at NYU for year-round courses.

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NYU has year-round courses at this time and she went year-round.

16:49
She majored in economics there that she describes as the new status symbol.

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She did have lots of theoretical discussions and debate.

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She met some people who had been at the Alabama Southern Youth Conference and you know, found her time at NYU to be very important obviously for education.

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She graduated at NYU in October of 1943 with honors and elected to the Justinian Pre-Law Honor Society.

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Now she had just graduated after being out of school, not being able to go to college for two years.

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She had just graduated June of 1939 and here she was after a 2-year delay, graduating college in October of 1943, just four months off of where she would have been if she had gone straight through for the four years.

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So that just shows you how hard she worked, you know, and how determined she was to take classes literally year-round to make up for, practically make up for that time.

18:05
Instead of graduating in June, as she would have if she had been able to go to Fisk right away upon graduation.

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She was only four months off of that date. And she was desperate to get to Columbia Law School.

18:18
Yes, she was.

18:20
And she gets in.

18:21
She applied.

18:22
Yeah.

18:23
But there's a funny story before she gets in, you know, she has to wait because she's late for the September class.

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So she applies for the February class, and she's got to find work.

18:33
And she works at an office of dependency benefits for military dependents to seek some funds.

18:42
And she's there for a couple of weeks, and she has to take a placement exam.

18:45
She scored 95 on the placement exam.

18:48
And a supervisor there, who she describes as a white woman from the Bronx comes running up to her and is very excited and tells her that she's going to get a promotion.

19:00
You know, you know, she's going to be eligible figuring, you know, you're going to get a promotion.

19:06
And, you know, Constance Baker Motley isn't Constance Baker at the time.

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Not really sure what she's talking about.

19:13
And she says, yeah, you scored really well and you're going to get a promotion.

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It's going to be effective, unfortunately, in February.

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And now this is like October or November.

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And so Constance Baker says, well, I'm going to be in law school.

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I won't be here at that time.

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And the woman says, that's crazy.

19:32
Why don't you want to stay here?

19:36
Women don't get anywhere in law school, she says.

19:38
The men are away.

19:39
You'll have a chance to advance.

19:41
She says, that's the dumbest thing I ever heard.

19:47
So that's, so that little vignette of her just pushing and pushing her ambition and perseverance through Fisk, NYU to get to Columbia, it just gives you an idea of what she was going to be able to do, what she got that law degree and of the times that, you know, this was not just ... these were women, white women who just were satisfied to, you know, stay and not try to advance their career.

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So yeah, she really was intent.

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She said that Abraham Lincoln, she had read one of the books in high school, that Abraham Lincoln said the law profession is the hardest profession and she was on her way into high school.

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She said that's when she decided what she wanted to do.

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It was the hardest profession, and she was going to do it.

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Her parents didn't think it was such a great idea, but she did.

20:49
And during law school, she meets the people at the N.A.A.C.P. Legal Defense Fund, right, and gets introduced to them before she graduates.

21:04
And she does.

21:05
But let me just say that in between this time, she's living in Harlem.

21:09
And she said that living in Harlem, life in Harlem, dramatically broadened her view of the world, that again, with the political versus social, that political equality differs from social equality.

21:23
She meets her husband while she's living in Harlem.

21:25
She's at the YWCA.

21:27
He's at the YMCA.

21:28
Those were places where young people gathered, where many people lived.

21:34
And so she really has a social connection to Harlem.

21:39
She's really enjoying it and, and well, you know, that's where her social life is and where she's able to meet black students from City College, from Hunter College and of course, her husband.

21:51
So she begins Columbia in February of 1944.

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And it was like a ghost town, frankly.

21:59
She says due to the war there, the 116 students, where there were usually 500 students or so, all the activities are curtailed in addition to moot court and Law Review and many professors left to serve in the war, and students.

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But Columbia needed to fill the classes.

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So started off with eight women.

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She said she was one of the 88 and then it went to 23.

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So they took on a number of extra women.

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And she said it was like the first affirmative action for blacks because they took a lot of men, black men also at the time, she was surrounded, fortunately, by a tight knit group of women in law school.

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And she said that was important, she said, because women weren't treated very well in law school.

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One of the women she met was Bella Abzug, in fact, who later became a US congressman and remained a friend.

22:52
But she said she had her Con law professor did not, for example, discuss *Plessy v. Ferguson*.

23:00
He just didn't discuss it.

23:02
He was a Southerner.

23:04
And she said many of her professors were, in fact, Southerners, which was very interesting for me to read.

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You know, it's interesting.

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They weren't able to really talk about how anything was chipped away.

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He wouldn't have been able to talk about that, how anything was chipped away, you know, after *Plessy*, because she was involved in the chipping away of that.

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Instead, what existed was precedents that legitimized that way of life.

23:31
So she hears from a friend at law school that, who's leaving, that LDF is going to need somebody to be a law clerk.

23:41
Would you be interested in it?

23:42
She wasn't supposed to really work.

23:43
They discouraged it even in the second and third year of Columbia, which is where she is.

23:48
But she says, OK, I'll...

23:51
...I'll do it.

23:53
And she says that civil rights litigation was the last thing she envisioned.

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But there were few civil rights cases that she had heard about growing up.

24:05
But she says those cases actually were the catalyst for her interest.

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So it was interesting to hear her say that civil rights was the last thing that she had envisioned.

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So she's at the LDF as a student and her earliest assignment was court-martialing of black servicemen.

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That was in 1945.

24:31
She said she's in a room that's 12 feet by 14 feet and 14-foot ceilings.

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And it is packed literally wall to wall with these court-martial records.

24:42
And she's assigned to work with the great Robert Carter, who also later became a judge.

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And that task was overwhelming.

24:51
She describes.

24:52
And maybe it was an omen.

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And it's interesting that she was even working on those cases at all.

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But apparently, you know, when the war began in 1941, LDF was working on chipping away, so to speak, at *Plessy*.

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And they pivoted because the N.A.A.C.P., the board, didn't want to insult President Roosevelt because he was embarrassed that black soldiers were being sent over in segregated black units to defend, you know, whites against racism in Europe.

25:26
So that was very interesting.

25:28
So they pivoted then to discrimination against blacks in the military and to desegregate the military.

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Of course, that didn't happen right away, but they chipped away at it at least.

25:42
And then it happened later on under another president.

25:44
So anyway, she is working at LDF, and law school quickly becomes a bore.

25:51
But she graduates in 1946.

25:54
And who's at the graduation?

25:56
Clarence Blakeslee.

25:59
He attended the graduation.

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He's not as young as he was, but he was still alive.

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In fact, he lived till 91, and he followed her career.

26:08
And at graduation, he says, you know, I know a man named Thatcher, Mr. Thatcher.

26:16
And if you are interested, I can get you a job with the firm.

26:19
Hello. That would be Simpson Thatcher.

26:22
Thatcher.

26:22
Simpson Thatcher.

26:24
And she describes to him what LDF is, because LDF is a fairly new organization to people who might not be in that world.

26:33
And he says, well, I'm very glad that you have gotten the job and that it's in public service.

26:38
So she ends up at LDF, and she is thrilled to be at LDF.

26:43
And it's 1946, and who knew she would be there for nearly the next 20 years, right?

26:52
And she comes to work for two real giants at the bar and in America, right, Thurgood Marshall and Robert Carter, who I think themselves must have been challenged to accept the woman colleague lawyer.

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We don't really talk about that much.

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But they deserve a lot of credit for bringing her on and standing with her.

27:21
Although she chafed under some of the female insults even within LDF, but it's fascinating and they take her right away to the South.

27:38
And she's in a courtroom in... by 1949.

27:44
She is.

27:45
And you know, just for an overview to make sure that I don't miss anything about this incredible woman.

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She participated either as trial or appellate counsel on the briefs or petitions for writs of cert on 209 cases before either the federal District Court or the circuit courts or the United States Supreme Court, and even once at the New York State Commission on Education.

28:14
And the cases she touched and worked on covered gerrymandering, defending against trespass, prosecutions in the lunch counter sit-ins, peremptory jury challenges, desegregation of schools, universities, public facilities, Parks and Recreation facilities, and inter and intrastate transportation.

28:37
She dealt with racially restrictive covenants that banned the property sale to blacks and Jews.

28:44
She dealt with housing and employment discrimination in Georgia, Mississippi, Tennessee, Arkansas, Carolinas, Alabama, Virginia, Maryland, Kansas, Louisiana, Florida, 11 States and DC. That's a great breadth of her work.

29:02
That's why she can truly be called a civil rights icon.

29:05
And one of the first cases that she touched when she walked into that office was *Heman Marion Sweatt v. Painter*, which she started there in 1946, as I said. But this was finally, as it worked its way through the courts, a landmark decision in 1950 where the Supreme Court struck *Plessy*'s separate but equal doctrine, unanimously ruling that the University of Texas had to open its law school to black students as its law school for blacks that they created in the in a basement was not equal.

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So this was limited to law schools in 1950, but it was still a groundbreaking case.

29:57
When we talk about her remarkable career, for me at least, I really see her litigation in the trenches in the South on behalf of LDF, attacking the K through 12 separate but equal proposition trying cases, struggling with the racism, personally. All of this work was done on the road, in towns where she wasn't welcome, in courtrooms where judges wouldn't call her Mrs. Motley.

30:41
They would call her the Motley Woman, or they would call her the Motley Woman from New York.

30:47
You can just imagine the strength of character that was required for her to not just survive, but to succeed.

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It's remarkable.

31:03
If her life ended as the lawyer ended there, it would have been an extraordinary career.

31:12
And yet it's just the first chapter, if you will, of her work as a lawyer.

31:17
Just remarkable to me.

31:19
Yeah, well, it's one of her first cases because she started in 1946.

31:23
She went to view Charles Hamilton Houston in 1949, who was also a giant. And he and Thurgood, I guess believed that she was ready because after she, you know, went to Albany, NY to take on some gerrymandering, a gerrymandering case that she won.

31:46
She was accompanied by Thurgood there.

31:49
He finally felt that she was ready for the big time.

31:51
And that's when she went to Mississippi for the first time and *Bates v. Batte* a teacher salary dispute where black teachers were getting less paid less than white teachers for the same work.

32:07
And she went down there with Robert Carter, as you mentioned.

32:12
And you know, there the housing was for traveling salesmen.

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They couldn't stay at a hotel as they would have known in the North.

32:26
They didn't have regular meals.

32:29
They were reliant on those blacks who would not be afraid to have them to their homes.

32:35
There was no food readily accessible.

32:38
So there was a grocery store about 1/2 a block away, just to sort of the kinds of things that she was just not even in the courtroom yet.

32:48
And they went, she and Robert Carter went into a grocery store about 1/2 a block away and … the person said, well can I help you boy?

33:00
You know, that's how he spoke.

33:02
And she certainly, this was her first, now real foray with into the South with a case.

33:08
And I guess that Robert Carter can feel her tensing, seething, you know, and he sort of guides her out of there very quickly.

33:19
And she says she was so infuriated, she was so angry that, you know, and heated that if she were a candle, she would have melted.

33:29
She describes because, you know, it was that insulting to this legal giant.

33:38
They had to deal with blacks being double agents, all sorts of kind of insults.

33:44
She describes the greatest insult.

33:47
And what was emotionally agonizing, she said, was a mural.

33:52
It's funny that she should describe this as her words "emotionally agonizing."

33:57
It was a mural in the court behind Judge Mize, who was a racist judge who she first met when she was doing this, this *Bates v. Batte* case, with the teacher case.

34:15
And this was a mural that displayed black people dressed in farm clothes, slave garb and looking and women who look like Aunt Jemima with bales of cotton next to them.

34:29
And they are standing next to elegantly dressed white people with beautiful horse and carriages against the backdrop of an antebellum mansion.

34:40
And that's, and that's the mural.

34:42
Yeah.

34:43
And that's the mural in the late 40s in a federal courtroom in the United States.

34:49
That's right. Shame on them.

34:50
And it's a mural right behind the judge.

34:54
It's not on the back wall.

34:55
It's the one right behind the judge.

34:57
So when you're looking at the judge, you are looking at this mural just to reinforce the place of people.

35:05
And yeah, so she, she was incensed.

35:09
Let's jump ahead.

35:10
See, Thurgood Marshall gets promoted, gets nominated and leaves for the Second Circuit.

35:17
And she finally, if you will, gets first chair of the group and right away is thrown into Supreme Court advocacy and within a couple of years has argued 9 cases.

35:34
And Chief Justice Douglas describes her as one of the finest advocates that he had seen in his entire career.

35:42
That's right.

35:43
You know, have to say what she endured.

35:46
I just have to go back a little bit. OK.

35:49
Because I just have to say what she endured and what she saw…

35:52
And you know, when she was doing that case, that teacher case, they, there were only four black lawyers in the state of Mississippi.

36:04
And she said that was so reduced from what it would have been around Reconstruction time.

36:09
But in any case, no one wanted to do it because they were so afraid for their lives.

36:13
They got one person to do it, a 72-year-old or 70-something-year-old man who worked out of his grocery store, you know, notarizing wills and such.

36:26
And that man was so afraid.

36:29
He agreed to do it, but he was so afraid to be with them that he sat at the opposite end of the table from where they were.

36:38
He didn't say goodnight to them when he left.

36:41
He never had dinner with them, obviously.

36:44
And when they would ask him, when Carter would ask him to go out to see if someone was in the room, he would never turn his back on the court.

36:55
And he literally bent forward at the waist and backed out of the courtroom and returned, backing in waist bent.

37:06
Now, I will tell you, Alan, that if I did not read that in her books, and in the *Civil Rights Queen*, I would not have believed it.

37:18
If I had seen that in a movie scene, I wouldn't have believed it.

37:22
And that is the level of fear that blacks had.

37:27
Blacks were being killed everywhere.

37:29
And this woman puts her life on the line to go in and argue these cases.

37:36
I mean, on another case, she was, I think it was in Georgia.

37:41
They actually rode shotgun to get to the home she was staying at.

37:47
And six to eight men, black men with machine guns and rifles, had to stand watch overnight at the house.

37:57
She said she did not sleep one wink.

38:00
Her autobiography. It's so impressive.

38:03
Think about Jackie Robinson and all of the movies describing and showing his entry into baseball, which is some of this same time.

38:14
And then you think about this black woman going in courthouses and living in communities that were not cities with Major League Baseball teams.

38:28
These were Southern cities where segregation was still the rule in the 1940s.

38:37
And she had to live through all of that and endure all of that.

38:42
It's quite remarkable that she was so talented that she could still do what she was doing in the courtroom during all of this time.

38:54
But they've only given us an hour, and we haven't even gotten to the heart of her career.

39:01
But I think it's appropriate for this time because this really is kind of the crucible of her education and preparation to ultimately be the kind of judge and leader that she becomes.

39:23
Yes, I agree.

39:25
And you know, so I'll go to the most famous case that she handled, and she handled it on her own, was *Meredith v. Fair*, which is back in Mississippi.

39:38
And Mississippi was the worst as far as violence was concerned.

39:43
And she is with James Meredith, a former vet who wants to go into the University of Mississippi.

39:52
And there is every kind of roadblock put up in front of him.

39:57
Every time they keep coming up with another excuse for whatever it is.

40:01
And Thurgood Marshall sends her there, by the way, he says, because he thinks white men had black mammies, so she would probably be less likely to be, you know, lynched or something else terrible happening than the black men and harmed.

40:21
So she's in Mississippi, and she's again before the racist Judge Mize, and she's with a lawyer, Dugan Shands, who was a profound white supremacist.

40:33
The judge waits four months before rendering a decision.

40:38
The decision denies the relief she's seeking.

40:41
She had done.

40:42
She comes up against so many roadblocks.

40:44
She had done lots of discovery.

40:46
They didn't provide the discovery to her after, you know, lots of depositions.

40:51
It was just awful.

40:54
But, you know, she had an old friend in the 5th Circuit.

40:56
I shouldn't say an old friend, but Judge Tuttle and she from other cases when she didn't get the relief in the District Court, would go for an injunction before Judge Tuttle.

41:14
And just to add, getting to Judge Tuttle was in New Orleans and she would have to drive or be driven to New Orleans to get these emergency relief orders and then get them and bring them back to Mississippi courtroom for Mize.

41:33
And she, this is part of your, we're describing something without appreciating what it was to get that *Meredith* case to trial and how many times she had to drive to New Orleans to get Tuttle's orders to force the judge to do it.

41:58
It was an extraordinary case and story.

42:03
I think she is there about 3 times.

42:05
I think it was about 3 times to finally have the 5th Circuit say that it was a carefully calculated campaign of delay, harassment and master inactivity.

42:18
The rules were … it was a Never-never land I think is one of the ways they describe what is going on in Mississippi.

42:26
The circuit denies the stay.

42:28
Another judge granted the stay.

42:30
It's a back and forth.

42:32
Once they finally get it through, riots ensued.

42:35
The president has to send troops down, the National Guard and such, and the Supreme Court enforced the mandate and finally admitted James Meredith.

42:48
But the case demonstrated, I think, and established that the federal government could and would use

military force to overrule state officials in the South, and that was important, but it took a long time for, I mean, it was just ridiculous.

43:06
And she doesn't lose contact with James Meredith.

43:09
That personal relationship endures, in spite of a lot of difficulty that he went through, as a beautiful moment that she describes in her autobiography of Meredith showing up at her apartment in New York, her and Joel's apartment, one day or one night.

43:33
So, but let's move from the Supreme Court to state politics.

43:43
Yeah.

43:43
So, you know, she is just off of I guess it was around that time she does the *Meredith* case.

43:51
She does another case in '63, the Harvey Gantt case.

43:55
She's won, you know, a lot of these cases, and she's represented Martin Luther King.

44:03
And so she is at an event, and she's approached for senator from a former NYU classmate who was senator and is now on the bench.

44:16
And she takes it once she knows that she can still continue with cases at the N.A.A.C.P.

44:24
That's the basis on which she decides to do this.

44:27
So she runs for state senator in New York.

44:30
She runs for state senator.

44:32
Right. Exactly.

44:34
And I will say that this is, I guess she was still, maybe this wasn't after that.

44:39
I was saying when Medgar Evers was killed, that was also a devastating time in her life because Medgar Evers was right by her side when she was in Mississippi and when she did many of these cases.

44:48
But she is the first woman, first black woman to be elected to the state.

44:54
After a couple of years, they're asking her to now run for borough president of Manhattan.

45:00
At the time, borough president of Manhattan was a very, very important position.

45:05
For this, she leaves the LDF completely.

45:10
And I just want, you touched on this before, and I went to something else, but I just want to talk about the 10 cases she argues before the Supreme Court.

45:20
She wins nine of them.

45:22
And I like to say she wins 10 because of course the next one came back, you know, in *Batson v. Kentucky* is the way I like to describe it.

45:33
But she defended the cases were involved, obviously, racial segregation, desegregation of restaurant facilities, argued on behalf of citizens, sit-ins for students at lunch counters, public schools.

45:52
Obviously, she was so involved in, as you mentioned, the desegregation of public schools for young children and *Brown* and, you know, doing the research on the 14th Amendment, she represented reverse convictions of students under state trespass laws for Civil Rights Act.

46:12
And then of course, the exclusion of black jurors and *Batson*.

46:16
So those, I don't know that I think I touched on the subject matter of all 10, but they were very important cases.

46:25
And you're right, the comment was that she was one of the best who had ever argued before the court.

46:32
So she's now borough president in 1965.

46:37
And it's a powerful position.

46:39
And there's whispers, although there had been before, about her getting a position in the federal judiciary.

46:48
We need to include this interesting aspect of her effort to go on the federal bench because she...

46:57
You mean with Robert F. Kennedy?

47:00
Kennedy, yeah.

47:01
Who was at the time New York's senator, US senator, and obviously controlling the Democratic Party in New York.

47:11
And as a state senator in New York, before she becomes borough president, she and a group of senators defy what Bobby Kennedy wanted to do.

47:25
And he didn't take that lightly.

47:28
And he held a grudge.

47:31
And so she was not getting to the federal bench because Bobby Kennedy, in the old blue slip tradition that exists to this day, wasn't letting her get there.

47:47
But she has a friend in a higher place.

47:53
And President Johnson picks up the phone and calls her and invites her down to the White House.

48:04
That's right.

48:05
You know, she sided with Wagner against Kennedy when she was in the Senate.

48:11
And, you know, politicians have long memories.

48:15
And yeah, so he held that against her.

48:18
And rather than putting her name in earlier, he didn't.

48:25
And, but as you say, the president called her.

48:28
Now she has now gone through two years as a senator, and now she's elected District Attorney.

48:34
So a few years have passed, and she gets a call from the President and he says, would you come down?

48:41
And she says, well, she thinks that it could be for an appointment, but no one said anything to her, so she wasn't sure.

48:48
And she gets there, and he tells her what the news is.

48:54
And then he dials Bobby Kennedy.

48:56
He says, I haven't told him yet and dials Bobby Kennedy and says

49:02
I'm sitting with, I'm sitting with, you know, Constance Baker Motley, who's going to be my nomination.

49:09
And what can he say?

49:10
He can say nothing, but she has a really tough time in getting appointed.

49:19
And it takes, I think, six or seven months before she's appointed.

49:23
And that's because of the racist senators who were ... to stop her.

49:29
Yeah.

49:31
Of her own party.

49:32
I mean, remember, this is the days of Strom Thurmond and Eastland and a whole bunch of guys that...

49:40
That's right.

49:41
...weren't looking kindly on Constance Baker Motley going to the federal bench in New York.

49:47
Not at all.

49:47
And it was James Eastland really, who I think took on that cause to every ridiculous thing.

49:54
From the time she was a teenager, I mean, everything.

49:57
It was just, you know, saying that she was a communist.

50:01
It was really disgusting and awful.

50:04
But Johnson held on.

50:07
And in fact, Kennedy came around and supported her in the end.

50:12
But Johnson held on.

50:14
And he wanted to, even after all that, he wanted her to go to the Circuit Court.

50:20
And he said then that she was his candidate.

50:23
But there was just opposition and that didn't happen.

50:29
She stays on the Southern District bench

50:34
And she has, you know, such an important career and with some really important cases.

50:41
There's *Ludtke v. Kuhn*, which is a decision that became a landmark decision in dismantling gender barriers.

50:50
It was about a female reporter who was barred from going into the Yankee locker room solely due to her sex.

50:55
And she dismantled gender barriers with that.

50:59
And sports journalism, she affirmed that women had to be granted the same professional access as men.

51:05
So that was a very important case.

51:08
She had another one *Blank v. Sullivan Cromwell*, where she took large firms to task and ensured that even powerful legal institutions could be held accountable for discriminatory policies.

51:21
And she helped, I think, spur on the later reforms for law firm hiring and promotion and compensation.

51:27
And showed real leadership.

51:29
She becomes chief judge of the Southern District and is managing a number of white male colleagues who are older.

51:40
And I was in that courthouse at that time.

51:45
I got a lot of old cranky men and

51:51
She ran that courthouse very effectively and law clerks inspired a whole generation of women who clerked for her and have gone on and had marvelous careers, as a result of her leadership.

52:09
Laura Swain is one.

52:10
Sorry to interrupt you.

52:12
Yes, Laura Swain is one who is now the chief judge of the District Court there.

52:18
And, you know, if she were alive, oh my, she would be beaming.

52:23
But her law clerks talked about how hard she worked round the clock.

52:27
I mean, she really did.

52:29
And so there's no surprise how successful she was.

52:34
And it's, you know, she had to endure a bit when she got to the court as well, because she's now, she was the only woman on the court.

52:44
And they would go to clubs sometimes there's one club, the literary club, the century club.

52:51
And they didn't tell her then, but in order for her to get upstairs, they said that she was the secretary so that she could get up to, you know, upstairs.

53:01
Another time someone had to tell her to go to a particular floor, which was one floor above.

53:09
I think that was I, I can't remember.

53:11
Maybe it was at the Yale Club, I can't remember.

53:13
And someone had to go to the particular floor to get her because she couldn't take the same elevator to get up.

53:20
It's a wonderful statement in the District Court at the time that her appointment was called for by virtue of the seniority rule that existed and still exists to this day.

53:34
And, and the court went ahead and did appoint her as their chief judge, but she kept on a full schedule.

53:44
I actually tried a case in front of her in 1976 or 77.

53:52
I tried 15 cases in five years in the Southern District, only one to a judge where the defendant waived the jury and, in this case, the defendant, the federal defenders waived the jury, and I was trying a gun case in front of Judge Motley.

54:14
It's the only case I lost in five years at the trial.

54:18
She acquitted them.

54:19
She had this very stern but twinkle in her eye when she basically said, Mr. Levine, you don't have enough evidence. I'm acquitting this defendant.

54:36
It was intimidating in a way to be in front of her because she was so stern but nice to people.

54:45
But you could tell she expected you to be prepared and not leave any stone unturned.

54:54
And it's, now going back and reading all of these books about her and about her life, none of which I knew in 1976 or 7 when I was trying that case, I really appreciate, you know, who I was appearing before and why she had the standards that she had.

55:19
So and you mentioned the criminal case, and she was very influential in that area as well.

55:26
When she was on, you know, on the bench in a case, *Sostre v. Rockefeller*, she found that the confinement practices were with prolonged isolation and abuse was unconstitutional.

55:43
And so, you know, not many people were willing to say that.

55:46
And so that recognized the rights of incarcerated people at that time.

55:51
So she was very good.

55:52
But you know, I did not appear before her as a litigator. I was in the Eastern District of the federal defenders.

55:58
But I did have the chance to meet her when I worked for a summer interning … and she came to a brown bag lunch and, I mean, obviously I was intimidated.

56:18
She was still on the bench, but … she was intimidating because I was intimidated, not because she was, you know, trying to be intimidating.

56:29
She was just very kind and easygoing and humorous, you know, as she told stories.

56:37
And that's where I first heard the story about her having to go up in the elevator, you know, and that they had to say that she was a secretary.

56:47
But she was very kind.

56:49
And then I met her again coming out of the building in which her mother lived and my relative lived there and knew her.

56:59
She said she was just coming from visiting her mother.

57:02
And I think I was, maybe I was in law school.

57:06
Maybe I was just first year of law school.

57:08
That struck me and stayed with me that she was so human and she was a daughter. She was a mother. She was a real person who endured all of this and who made these.

57:21
She was just so humble in all of it, I think, and yet made these tremendous inroads for people in higher education and in desegregating, you know, elementary schools and high schools.

57:36
And then in enforcing the rule of law in obviously really important ways, with important findings in cases. She was really a tremendous individual.

57:53
That's one of the reasons I decided to honor her by installing her name in the beautiful Dome that we have in the First Department.

58:05
It recognizes her as the legal luminary that she is, and that she was, I guess.

58:10
And for her extraordinary personal sacrifice and contributions for the work that she did to repair the wounds of the past, and is beautiful.

58:22
I think you can see it a little bit of what it might look like behind me.

58:28
It gave me great pleasure to be able to do that because I think it can embolden a bit those young lawyers who come into our court to argue.

58:41
Perhaps they look up and they see her and think, I can do this too, because the other people who lived in, you know, the 18th century, you know, but she's one who lived in the 19th and 20th.

58:59
And it's also clear white glass. It stands out.

59:05
And in that way, it really, it accomplishes, I think, what you wanted to accomplish.

59:13
And I think we're way past our time.

59:16
We could talk about Judge Motley for a long, long time.

59:20
So thank you for doing this with me today.

59:26
It was a joy. Thank you.