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Developing a "school" of civil rights lawyers: From the New Deal to the New Frontier

White, Vibert Leslie, Ph.D.
The Ohio State University, 1988

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DEVELOPING A "SCHOOL" OF CIVIL RIGHTS LAWYERS: FROM
THE NEW DEAL TO THE NEW FRONTIER

DISSERTATION

Presented in Partial Fulfillment of the Requirements for
the Degree Doctor of Philosophy in the Graduate
School of The Ohio State University

By

Vibert Leslie White, B.A., M.A.

* * * * *

The Ohio State University
1988

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To my Parents

Lorraine D. White and Vibert L. White, Sr.
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During the 1930s Charles Hamilton Houston, the first black dean of Howard University Law School in Washington, D.C., laid the foundation for twentieth-century civil rights litigation when he transformed the school from a third-rate legal center to a nationally known research institution specializing in civil rights issues. This transformation was part of a larger movement among African-American intellectuals to professionalize institutions of higher education.

In order to better confront the social and political issues stemming from race discrimination in the United States, the two leading theorists of early twentieth-century black America, Booker T. Washington and William E. B. DuBois, created two major schools of thought that polarized African-Americans in devising strategies for the achievement of racial pride and equality. On the one hand, Washington's philosophy focused on developing a core of vocational institutions to teach blacks technical crafts, economic conservatism, and political abstinence. DuBois, on the other hand, urged blacks to seek an intellectual or liberal arts education and to be active in seeking political,
social, and economic equality. Charles Houston sided closer to the DuBois position as he labored to revitalize Howard University, and laid the foundation for a "School of Civil Rights Lawyers" which worked closely with Afro-American intellectuals to assault apartheid policies in the United States between 1930 and 1954.

As a radical black historian, my interpretation of the civil rights litigation movement differs significantly from the position of more mainline scholars such as Richard Kluger, Gerna Rae McNeil, Darlene Clarke Hine, Mark V. Tushner, August Meier, and Louis Rudwick. These historians have slighted the local attorneys, scholars, and community organizations that supplied the impetus for the launching of a civil rights campaign in the state and national courts. Being a member of the "modern" new left, I believe that employing "grassroots history" will enable me to uncover new relics and reinterpret older facts in order to illustrate a broader and more complicated narrative of the civil rights litigation movement.

To avoid the misinterpretation of past historians on civil rights litigation, it is imperative that a different methodology be utilized to describe the role of the National Association for the Advancement of Colored People (NAACP) and its lawyers in the argumentation of civil rights cases. The approach that will best illuminate the true nature of the movement is the "bottoms up" analysis to
history. Although radical historians such as Warren Van Tine, Herbert Gutman, and Eugene Genovese use such a framework to discuss issues of slavery, women, and labor, historians in general dismiss the method when dealing with topics that focus on legal developments and constitutional concepts.

The major monographs that are applicable to this topic lack clear and full analyses of the development of the civil rights litigation movement. In 1975, Geraldine R. Segal published her dissertation, *In Any Fight Some Fall.* This biography presents an overview of the accomplishments of Charles H. Houston, first as a civil rights agitator while a law school student at Harvard University, than as Dean of the Howard University Law School, and, finally, as general counsel of the NAACP and the Legal Defense and Educational Fund (LDEF). Although Segal tells us much about Houston's impact on the modern civil rights movement and his status in the general field of constitutional law, she falls short in providing a conceptual view of Howard's law clinic in relationship to the African-Americans' struggle to achieve equality through the judicial system of the nation. The author apparently did not realize the role that Houston played in the creation of a legal civil rights philosophy and the impact of that philosophy on black constitutional attorneys in the twentieth century.
Another interesting narrative on Houston is Gerna R. McNeil's *Groundwork: Charles Hamilton Houston and the Struggle for Civil Rights* (1983). Like Segal, McNeil broadly traced the life of Houston from a young student at Harvard University Law School through his tenure as Dean of Howard's law school and, finally, to his position as the chief counsel for the NAACP's LDEF. The monograph is, to date, the only biography on Houston. Unfortunately, the work is marred by McNeil's willingness to promote Houston as the perfect student and civil rights advocate. McNeil is much too lenient in her account of the civil rights leader. More work must be done showing the problems and the contradictions that Houston had in devising a suitable strategy in the fight for civil justice.

Richard Kluger's *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality* (1975) continues to be the landmark for scholarship in the study of civil rights litigation. Providing a systematic review of the litigants, lawyers, educators, and appellate and Supreme Court justices, Kluger explains the imperative of twentieth-century civil rights litigation. He is the first scholar to make clear that a blueprint or strategy was laid in the 1930s to attack the legal forms of American racism. Kluger nonetheless neglects the role of community financial and political support in building the national network of attorneys. He also ignores
the role of the black elite in using civil rights issues to exploit the lower classes.

There are three additional monographs that are important to my study: Gilbert Ware's *William Hastie: Grace under Pressure* (1984), Geraldine R. Segal's *Blacks for the Law: Philadelphia and the Nation* (1983), and Mark V. Tushner's *The NAACP: Legal Strategy against Segregated Education* (1987). By tracing William Hastie's career as a law school student through his tenure as a legal advocate, Howard University law school dean, and governor of the Virgin Islands, Ware maintained that Hastie, not Houston, developed the "School of Civil Rights Lawyers." As law school dean in the early 1930s, states Ware, Hastie built a cadre of legal warriors who became instrumental in the NAACP. These advocates, led by Hastie, overturned the white primary in Texas and a host of discriminatory laws that prevented blacks from achieving equality on interstate carriers or equality in salaries in the teaching profession. The weakness of this monograph is the author's condescending account of Houston. While Hastie is depicted as a legal prophet who utilized his skills and intelligence to make Howard's law school a viable institution for civil rights research, Charles Houston is unfairly discredited from an important actor in the Association's quest for social and political justice.
Segal's monograph is a pioneering study of black attorneys in Philadelphia and fifteen other cities. Segal concludes that Afro-American lawyers are grossly underrepresented in the legal profession. Blacks are discriminated against in attending white law schools, securing tenure-track employment at major law institutions, holding influential positions in the American Bar Association and, lastly, in securing employment with the nation's top law firms. Segal assumes that blacks will want to practice old forms of law and does not give due respect to the high number of black lawyers who devoted their lives to constitutional issues that revolved around the struggle for civil rights. The majority of black attorneys between 1930 and the early 1960s worked for racial pride and black civil rights. Living in an era that valued Afro-American liberation, they were more concerned with the eradication of discrimination than in the achievement of prestigious positions such as professor of law at schools like the University of Chicago. Segal fails to understand the retardation of the careers of black attorneys when they handled cases of civil rights. Along with asking questions about discrimination against blacks in prestigious schools and firms, Segal might also have explored the decline of interest of black attorneys in handling civil rights cases.

Mark V. Tushner's The NAACP Legal Strategy against Segregated Education, 1925-1950 argues that the approach
utilized by Charles Houston and Thurgood Marshall developed through trial and error. This argument differs from that of Kluger, who argues that a systematic legal strategy originated with Nathan Margold and was refined by Charles Houston, who worked with the NAACP to set the stage for a civil rights struggle in the courts. Like Kluger's book, however, Tushner's gives inadequate attention to the activities of lower-level black organizations in the creation of viable Afro-American legal core groups. By not exploring the ties between grassroots organizations and the Legal Defense and Education Fund, he does not fully grasp the dynamics of the situation.

Although the story of the civil rights litigation movement demonstrates class division within the black community, it nonetheless illustrates the ability of a black elite to persuade a racist and stubborn nation to grant marginal civil rights to the Afro-American. The attorneys who labored under the tutelage of Houston and Thurgood Marshall possessed a sincere hatred of racial discrimination. The contempt that the legal advocates held toward the apartheid regime of the United States eventually became associated more with the elite black community than the general African-American population. Thus, when graduates left the Howard University Law School, they became members of a particular class—the black bourgeoisie. Nonetheless, the skills that they learned from the legal institution
entitled them to the special privilege of being called by Houston "social engineers."

The concept of the "social engineer" that Houston applied to black lawyers contained the twin elements of devotion to the eradication of segregation and appreciation of the skills law graduates had acquired. These social engineers embedded themselves into the racial hotbeds of the south as well as the north and midwest. Armed with the Houston method of legal analysis and the general support of the black community, the advocates embarked on an aggressive assault on the law and logic of racial discrimination. The attorneys and the supportive community forged an alliance that hammered at the legal bulwark of segregation for over twenty-five years.

In the following chapters, four basic themes are woven together: (1) that the attorneys' legal training shaped their approach to civil rights issues; (2) that their segregated state and national organizations, such as the National Bar Association, were hothouses for keeping alive local litigation efforts; (3) that their affiliation with the NAACP's national legal campaign corresponded directly with local activism of the attorneys; and (4) that the leaders of the civil rights organizations utilized the civil rights movement to persuade the general black community to support activities that directly benefited the black bourgeoisie.
In addition to developing the four themes cited above, each chapter will explore a sub-thesis to the overall argument. Chapter I analyzes Charles Houston's role in the creation of a black civil rights research center at Howard Law School. The writer maintains that Houston—a black progressive who also held a strong commitment to black nationalist concepts—transformed the Howard Law School from an overrated paralegal center to an institute of excellence in the study of law and a laboratory for legal activism.

Chapter II will discuss the students who followed and built on the foundation laid by Houston in the struggle against legal discrimination. The men and women who accepted Houston's challenge to become social engineers formed a network of legal freedom fighters. However, to a great degree the success of the network depended on the assistance of other black intellectuals. Black scholars in history, political science, sociology, psychology, medicine, and economics were valuable collaborators with the attorneys who actually presented the legal cases. Because scholars who studied race relationships and civil rights were holding conferences and debating issues of importance to black Americans in such academic organs as The Journal of Negro History, Houston was able to utilize their research in devising strategies for the argumentation of cases that focused on the rights of African-Americans. Chapter III's central focus, then, is the linkage between
black academics and the civil rights attorneys in the Association.

Although the majority of the attorneys in the LDEF and the NAACP graduated from Howard University School of Law, a significant number were alumni of other universities. It should be noted that not all Howard-trained attorneys were members of the NAACP or the LDEF. In order to develop a working relationship with both liberal white attorneys and older, powerful black advocates, a plan had to be devised to encourage these individuals to take an active role in civil rights litigation. Chapter IV explains the tactics that Houston used and illustrates the importance of these people to the overall movement. This chapter focuses heavily on attorneys in the southern arena of the civil rights struggle.

The development of a network of lawyers reflected the growth of the black bourgeoisie and their political and economic position in the United States. This small, privileged group reflected the best in the Afro-American caste, especially in terms of wealth, education, and socialization. Chapter V explores the influence that black bourgeoisie had in the litigation movement and demonstrates how their activities mirrored their general attitude toward the black masses and the general American community. The chapter discusses how the black attorneys' middle-class position in society had a long-run moderating effect.
The network of civil rights attorneys and scholars emerged not only in the south but also in the north and midwest. As in the south, the network in the north and midwest labored to eradicate the evils of segregation. However, the strategies they used differed due to geographic and political conditions and the differences in segregation in the north and south. Above the Mason-Dixon Line blacks experienced de facto as opposed to the de jure segregation of the south. Chapter VI discusses this difference by focusing on the creation of local civil rights organizations in the midwest. This chapter will also explain why civil rights litigation grew at a slower pace in the north than in Dixie.

In the final pages of the dissertation, the author summarizes the data and fits it into the general literature on the civil rights movement. In addition, the author explains how the developments between 1930 and 1954 influenced the course of the civil rights litigation movement throughout the 1960s, 1970s, and 1980s. This review will show that the black legal network sought to eradicate discriminatory laws with the general interest of the black community in mind. However, by the late 1930s, the movement had taken on an elite flavor that ultimately resulted in exploiting the masses for the elites' own political interest. This class bias among the power brokers created serious problems for future civil rights litigation.
Notes


CHAPTER I
THE SOCIAL CONTEXT FOR THE LITIGATION MOVEMENT

The African-Americans who led the movement to eradicate legal segregation, discrimination, and bigotry belonged to the black professional/managerial class (BPMC). This group, which is more specific than E. Franklin Frazier's black bourgeoisie or middle class, developed a network that promoted theory, galvanized political support, and created organizations that eventually picked away at segregation.

Members of the BPMC were fused by political ideology, income, education, associational affiliation, kinship networks, work habits, beliefs, and skin color. These elements promoted the existence of a small but powerful group who dictated the objectives of the black community throughout the 1930-1954 civil rights era.

In a general outline, it would appear that the BPMC fits the mold of Marx's bourgeoisie or E. Franklin Frazier's black middle class. However, under close scrutiny, the BPMC takes on a greater role of emulating the power elite. The BPMC is socially designed and politically supported by powerful economic and political interests to regulate the aspirations of the underclass. Thus, while the lower
classes may aspire to a complete restructuring of a society, the BPMC may persuade them to accept moderate concessions. In a seemingly contradictory twist, however, the moderate goals that the BPMC pushed as a total black agenda served as a wedge to crack the legal barriers of segregation, and was seen by the power elite as a radical and revolutionary move.

The civil rights litigation movement that sought to end school segregation has traditionally been considered to be a mass movement for the black underclass. The activities of advocates such as Thurgood Marshall and Charles H. Houston have been viewed as efforts to raise the living standards of poor African-Americans in the south to levels equivalent to those of Caucasians below the Mason-Dixon Line. Unfortunately, the litigation offerings of the NAACP's legal committee and the LDEF were for a particular class of people: the black elite or the BPMC.

This group used its talents, influence, and political power to impress upon white liberals and, most importantly, upon the black underclass, that the fight for integration was actually a struggle for the oppressed African-Americans in the south. Although the black lower class eventually benefited from the activities of the black vanguard, the litigation struggle was specifically designed for the Afro-American elite segment.
The early decades of the twentieth century witnessed the development of a new type of African-American—one who refused to suffer from the same kinds of oppression that whites had inflicted upon blacks during an earlier period. These African-Americans held a militant desire to utilize every field of labor to gain self-determination, equality, and freedom. During the early twentieth century, individuals such as A. Langston Taylor, Paul Laurence Dunbar, Walter White, Adam Clayton Powell, Sr., and A. Philip Randolph utilized their talents to forge a consciousness of liberation throughout black America. However, since the song of freedom came basically from the voices of the growing black elite, the song of freedom took on the tone of liberation for the aristocratic African-American.

In the late 1920s, signs of classism became apparent in the life styles of the black elite. Many members of the black intelligentsia had begun to label themselves, as DuBois had done in 1905, as the "Talented Tenth" or the "Black Vanguard." They saw themselves as the class that would liberate the masses from the clutches of white America. Yet they argued subtly that the freedom of the underclass must come after they, as a separate interest group, received equality with white Americans. Individuals in the upper segment of the black community viewed themselves as a group with special credentials, unlike poor blacks, and consequently believed that they should be
treated as white persons were treated in places of public accommodation. They believed that their education, wealth, mannerisms and, to a lesser degree, their light skin color, provided them with all the tools needed to enter the white man's world. By the end of the 1920s, the black professional/managerial class had formed in the major cities of the United States.

Members of the BPMC utilized a host of symbols and associations such as family names, residential neighborhoods, occupations, education, and organizational affiliations to forge a network. Particularly important in forging the network was exclusive educational training at the secondary and university levels. A number of the educated elite were trained at excellent secondary schools in the upper south and the northeast. Similar to the white elite who sent their children to exclusive academies throughout the northeast, the black aristocracy developed certain schools for the specific purpose of molding leaders for the African-American community. The institutions that were created opened their doors to only the best of the black community, i.e., the students who came from a wealthy background. Elite secondary schools for the "talented tenth" were established in a number of black communities during the 1920s and 1930s. Perhaps the most famous of these institutions was the exclusive "M" Street High School of the District of Columbia.
In many respects the District of Columbia was the mecca of the black intelligentsia of the 1920s and 1930s. A city that hosted one of the best Afro-American universities in the nation, Howard University, along with being the nation's capital, attracted a number of black scholars and professionals to the area. With an abundance of educated black people in the District, one could always find a lecture, meeting, or tavern that housed individuals who debated the state of the black community. Such surroundings added to the cultural and intellectual advancement of youngsters of the elite class. The atmosphere gave the BPMC a sense that they had a purpose to lead and educate the unfortunate black underclass. Thus, when they entered M Street High School, it was already decided what type of training they would receive.

Opened in 1892 as an all-black institution, M Street High School was developed with the dual intentions of keeping segregation in education as a permanent fixture in the nation's capital and preparing students for study at Howard University. However, with the enrollment of children of the BPMC and the hiring of teachers with masters and doctoral degrees, the institution took on the role of becoming an elite secondary educational facility. The parents, as well as the students, knew the objective of the academy and its importance to the black community. The role of the school was to prepare black students for America's
best colleges and universities. As an educational insti-
ture, M Street vigorously resisted attempts by many blacks in
the District of Columbia to transform the curriculum from one
with a college preparatory focus to one that would center on
vocational training. Unlike the majority of African-American
schools in the nation which trained students to be artisans, M
Street educated students to be members of the intelligentsia. 
The courses that were offered included "English, Latin, French,
Spanish, Greek, German, History, Mathematics, the sciences,
the arts, music, and physical education." The curriculum was
geread toward the entrance examination for colleges and uni-
ercities in the United States. The black elite in Washington
strongly pressured the administration of M Street to continue
its services as a preparatory institute for their children. This
is one of the reasons why the academy had instructors who
were more qualified to teach at the college or university level
than at the secondary level.

Due to a system of segregation in the United States, black
individuals who held advanced academic degrees were, more
often than not, forced to teach in secondary schools rather than
in the colleges and universities for which they had been trained. M
Street benefited from the exclusion of blacks from university faculties. Unlike the majority of black high schools, M Street was able to attract qualified instructors who were denied employment in the white
educational system. Because M Street was an academically elite academy, it offered salaries that were somewhat higher than the "ordinary" African-American high schools of the period.

Although M Street advertised itself as being an institution that centered its activities around "all" its students, no matter what their economic background, the majority of its students came from the BPMC. The occupations of the parents of the children ranged from skilled federal government employees to physicians, professors, and lawyers. One of the most famous of the school's alumni was Charles H. Houston, Jr., whose father was a well-respected attorney and law professor in the District's black community.

Similar to other bourgeois blacks, the Houstons had molded Charles Jr. to be an academically superior student. Thus, when he enrolled at M Street, they knew that the excellent instruction he would receive would guarantee him entrance into the premier colleges and universities of the nation. The administration of M Street made special efforts to maintain ties with the most exclusive colleges and universities. Amherst, Bates, Brown, Dartmouth, Oberlin, William and Mary, the University of Pennsylvania, and the University of Pittsburgh made scholarships available to brilliant M Street graduates. Although these schools were
predominantly white, they tolerated exceptionally bright African-Americans.  

Charles was the recipient of one such scholarship to the University of Pittsburgh, but his parents discouraged their son from accepting. They maintained that although the University of Pittsburgh was a fine institution, it was not good enough for a student the caliber of their son. Thus, Charles rejected Pittsburgh to enroll at Amherst College. Although Amherst did not offer Houston a scholarship, his parents felt that it was better to pay the tuition at a prestigious school than to receive free boarding at a lesser-ranked institution. Not only did the Houstons pay the tuition, but they rented two dormitory rooms for their son, one for sleeping and the other for studying.

The Houstons represented the type of elitism that surfaced in the black community in the 1930s and 1940s. Although Charles was a good student at M Street, Amherst College, and later at Harvard University Law School, he distanced himself from the middle- or underclass Afro-American community. The commitment to liberation for Houston was individual and not communal. Unfortunately, the atmosphere at Amherst was less than conducive for a black who thought of himself as an equal to aristocratic whites. White students at the college treated Afro-Americans as inferior individuals who did not belong in the
student body. The blatant racism against the black collegians stuck out like a sore thumb.

Another Washingtonian who attended the famed M Street High School and then went on to Amherst was William Hastie. Hastie, who became the first black territorial governor of the United States' Virgin Islands, remembered the racism that African-Americans faced at Amherst as tremendously brutal. As a student there in the late 1920s, he witnessed the president of the college inviting all the white seniors to his residence for the annual graduate social, but snubbing the graduating black seniors. The president, Alexander Meiklejohn, was a devout racist, recalled Hastie. Not only did he have the arrogance to bar African-American seniors from university socials, but he also threatened to exclude blacks from extracurricular functions. The Amherst president openly proclaimed that black students' participation on sporting teams and scholastic clubs degraded the school in the eyes of its financial supporters and community backers. Therefore, Afro-American students must not be allowed to function in activities that would expose them to the public. President Meiklejohn's policy caused Hastie to forfeit his right to join the college's concert choir.

Sometimes the racism that the blacks experienced at Amherst was so forceful that they retreated into a submissive state. While many blacks voiced their hatred
toward racism and discrimination in colleges and universities, many more accepted the existence of segregation in elite white academic institutions. For example, when white fraternities held social functions and excluded black students, seldom did Afro-Americans express their disapproval. As Hastie stated, it was taken for granted that African-Americans and whites did not mix on a social basis. Unfortunately, some members of the black elite found it necessary to pass themselves off as Caucasians to escape the blatant discrimination to which Afro-Americans were subjected. Former Harlem Congressman Adam Clayton Powell, Jr. pretended to be a white student during his days at Colgate University in upstate New York. It was not until his senior year that his peers found out that Powell was a "Negro." During a visit to the academy, the Reverend Adam Powell, Sr. introduced himself to his son's friends and instructors as his black father, to the embarrassment of the younger Powell.

Benjamin Davis, Jr., the black Harlem attorney and communist leader, argued that his years as a classmate of Mercer Cook, W. Montague Cobb, and William Hastie at Amherst were terrible times for race relationships. Davis, the son of a prominent Republican leader in Atlanta, Georgia, was shielded from the cruelties of racism and bigotry as a lad. Born to a political and fraternal potentate, he encountered his first real taste of prejudice at Amherst College as a
football player. He found that his teammates and players of opposing squads would deliberately try to injure him during intra-squad and intra-conference games.\textsuperscript{12}

The abuse that blacks received was overwhelming at times, but the fortitude of the Afro-American elite showed that they were willing to suffer the agony of oppression inside the white colleges and universities in order to advance themselves socially and economically. The questions that must be asked in light of such harsh treatment are: Why was the elite so willing to suffer oppression at the hands of white people? What was the objective of the elite in allowing themselves to put up with such bigotry? And lastly, did their move to enter the white academies constitute an attack on the status quo of northern segregation?

A key to answering these questions can be found through examining the residential areas where the black elite lived. Although a number of upper-class Afro-Americans resided in rural and urban centers in the south, the black elite districts in the north best illustrated the thinking and social/political destiny of this class. The black elite districts above the Mason-Dixon Line explicitly showed the network that this class forged.

Similar to white corporate leaders of the Gilded Age who believed that they were destined by God to be the saviours of the United States economy and the depressed underclass, the black professional/managerial class argued
that it, too, was directed by the supreme force of the universe to lead the lower class to equality. Although they held divine orders, the members of the BPMC had cardinal minds. Really having a dislike for the underclass, they tried to restrict poor blacks from entrance into their society and especially into their families. Similar to the white racist view that blacks and Eastern European groups had inferior blood to that of American Anglos, the black elite thought of the underclass as being intellectually and socially inferior to the BPMC. Unfortunately, many in the elite community blamed the poor or southern black masses for segregation policies in the United States. The vulgari­ties and crudeness of the masses embarrassed the black aristocracy; this is why they sought to develop associations in their community to separate themselves from the black masses.  

The black aristocracy diligently struggled to show the white community that they were very similar to them; this is why the African-American masses were excluded from the activities of the BPMC group. Unfortunately, this group was also very skin conscious. The majority of the students who attended the classical schools in black America were of light complexion. The leaders of social and political organizations were also frequently mulattoes, and those who occupied the residential elite districts were yellow in skin color. The black aristocracy was deeply concerned about
preserving the light skin tones that God had blessed them with. Thus, the network, family ties, and social connections solidified the elite Afro-American community.\textsuperscript{14}

The rise of the BPMC can be seen in the economic rise and social and political leadership of certain families throughout the United States. For example, the Bonds of Tennessee, the Herberts and Nabrits of Georgia, the Turners of Pennsylvania, the Clements, Delaneys, and Joneses of North Carolina and, lastly, the Churches of Memphis were in class, culture, and influence within the black community the equivalent of the DuPonts, Carnegies, and Tafts for white America.\textsuperscript{15} The black elite's social and economic position influenced them to develop an illusionary political view of themselves. The old black elite gradually formed political organizations that discriminated against dark-skinned and poor African-Americans. It was done in the belief that underclass blacks were not intelligent and sophisticated enough to accept full citizenship in the American mainstream. The Nabrits and others were members of the first black aristocracy that emerged during the Reconstruction period but, like the later elite group, they shielded family ties and their light pigmentation from the less fortunate blacks.\textsuperscript{16}

The black upper class of the 1930s was somewhat different from the older elite of the nineteenth century. Instead of using politics or the favors of benign whites
who made them elitist through gifts of money and property, the latter group came from a variety of backgrounds. Not only did they represent the academic or political arena, but also areas of entertainment, sports, and entrepreneurship. Outstanding personalities such as Lena Horne, Cab Calloway, Angelina Grimké, Roscoe Bruche, and Mary M. Bethune were quite involved in promoting the concept that their class was the vanguard of the black race. These elite activists developed an organized network that was highly conscious of the influence, occupation, and net worth of every significant black aristocrat in the United States. For example, they knew who was related to whom and where they resided.

Family relationship also had a far-reaching influence on the development of network ties. A listing of the prominent family names of the period showed that the BPMC was dominated by males; for example, R. R. Wright, Sr. and Jr., James M. and William Monroe Trotter, Adam Clayton Powell, Sr. and Jr., B. O. Davis, Sr. and Jr., Benjamin J. Davis, Sr. and Jr., and Henry B. and Hubert Delaney. Although father/son teams were significant in the network, other blood ties were equally important. For example, the activities of male siblings such as James Weldon Johnson and J. Rosamond, Archibald and Frances J. Grimké, James M. and Samuel M. Nabrit, Archibald and Willard Motley, and
Paul and Benjamin C. Robinson were quite important to the struggle for full citizenship in the United States.18

The families of the BPMC were household names throughout the black communities of the United States. Just as African-Americans knew Cab Calloway, Walter White, and William DuBois, they equally knew of the Robinsons, Nabrits, and Motleys. Due to their popularity and their significance in the caste community, the black aristocracy had a nonverbal accord to marry within their class. As upper-class white families such as the Kennedys, Rockefellers, and Roosevelts kept their blood "pure" from the untouchables, the black elite did the same. The focus of this group was purification and the attainment of approval from Caucasians that they were superior to the black underclass and close to—if not equal to—the white community. The black aristocracy not only segregated their biological veins from the African-American underclass, but they also created a cultural and community gap.

Every major city and town in the United States had an influential African-American upper-middle-class community. The neighborhoods they lived in represented the mentality and psyche of the new black elite in America. These neighborhoods were a small sector of the general black community, but they contained the jewels of the black city. In these enclaves one found the status homes and churches, the beautiful parks, the exclusive Negro businesses, and the
social organization. The elite black neighborhoods were usually on the borders between the Negro ghetto and the white community. Due to the high price and shortage of housing, black "elite-villes" such as Silk Row, Columbus (Ohio); Sugar Hill, Harlem; and Society Row, Kansas City kept the underclass from infecting their abodes. 19

The residents of these elite neighborhoods went to great pains to perpetuate their network. The unwritten law was that a resident had to belong to a certain religious denomination (usually the African Methodist Episcopal Church), society organizations (usually the Links and the Elks), and be from an aristocratic black family. Although the black upper class traditionally had greater wealth than the underclass, their life style dictated that they spend enormous amounts of money, sometimes far beyond their means. A significant proportion of this group struggled from week to week to meet their obligations and developed strategies to keep up appearances. The black elite in New York City, for instance, did not invite individuals to dinner. If by chance a visitor dropped in unexpectedly around dinner time, the upper-class individuals might put the dinner away until the guest had left. The point is that members of the BPMC would do everything in their power to preserve the idea that they were different from the black masses, even if it meant tightening the belt unnecessarily. 20
The upper class had to preserve and promulgate the idea of race leaders. The way to keep that image in the eyes of white philanthropists and the black underclass was to match their living standards with those of the established white community, and to show an above-average degree of ethics. Unfortunately, the fine homes that they lived in and the beautiful artifacts that surrounded their abodes did not gain them entrance into the white world.\(^{21}\) The cruel fact of the matter was that they were not white. They could not gain membership to white elite golf clubs, they were not allowed to eat in the most prestigious restaurants, white churches barred them from membership. The major issue for the black upper class was that segregation made them prisoners in a society that stressed thrift and piety. Perhaps believing that Booker T. Washington was right when he argued in 1895 at the Atlanta Exposition that economics would eliminate segregation, the Afro-American elite was bewildered by the exclusion of their class from the fruits of American society. Nonetheless, the elite group continued to strive for integration while, paradoxically, segregating themselves from the black masses.

The black elite developed organizations and ideologies to sustain itself. Tom Shelby, a black graduate of The Ohio State University in 1931, a former president of Alpha Phi Alpha fraternity in Ohio, and currently a barber in Columbus, Ohio (an occupation of some influence within
the black community), argued that the "black elite was compelled to separate from the riffraff Negro" who "gave respectable colored folk a bad name." The Afro-Americans who already separated themselves by neighborhood and education further utilized the white European culture to maintain a gap between them and the less fortunate group. Social functions that resembled the balls of European royalty were held during the periods of Christmas, Easter, Thanksgiving, the Fourth of July, the discovery of America, and Lincoln's birthday. These activities were meant to solidify the base of the elite. Shelby reflected on the scene, "We sold tickets to all the colored people, but only [the] educated and well-off could purchase them." In addition, "The affairs that we held required the attire to be ballroom tailored; most of the colored could not afford formal tucks and gowns." The social activities of the black elite in Columbus, however, were less extravagant than the events sponsored by their brethren in cities such as Kansas City, Cleveland, and New York.

When the elite in Kansas City realized that they were going to be excluded from white activities, they went all out to show that they could outdo Caucasians at their own game. Society Row, a black social organization in Kansas City, organized balls that were fit for world statesmen. They planned their events months in advance and invited only the BPMC. If one was not a lawyer, physician,
politician, professor, or highly successful entrepreneur, one could not expect to receive an invitation from the elite Ivanhoe Club. This dance was strictly a white tie affair; individuals who dared to show up at the door without wearing tuxedos were "not too politely" asked to leave. The pastime of many members of the black aristocracy in Chicago was organizing and attending elaborate dinner parties. Individuals such as Claude Barnett of the National Negro Press held affairs that attracted Earl B. Dickerson, President of Chicago National Urban League; John Hope Franklin of Howard University; and a host of black politicians in the Chicago area. These affairs often started at 6:00 in the evening and continued well into the early morning. The importance of such social gatherings was that they aided in forging a solidarity on the political and social issues that affected the group. The meticulous and gallant way the African-American elite formed a viable network was honorable, heroic, yet sad. They were so forceful in their quest to enter the white world that they alienated themselves from the greater masses of the Afro-American community.

The 1930s also witnessed the activities of the BPMC in the federal government. President Franklin D. Roosevelt, the New Deal saviour of the United States, attracted a number of African-Americans to his administration. Disenchanted and rejected by past presidents such as Theodore
Roosevelt, Woodrow Wilson, and Herbert Hoover, African-Americans, especially the "high-class blacks," rejoiced when the country elected the liberal Democrat, Franklin Delano Roosevelt.

Eleanor Roosevelt, the president's wife, firmly supported African-American rights. Being a progressive, she influenced the President to hire key blacks in his administration. Eleanor would remind the President that blacks had become an important part of the electorate; thus it would be advantageous for the Democratic Party and his administration to place certain Afro-Americans in federal jobs. Not only would the appointment of blacks gain approval from the fifteen million black people, but it would also allow the administration to regulate black leadership and the organizations they represented.25

Interestingly, however, the move to put "black faces in high places" came slower than one would expect. Roosevelt's conservatism and paternalism showed when he appointed the white Harold Ickes as the head of the Commission on Interracial Cooperation.26 Due to the fact that Ickes had been the President of the Chicago branch of the Urban League (which was really a paper organization during his tenure), Roosevelt did not understand why the black elite criticized the nomination of Ickes. Unfortunately, however, the Afro-American elite failed to critique Ickes on his credentials. They only viewed him from a color perspective. It appeared
that the black intelligentsia only wanted a black face in a major cabinet position. Roy Wilkins, the president of the NAACP, warned Roosevelt that the black masses would find that Ickes' appointment as a "Negro spokesman as being unacceptable."  

Roosevelt did not allow Wilkins' sentiments to defeat the appointment of Ickes. After Wilkins and other black leaders realized that the President was firm on Ickes, his appointment was accepted without incident. Ickes, interestingly, was a blessing to the black elite. He was a stern believer in racial equality and justice. Thus, as the head of the Commission on Interracial Cooperation (CIC), he appointed a number of black intellectuals to his agency. Ickes, who came to be called the "informal secretary of Negro relations," recruited a host of prominent African-Americans to the Roosevelt administration. For example, Will Alexander became the assistant to Ickes; Aubrey Williams was appointed executive director of the National Youth Administration; Mordecai Johnson, president of Howard University, was named a member of the advisory committee for the National Youth Association (NYA); and Mary Bethune, president of Bethune-Cookman College and of the National Council of Negro Women, became head of the Division of Negro Affairs or, as stated colloquially, the "black cabinet."

These individuals were the leaders Roosevelt thought of as black America, and they, too, advised him of the problems
that the administration had in relationship to the Afro-American. As Howard Zinn has noted, the New Deal benefited middle- and upper-class America far more than the underclass. As Zinn states:

"... what the New Deal did was to refurbish middle-class America, which had taken a dizzying fall in the depression. ... and to give just enough to the lowest classes ... to create an aura of good will. ... The New Dealers moved in an atmosphere thick with suggestions, but they accepted only enough to get the traditional social mechanism moving again, plus just enough more to give a taste of what truly far-reaching reconstruction might be."

In the less academic words of Charles H. Houston, who was also a member of the radical National Lawyers Guild, the New Deal policies had "big enough holes for the majority of Negroes to fall in it." Nonetheless, black leaders and the BPMC labored diligently to see representatives of their class in the Roosevelt Administration.

The blacks in the high-level federal jobs became "safe leaders," as St. Clair Drake stated in *Black Metropolitan.* The safe leaders wanted reform in reference to the class of which they were members. These individuals argued for a place in America that would align them with white culture, education, and economic activity. They stood not as grass-roots leaders, whom they painted as charlatans, uneducated, with a penchant for radical and violent changes. The black elite offered themselves as an alternative to individuals such as Marcus Garvey of the Universal Negro
Improvement Association, Noble Drew Ali of the Moorish Scientist Movement, Father Divine of the Peace Mission, Fard Muhammad and Elijah Muhammad of the Nation of Islam. The choice facing white leaders was to contend with these "extremists" or the logical and educated black elite.

The United States was in horrible condition in the 1930s. The Depression had transformed an apparently stable and lively economy into a morbid and decaying system. The center of the Western economy, Wall Street, stood as an aging and weather-beaten Roman Colosseum. The underclass, both white and black, had fallen into precarious existences. Poverty, starvation, massive unemployment, and despicable housing were the order of the day. Roosevelt was faced with a nation that was on the verge of total collapse. The population was infested with individuals who preached communism, revolution, black radical nationalism, and anarchism. Thus, Roosevelt was forced to place in key positions individuals whom he thought would keep him abreast on issues of race and politics. Therefore, as the black elite pushed for "black faces in high places," Roosevelt used their zeal for racial reform and class acceptance to keep the masses as well as the elite appeased.

The position of Afro-Americans in the Administration and in the limelight of the Negro struggle encouraged philanthropists to assist various black organizations. The National Urban League and the National Association for the
Advancement of Colored People received an enormous amount of financial assistance from white foundations. Whites who were liberal-minded found that they could support individuals who belonged to organizations such as the NAACP; they were not trying to overthrow the system. Due to the Association's legal activism, it gave the impression that it was patient and conservative in its approach to mass integration, but radical and critical on issues that reflected the needs of the upper-class African-American community.\textsuperscript{33} While social and legal organizations such as the Jewish Legal Committee, National Lawyers Guild, and various religious and civic agencies gave thousands of dollars to the Association, and especially to its Legal Defense and Educational Fund, financial support also came from other sources. For additional funds, the NAACP relied upon the benevolence of upper-class elite Afro-American clubs and the labor of the black underclass, especially in the deep south.

Although the depression battered whites as well as blacks, and the wealthy as well as the poor, it was the proletariat Afro-Americans who suffered most. While the Wall Street crash forced most Americans to take an economic dive, nonetheless the upper class remained culturally, socially, and economically stable. As the white elite remained solid, so did the black bourgeoisie. Unfortunately, the black upper class only related to the underclass
through the alignment of pigmentation and the overall effects of the depression. The upper class failed to support organizations of the oppressed that urged communist theories, radical nationalist concepts, and capitalist cooperative ideas. A close examination of the organizations such as the March on Washington Movement, the Peace Movement, and the Nation of Islam reveal that the leadership and the majority of their members were of a low economic status. In fact, the majority of African-Americans argued that these groups represented the worst of the race and that they needed to be destroyed or controlled so that whites would not gain the wrong impression of the Negro community. Therefore, the black intelligentsia argued that the most efficient way to keep under-class organizations from getting too strong was for the Roosevelt Administration to accept the leaders and organizations that represented the upper-class blacks.

The leaders of the mainstream black organizations like the National Urban League and the National Association for the Advancement of Colored People played a major role in Roosevelt's New Deal. When Roy Wilkins of the NAACP claimed that FDR was "a friend of the Negro," he really meant that he was a friend of the black intelligentsia and the upper-class African-American. Not only did the upper class push for federal appointments, but they also stressed the importance of integration in the American community.
Roosevelt, however, refused to move toward a positive position on integrating the nation.

The black elite was shaken by the fact that "Mr. Roosevelt" refused to integrate "them" into the mainstream of American life. The realization by the BPMC that Roosevelt was merely another politician who would use anything and anyone for a political advantage came slowly. Even after learning that Roosevelt was merely a paternalistic racist, a number of Afro-Americans and organizations gave their support to the President and the Democratic Party. When Roosevelt's campaign manager organized a "colored" Democratic Division at the President's request in Pennsylvania, Ohio, Indiana, Michigan, and Illinois, many of the black elite overlooked Roosevelt's attitude toward the African-American community. Black attorneys such as Julian Rainey of New York City and Arthur Mitchell of Chicago rushed to fill vacant slots for Negro leaders in the "new" New Deal agency. The political, social, and economic "talented tenth" promulgated the "goodness" of Roosevelt quite well. The Bishop's Council of the African Methodist Episcopal Church and the "Brown Bomber," Joe Louis, were among a number of blacks who influenced the underclass to support the mythical, egalitarian F. Delano Roosevelt. However, a number of black professionals realized that the Roosevelt revolution was not designed to integrate the United States.
They therefore devised another plan that would propel them into the social fabric of American life.

Although the upper class wished that Roosevelt devoted more time and energy to ending segregation, they overwhelmingly thought of his Administration as being a good one. Nonetheless, the black elite felt the need to direct much of its energies into the NAACP and the LDEF. The development of *Donald Murray v. Maryland* in 1932 and the creation of the legal arm of the Association, the Inc. Fund, represented the seriousness of the elite community's desire to merge into mainstream America. Murray, an outstanding high school and undergraduate student, represented the concerns of the BPMC. As an element of the BPMC, he went out to test the laws of segregation, while also galvanizing financial and legal support from the elite group to support his activities. The small black bourgeois community raised thousands of dollars to support the efforts of the two major organizations that represented their interests.

Typically, when the 1930s are discussed and black Americans are the central issue, it is assumed that all Afro-Americans waded in poverty and degradation. However, the black elite prospered throughout the 1920s, 1930s, and 1940s. The black middle class controlled and owned millions of dollars worth of businesses such as grocery stores, taxi companies, service stations, theaters, ballrooms, hotels, and banks. According to Glover Woodson, an economist in
the city of Washington, by the end of World War I the black community had over twenty-five millionaires. An irony rests in that the elites that benefited from the separate economy of the black community were the ones who sought to integrate into white America. The black upper class raised money for the cause of class integration through the private clubs, organizations, and churches they operated. Evidence showed that the institutions that tailored to the elite were housed primarily in the upper south, the midwest, and the northeast.

The BPMC network allowed the elite to support and encourage each other in the basic principles of class awareness and race consciousness. Their class awareness dictated their objectives in the eradication of segregation. The BPMC realized that if discrimination continued to flourish, they would never be able to advance in the American political, social, and economic systems. Thus, on the one hand, they instituted plans whereby the general African-American community could solidify its forces against segregation. On the other hand, they subconsciously conditioned themselves that the eradication of segregation would overwhelmingly serve the interest of their segment of black America. With this in mind, they persuaded the black masses as well as certain white liberal politicians that the quick elimination of segregation would benefit all black Americans. However, they understood that the immediate elimination would
benefit the BPMC much sooner than any other black group. In addition, it was crucial that the black masses be made to believe that they always wanted to be included in mainstream America. Thus, separatist movements such as Garvey's Universal Negro Improvement Association, the Nation of Islam, and other black nationalist organizations had to be linked with white fascist and segregatory organizations such as the infamous Ku Klux Klan. To persuade the lower class of the goodness of education, the black press was utilized to broadcast the word about what upper-class groups were doing to destroy "old man Jim Crow" in America.

The black press played a major role in the legal movement to integrate America. Almost every major black community in the United States had a weekly Afro-American newspaper that told of the state of black America. Topics such as entertainment, sports, local news, national news, social affairs and, most importantly, the work of the black leaders in their quest to desegregate America, were reported. Although there were a host of Afro-American newspapers throughout the United States, The Pittsburgh Courier and The Chicago Defender were the papers that the majority of the black population relied upon. The labor of Claude Barnett's Associated Negro Press lay behind the strength of these two papers.

Claude Barnett, the founder of the Associated Negro Press in 1917 in Chicago, utilized the media as a sounding
board for organizations such as the NAACP and NUL. The black media, as he saw it, served as the voice for black spokespeople who strove to lead the African-American community to total acceptance in the American nation. As Barnett explained, the black press "formed for the purpose of serving, publicizing, speaking and fighting for the colored minority." Contradictory, however, the press represented the elite in the black caste structure. They were the ones who controlled and highlighted its front pages. The black press was the major vehicle of the black elite to spread its views to the lower classes. Thus, power brokers such as Barnett became very important to the whole movement toward integration.

Barnett, a militant yet influential member of Chicago's Afro-American high society, worked to win the friendship of the owners of the major black newspapers in the country and the executive leaders of the civil rights organizations during the 1930s and 1940s. Many of the polemicists and officers of the organizations held part-time employment with the Associated Negro Press (ANP) as contributing journalists and editors. For example, NAACP officers Walter White, Roy Wilkins, and William Pickens worked in both associations for a number of years. Walter White, who became an assistant to Barnett and contributed articles, became a major force in directing the opinions of editorials in the black press throughout the nation. White and others
realized that if they could shape the opinions of black papers across the nation they would be able to direct the political ideas of the black masses. This is why the papers highlighted the work of such groups as the NAACP and the local efforts of elite group members. Unfortunately, the BPMC ignored the plight of the underclass.

The paradox of the Negro press is that it despised the so-called ignorant, poor blacks, while voicing a deep-seated hatred against the policies of racism and discrimination. The black elite presented itself quite clearly in the newspapers as African-Americans who wanted integration, while wishing to culturally, politically, and socially separate from the lower black class. In *The American Dilemma*, Swedish-born scholar Gunnar Myrdal explained:

They [the black elite] reacted with even more resentment than lower class Negroes against the humiliation of Jim Crow segregation. However, the caste barriers serve partly as a protection to give them special opportunities and status. They need to appeal to racial solidarity to overt lower class hostility against themselves and to protect their economic and social monopolies.

In the 1930s and 1940s, a number of individuals spoke on the black elite's exploitation of the underclass. Communist and Socialist leaders such as Conrad Lynn and A. Philip Randolph, along with the Communist International Labor Defense League (ILDL), attempted to educate the underclass. For example, the ILDL elaborated on the conservative nature of the NAACP in its refusal to handle the 1932 Scottsboro case and asked why the black press did not force
the Association to whole-heartedly support the ILDL defense efforts. The ILDL maintained that NAACP executive secretary Walter White's sentiment that the Association would not protect "scabs," as he called the Scottsboro boys, explicitly revealed the class division of the black community.

Throughout the pre-Brown era, the African-American press nonetheless gave the impression that they were radical fighters for the liberation of the black community. Between the advertisements that featured items such as skin-bleaching cream and hair straightener, *The Chicago Defender* and *The Pittsburgh Courier* told of the efforts of African nations to achieve liberation from imperialist powers and of the activities of the American black elite in civil rights activities. Associating the nations in Africa with the activities of the black elite produced a Pan-Africanist perspective that encouraged the masses to revere the upper-class community. This admiration for the upper class caused the lower class to ignore the manipulation that the BPMC perpetrated toward them. One of the reasons may be that the lower class held a middle-class perspective of the mobility of their class: that is, that by hard work, thrift, and piety they could gain upper-class status; or the view that blacks in the upper level were able to outdo many of the white caste in the areas of education, economics, and European culture; or that they enjoyed reading about the movement of the elite because of race pride.
The under-class African-American community is much like the white poverty class. In issues that center on race the black lower class is radical and militant, but on economic issues it is conservative. This group aspires to be more affluent and hopes, prays, and works for capital growth and economic stability. Encouraged to accept the white Protestant work ethic, the black lower class maintained a high degree of reliance on the American capitalist system. Thus, when they read in the black press of the "good" things that the upper class had done, they became impressed and inspired.

To further boost the image of the upper class, the Associated Negro Press devoted an enormous amount of space to the social life of the elite. In the majority of the cities serviced by a black newspaper every elite family, at one time or another, had a space in the local black paper. These families were observed at teas, church socials, political activities, and school functions. Focusing on black families such as the Motens or the Powells gave the caste a sense of institutional security in a segregated society. Since the "talented tenth" did not make the society page of The Chicago Tribune or The New York Daily News, it provided a feeling of belonging in the American society by the caste group. As Myrdal stated in 1944, the African-American press "defin[ed] the Negro community as institutionalized society to the individual Negro, who is
excluded so much from white society, and it gives him a feeling of security and belongingness. In essence, the black community enjoyed reading sensational stories of the development of the elite or, more accurately, the progress of the race.

The Associated Negro Press presented sensational stories of the race, not only for the black caste but also for sympathetic white individuals. Whites in the north as well as the south enjoyed reading about the progress of the BPMC and the problems that concerned them. The astounding accomplishments of blacks such as Etta Moten Barnett and Earl B. Dickerson somehow proved, according to the Negro press, that blacks were ready to enter the world of the whites. The blacks whom the press focused on achieved great advancement in a segregated society. As Claude Barnett so eloquently stated:

... the missionary zeal and our enthusiasm was unbridled ... We [class leaders and editors] were determined that the years ahead should open new avenues of opportunity to serve not only the Negro press and the Negro people, but America too.

Black newspapers continuously reminded their readers that the black press represented a network of organizations that centered its activities on the fight for civil rights. The purpose of the press, as The Chicago Defender reported, was to "serve, publicize, speak and fight for the colored minority." To do this, however, the press presented articles that encouraged the upper class but,
more importantly, the underclass, to aid financially in the eradication of discrimination. The press led the black community in an aggressive campaign for economic assistance to the National Association for the Advancement of Colored People, Legal Defense and Educational Fund and, to a lesser degree, the National Urban League.

The elite group of African-Americans made up a minority of the twenty million black people in the United States during the period between 1930 and 1954, but they represented millions of dollars. In order to promulgate their views in the black papers, they supported the printed media by purchasing advertisements. The papers carried advertisements from private organizations such as religious and fraternal groups as well as Afro-American stores. The importance of financial assistance that the elite earned for the press gave the power brokers in the black caste the opportunity to express their views to the African-American public. The money became a major tool for the conquest of the underclass to support the civil rights organizations. Myrdal, in *American Dilemma*, explained the function of the press when he stated:

The Negro press . . . is controlled by the active members of the upper and middle classes of the Negro community. . . . The people who publish and write the Negro newspapers belong to the upper class. It is the doings and sayings of people in the upper and middle classes that are recorded in the Negro press. . . . [t]he Negro newspapers are one of the chief agencies for the Negro upper class to spread its opinions among the lower classes for the Negro community.
The black press became a valuable tool of the BPMC to recruit individuals and agencies to their way of thinking. Since the black newspapers essentially were the voices of the wealthy, the civil rights organizations logically sought the alliance of the ANP. Papers such as The Pittsburgh Courier exemplified two significant positions: (1) to encourage the BPMC to continue supporting the black media along with civil rights activism, and (2) to issue propaganda to the underclass that the upper class was working toward their benefit in the concepts of civil rights.

Not only did the BPMC use the press for advancing civil rights activities, but it also utilized the private black elite clubs. Organizations such as the African Methodist Episcopal Church held services that centered on the financial needs of the NAACP and the LDEF. However, the bulk of the money that kept the civil rights organizations afloat came from the black underclass.

The NAACP and its legal arm encouraged the local branches throughout the nation to develop programs that would raise money for NAACP activities. When the national officers in New York City wished to cultivate a test case in a certain community, they contacted the local leaders to initiate the action. In cities such as Fresno, California where the local university, Fresno State, discriminated against black students, the local chapter under the auspices of the NAACP picketed the school until the policies
were repealed. At times the local chapters would encourage students and residents to serve as plaintiffs for a test case that would eventually be argued before the state's Supreme Court. The various actions not only served the legal function of the civil rights group, but it also served as an impetus for financial assistance for the organizations.

Civic and religious organizations such as the African Methodist Episcopal Church, the Elks, the Prince Hall Masons, and the Links held dinners, teas, dances, and general functions to earn money for the civil rights groups. At times, however, the underclass rejected the leadership of the national body. In Texas, for instance, the Inc. Fund had a difficult time influencing the local membership to support its program to desegregate the universities in that state. Thurgood Marshall, who undertook the role of leader in civil right litigation, vehemently asked, "Why are the people not behind us . . . ?" In addition, he questioned the support of the local leaders who held positions in the Association by attacking their local ideas. Marshall stated, "If the people aren't behind us we must have a meeting with the state NAACP to see what's going on." Occasionally, a leader of the local Association would publicly repudiate the national office's concept of desegregation. In Columbus, Ohio, the local executive secretary, Alvin Fullove, argued in a radio program that the
desegregation movement caused greater harm to race relationships than the policies of Jim Crow. In Fullove's words, "Desegregation was a trip--the local branch do [sic] not support the efforts of the national offices." 52

Nonetheless, the objections from the underclass toward desegregation and the policies of the upper class were minimal. The lower-class blacks looked up to the BPMC organizations that strove for civil rights. They valued the ideas and the power that the elite had in the political, economic, and social arenas of the nation. Thus, even though they were exploited at times by their more fortunate kin, they nonetheless valued and supported their efforts. Black proletariates honored the elite also for the fact that they, too, wanted to be wealthy and influential. The thought of overthrowing or turning their backs on the elite did not excite many of the poor. Thus, they were like most in America, hoping and praying for the opportunity to become wealthy capitalists.
Notes


Ibid.

4 Ibid.

5 Ibid.

6 Ibid., p. 30.

7 Ibid., p. 31.


9 Ibid.

10 Ibid.


12 Ibid., pp. 274-75.

13 Ibid., p. 212.

14 Ibid., p. 217.

15 Ibid.

16 Ibid.

17 Ibid.

18 Ibid.

19 Ibid.

20 Interview with Helen Edmonds, Visiting Professor of History, The Ohio State University, Columbus, Ohio, 2 July 1985.

22 Interview with Thomas Shelby, Columbus, Ohio, 5 February 1987.

23 Ibid.

24 Wilkins, Autobiography of Roy Wilkins, p. 76.


26 Roy Wilkins, telegram to Harold Ickes, reprinted in The Pittsburgh Courier, 2 September 1933; and Walter White to Rosenwald, 6 September 1933, National Association for the Advancement of Colored People Papers, Box C-78.

27 Roy Wilkins telegram to Harold Ickes.


30 Editorial, Norfolk (Virginia) Journal & Guild, 9 February 1935.


33 Interview with Barbee Durham, Vanguard League member, Columbus, Ohio, 17 February 1987.

34 Roy Wilkins, Interview in the Columbia University Oral History Project, pp. 51-52.


39 Ibid.

40 Gothen, p. 104.

41 Myrdal, American Dilemma, pp. 920-21.


43 Myrdal, American Dilemma, p. 920.

44 Ibid., p. 921.


46 Ibid.

47 Myrdal, American Dilemma, p. 920.


49 Myrdal, American Dilemma, pp. 920-921.

50 Gordon Stafford to Edward Dudley, 13 June 1948, National Association for the Advancement of Colored People Papers, Box 1.


52 Editorial, (Columbus, Ohio) Call and Post, 1977; Editorial, Columbus (Ohio) Dispatch, 1977; Interview with Barbee Durham, Vanguard League member, Columbus, Ohio, 3 March 1987.
In 1921, Charles Houston joined the faculty of the Howard University School of Law, and sparked the transformation of the law school from a third-rate law center into a nationally renowned legal institute. As a law student at Harvard, Houston acquired his legal perspective. The concept of the "talented tenth" was ingrained in his consciousness and he believed that black intellectuals would lead the masses to liberation. Drawing on these concepts and experiences, Houston aligned himself with the black professionalization movement to make Howard the "Black Harvard." Under Houston's direction, the law school gained the respect of the professional legal community.

Houston was the driving force in the effort to graduate competent law students, capable of representing the race in civil rights litigation. This transformation, which took place between 1929 and 1940, was a part of a larger movement among African-American intellectuals to professionalize their institutions of higher education. This in turn was related to the conflict between the philosophies of Booker T. Washington and W. E. B. DuBois. The
black community in the District of Columbia, like many other northern Afro-American communities, was divided concerning the type of education most beneficial to the Negro community and college students: industrial or intellectual/liberal pursuits. Over the objections of many blacks, Houston, along with Howard's President Mordecai Johnson, combined DuBois' "talented tenth" ideology with black nationalism and the professionalization impulse of the progressive era to improve Howard, especially its law school.

The debate over the professionalization of African-American colleges and universities in the first half of the twentieth century was overshadowed by the larger white progressive movement. Although there are parallels between the white and black progressive movements both with regard to upgrading the standards of the profession and of the intellectual community, there are also many differences. The major distinctions separating the two movements rest on the objectives of the movements. While many of the white progressives acted out humanitarian values, other whites saw professionalization as a way to regulate the number of individuals engaged in elite vocations. For black progressives, the development of professional associations and universities was simply a means to an end. In these institutions Afro-Americans could be trained to be race spokespersons and organizers and eventually carry on the fight against segregation and oppression. Moreover, the black
proponents of professionalization worked to turn Howard, especially its law school, into a racial laboratory where, through sound scholarship, blueprints for liberation could be devised.

To understand better the development of the modern Howard University Law School, it is imperative that we grasp a picture of what the law school was like before Houston joined it. The origins of Howard University date back to the Civil War and the efforts by radical Republicans, through a specially created government agency, the Freedmen's Bureau, to assist the newly emancipated slaves in establishing lives as free men and women. In 1866, the Freedmen's Bureau funded the building of the Howard Normal and Theological Institute in the District of Columbia as an educational center for African-Americans. Renamed Howard University by the trustees on January 8, 1867, for over one hundred years the school has been the premier institute for black men and women wishing to pursue advanced degrees. Although known for its excellence in training engineers, dentists, and physicians, in the mid-1980s Howard University could lay claim to being the alma mater of over 75 percent of the nation's black attorneys.

The law department was not incorporated into the university until January 6, 1869. Under the leadership of attorney John Mercer Langston, a graduate of Oberlin's Theological Seminary, the law department functioned in a
manner similar to other "respectable" law divisions. The law instructors at Howard were part-time university employees who had received their legal training as apprentices to established attorneys. Most legal training in the United States until the end of the Civil War was conducted in this manner. Although the department attracted scores of black students, they rarely graduated to practice their profession. Rather, because of racial discrimination, Howard's law graduates functioned primarily as law clerks until the middle 1930s.

Although few freedmen could hope to practice as attorneys, the law department was still one of the most popular divisions at the University. Unlike the medical department, the law department did not require one to have any formal education prior to enrollment. The medical department required first-year students to be well-versed in Latin and to have a good understanding of mathematics and English composition. Furthermore, the law department offered only a part-time plan of study. This enabled students to work during the day. Many of the students worked as full-time clerks for the federal government. Many students enrolled out of a commitment to service, agreeing with the school's founder, General O. O. Howard, that "Colored lawyers were needed to defend the newly acquired rights of Negroes." Finally, there was the inspirational, encouraging presence of the great black leader, John Mercer
Langston. Appointed professor in 1868, Langston became the dean of the law department in 1870 and vice-president and acting president of the university from 1873 to 1875. John Mercer Langston was the foremost scholar and diplomat in black America prior to the rise of W. E. B. DuBois. Not only did Langston climb to fame for the structuring of the law department at Howard, but also for the number of federal positions he held during and after Reconstruction. From 1877 to 1885 he was the resident minister to Haiti and also in charge of internal affairs in the Dominican Republic. On his return to the United States, he won election to the House of Representatives in 1890. He became the first, and thus far the only, black to hold that position from Virginia.¹

When Langston resigned from the law department in 1876, a number of changes occurred in the program. Pressured by the District of Columbia to upgrade the law department, the university expanded its physical facilities, hired additional instructors, and, most importantly, expanded its curriculum. In the 1877-1878 academic year, the trustees strengthened the law program and introduced the Master of Laws degree. Lack of adequate funds and a shortage of well-prepared faculty, however, kept the department a third-rate paralegal center throughout the nineteenth century.

Despite its limitations, Howard University was able to produce some very competent lawyers. For example, Robert
H. Terrell, LL.M., 1888, graduated to become a prominent municipal judge in the District of Columbia. William Henry Harrison Hart, LL.M., 1894, in 1905 argued and won the Hart v. State case against segregation in interstate travel. Thomas G. Wutter, LL.M., 1899, worked with the National Association for the Advancement of Colored People to obtain an anti-lynching law from the West Virginia Legislature in 1919. Despite these successes, however, the majority of Howard's law graduates were not academically prepared to represent the race in civil rights litigation.

In 1924, Howard University Law School hired Charles Hamilton Houston, a Harvard graduate, to help strengthen its program. Houston, the son of a prominent family in the District, was prepared by his father, also a lawyer, for such a leadership role in the community. As a youth, Houston attended the famed M Street School, the leading secondary institute at the turn of the century, where he received outstanding marks. After completing his training at the Washington institute, he enrolled at Amherst College in 1911. At the age of sixteen, he graduate Phi Beta Kappa and as his class valedictorian. In 1915, Houston embarked on a career in the legal profession, turning down scholarships at a number of prominent schools such as the University of Pittsburgh, and enrolling at Harvard's law school. While at Harvard, Houston became active in campus life. During his tenure, he became the first black to become the
editor of the *Harvard Law Review* and the first student to invite a radical black polemicist--Marcus M. Garvey--to lecture at the university. After graduating from Harvard's Law School, he joined the faculty at Howard University Law School. During that period in 1922, the state of black America was pathetic.

While the 1920s are stereotyped as a "roaring" decade of prosperity, ten million Negro Americans experienced poverty, unemployment, segregation, bombings, lynchings, and race riots. According to sociologist and historian W. E. B. DuBois, between 1917 and 1936, 555 African-Americans were lynched. Observing that his brothers were excluded from the vineyards of American life, Houston echoed DuBois' call for the creation of a socially aware black elite. "If a Negro law school is to make its full contribution to the social system," Houston contended, "it must train its students . . . in subjects having most application to the economic, political, and social problems of the Negro." Black institutions of higher education must produce intellectual freedom fighters or "social engineers" to lead the fight against race discrimination.

Before the mid-1940s, the majority of American law schools--white and black--had casual entrance requirements for students who wished to attend universities that offered evening law classes. In many respects, the law schools of the country were glorified high schools or, at best, good
two-year colleges. White intellectuals, as well as blacks, worked feverishly to professionalize graduate schools as well as medical, dental, and law institutes. However, it should be noted that while Houston's goal was to produce "social engineers" who would fight for black rights, many white schools took up "professionalization" as a means of regulating enrollments at a time when blacks and Jews were increasingly demanding admission.6

Thus, at the same time that Houston was beginning to transform Howard Law School, various national agencies were conducting studies on the standards of American law schools in general. In 1913, the American Bar Association (ABA), the organization that sets the standards for legal professionals in the United States, authorized the Carnegie Foundation to do a study on the profession of law. Later that year the Foundation published its report entitled Training for the Public Profession of the Law.7

At the time of the report's issuance, the majority of American law schools operated evening and part-time classes. Only a few schools such as Harvard, Columbia, and the University of Chicago required students to attend law school full-time. The Carnegie Foundation found, however, that students who graduated from part-time law schools were not prepared to practice law. It therefore recommended that the ABA scrutinize the curriculum of afternoon and evening law schools. The Foundation stated:
... in recognizing the necessity for afternoon and evening schools we do not recognize the propriety of permitting such schools to operate with low educational standards. We shall not license a badly educated man to practice law simply because he has been too poor to get a good education. On the contrary, the democratic necessity for afternoon and evening schools compels a lifting of these schools to the highest standards which they can be expected to reach."

The Association of American Law Schools (AALS) also sought to improve legal education. At the turn of the century the AALS, like the ABA, went into the accreditation business to control the personnel flow into the legal profession. As the practice of learning law through apprenticeships vanished, control over the law schools became a major way to watch over the law students. The AALS believed that legal institutions must impose greater demands on entering students to assure the elitism and professionalism of the legal community. Therefore, its members pushed for a requirement that students have a high school education before enrolling in law schools. Like the ABA and Carnegie Foundation, the AALS also advocated the abolition of two-year and part-time night school programs. In 1919 and 1923, for instance, the AALS specified that law schools offering evening courses would be barred from the organization.9 In 1928, the AALS permitted law schools that offered a "mixed" curriculum of day and night classes to apply for membership only if they met the Association's criteria. The AALS required that schools enroll only students who had received previously two or three years of college education,
and that the institution maintain an adequate law library with the state and national reporter systems.\textsuperscript{10}

At the same time that the ABA and AALS were pressuring white law schools across the country to upgrade their programs, Howard was embarrassed by the "Fordham incident." In 1928, predominantly white Fordham University in New York City refused to recognize credits from Howard when one of its students sought to transfer to complete his legal training. Fordham would simply not recognize credits earned from an unaccredited law school.\textsuperscript{11} The requirement that the student repeat courses he had already taken at Howard clearly implied that the legal profession considered Howard's non-accredited curriculum inadequate training. Newly hired Charles Houston, Jim Nabrit (professor and attorney for LDEF), Mordecai Johnson (a law school professor and later dean and president of Howard), and William H. Hastie (the future governor of the U.S. Virgin Islands and judge of the U.S. Court of Appeals for the Third Circuit) all vowed that Howard would never again be embarrassed by another similar incident.

In building a high-quality, socially concerned law school, Houston and his allies harnessed the spirit of the Harlem or Negro Renaissance of the 1920s. This flowering of Afro-American culture reflected the ideologies of W. E. B. DuBois, Marcus Garvey, and Asa Philip Randolph, all of whom insisted that Negroes would never again remain
passive while the flames of racism continued to burn. The Renaissance called for the emergence of the "new Negro," a black person who was less polite and more aggressive than the traditional, well-behaved, hat-in-hand, handkerchief-head black.

The ideology of the "new Negro" was championed by DuBois, Garvey, and Randolph. DuBois, perhaps the most widely read, argued in the NAACP organ The Crisis that black intellectuals and professionals must develop all-black organizations to achieve significant changes in America. Although he fought for a biracial society, DuBois insisted that a solely black organization was necessary to provide a stronger force from which to attack American apartheid. Unlike Washington's brand of black solidarity and cooperation, however, DuBois' philosophy emphasized being aggressive and assertive.  

Although many shared DuBois' aggressiveness, a number of blacks rejected his elitism. Representative of their views was Marcus Garvey. Arguing that organizations such as the NAACP were contaminated with white influence and bourgeois Negroes, he warned blacks against joining such groups. Using a familiar critique of race and class problems, he also cautioned blacks against the trickery of the DuBois philosophy. As a mulatto, Garvey argued, DuBois did not have the interest of the masses in his heart. While Garvey was able to attract scores of lower-class
African-Americans, he failed to persuade intellectual and professional blacks to join the Universal Negro Improvement Association (UNIA). The importance of Garvey, like DuBois, was that he refused to accept a passive outlook toward the exclusion of blacks from the American mainstream.  

A third member of the "black consciousness" group during the Renaissance was Asa Philip Randolph. Aligning himself with activist Charlelter Owen, he published the radical newspaper The Messenger. In the paper Randolph and Owen proposed a democratic/socialistic program and advocated the solidarity of whites and blacks of the working class. The Messenger maintained that blacks should join unions, and that white unionists must work diligently to overcome their racism which discouraged African-Americans from joining their ranks. The paper argued that unions could not afford to be divided along the color line; instead, according to Randolph and Owen, they must be based on a class line.  

In advancing his own philosophy, Randolph harshly criticized the activities of DuBois and the NAACP. He maintained that they both ignored the day-to-day problems of the black masses. Believing that the black masses and white workers had a common goal, Randolph devoted a significant part of his energies in the early 1920s to building a biracial union. His quest, however, to organize a true integrated union failed; in 1925 Randolph established the
Brotherhood of Sleeping Car Porters (BSCP). For years, Randolph used the BSCP as a vehicle to open up the more established unions to African-Americans. As time moved on, he came to the conclusion, as had DuBois, that an all-black organization was the best way to attack discrimination.¹⁵

The philosophies of DuBois, Garvey, and Randolph influenced the development of black leaders during and after the Negro Renaissance of the 1920s. Although the "big three" disagreed with each other on which agenda was the most effective, they all were moved to the basic conclusion that black organizations and institutions were to be utilized, and aggressive blacks should function as freedom fighters or— as Houston would put it—"social engineers" on behalf of their people. Such a view was articulated by individuals throughout the black community. Sidney R. Redmond, a distinguished member of the National Bar Association (NBA), for instance, stated that Afro-American lawyers must lead the race in battles against segregation and that it was the duty of the oppressed to prosecute the actions of the oppressors. He echoed the sentiments of the black legal community, which was to put the concept of the "new Negro" into practice.¹⁶

Howard University, especially its law school, represented the kind of institution that DuBois, Garvey, and Randolph envisioned as a breeding ground for future leaders. A similar vision was held by university President Mordecai
W. Johnson and Liberal Arts Dean Charles W. Thompson, who structured a plan to overhaul the entire university. Cooperating with Johnson and Thompson, Law School Dean Fenton W. Booth set out to upgrade his unit. With the assistance of the president, Booth searched the nation for inspiring legal scholars who would be willing to teach at Howard. Due to the lack of a black Doctor of Judicial Science from accredited law schools, Booth's search for competent law professors was slow and tedious. However, when Harvard's Roscoe Pound recommended his student Charles Hamilton Houston, Booth's search was over. Pound described Houston as a "remarkable man," an individual who would bring "good sense and [a] capacity for seeing things as they are" to Howard's law faculty.¹⁷

When Houston arrived at Howard in 1924, he was already articulating the principles that would transform the school. "[F]irst . . . every group must justify and interpret itself in terms of the general welfare; and secondly, . . . the only justification for the Howard University School of Law, in a city having seven law schools, is that it is doing a distinct, necessary work for the social good," he insisted. In addition, argued Houston, it was imperative that the school develop "social engineers" such as himself. A "social engineer," Houston explained, was a "highly skilled, perceptive, sensitive lawyer who [would] understand the Constitution of the United States
and [know] how to explore its uses in solving the problems" and bettering the condition of the African-American community. To attract such people, Howard had to be transformed into a first-rate institution, argued Houston.18

The development of a major law school rested on the approval of the AALS and the ABA. Mordecai Johnson and Charles Houston, along with Jim Nabrit and William Hastie, both of whom joined the law school faculty during the Houston years, argued that changes were both necessary and beneficial for Howard. Faced with issues of accreditation and funds, they maintained that it was financially sound and academically logical for the law school to stiffen admission requirements, lengthen the school year, close the night school, and revamp the curriculum.

The transformation of Howard University did not occur without resistance. In the face of legal discrimination and the rapid growth of the Ku Klux Klan, the black community was ambivalent about improving African-American legal education at the likely cost of reducing the actual number of black lawyers. The major black newspapers of the period, such as The Amsterdam News, The Baltimore Afro-American News, and The Washington Afro-American Newspaper, expressed the need for competent black lawyers to present civil rights litigation. Feature headlines read, "Alabama Has 4 Lawyers, Virginia 57; Law for Those Who Like Fights," "Lawyers Must Fight Race Consciously," and "The Need for
Negro Lawyers." All the articles expressed the need for Negro attorneys in black America. However, when the administration of Howard's law school elected to meet the requirements of the AALS and the ABA and attempted to train qualified defenders of the race, many in the black community voiced disapproval. Such people viewed the AALS and the ACA accreditation policies as racist efforts to nullify the significance of black law schools. They argued that AALS and ABA requirements would exclude from the law school low-income black students who would otherwise attend on a part-time basis. They also projected that scores of excellent professors would be dismissed when enrollments declined due to the introduction of a full-time day program. Howard's law school had graduated a number of excellent attorneys without meeting the requirements of "all-white" legal associations, they insisted, and thus no change was called for. 19

Many students and faculty members joined the opposition to Johnson's and Houston's plan to have the AALS and ABA approve the law school. Believing that the trustees of the University were attempting to exclude lower-class blacks from receiving an education, they maintained that the law school had always produced competent black lawyers. In a bitter attack against the closing of the night school, The Washington Tribune editorialized, for instance:
The decision of the trustees of Howard University to eliminate the night law classes is one that seems to be against the needs of the people. Ever since the law department was established in Howard University there [have] been night classes. It is only recently that the day classes were established. Many of the country's best lawyers among our people secured their training by being able to work in the day and attend evening classes. Our economic condition is such that few of our young men have the means to attend college in the day.

The administration's attempt to "Harvardize" Howard's law school was forcing good professors to resign from the university, the Tribune added. Worse yet, the Tribune charged that white professors were resigning due to their "dissatisfaction with the present administration of the law school." The Tribune reporter maintained that white professors protested against dismissals and unfair changes in the rank of white instructors. President Johnson responded, however, that white faculty members of the law school were resigning because "most of the professors were on part-time and they advised that it would not be advisable for them to discontinue their regular [business] practice and devote more time to teaching." "The university regretted losing all of the men," Johnson insisted, "but the pressure of outside business forced them to resign . . ." Nonetheless, World Magazine of the District of Columbia concluded that President Mordecai Johnson and Houston had "tried to conceal the real reason for the resignation of the white members" and that this action had caused widespread dissatisfaction.
The issue of the faculty's racial composition had been an important subject ever since Johnson had become Howard's first black president. Many middle-class African-Americans still believed that white professors, regardless of their competence, were better prepared to teach black law students than Afro-American instructors. Some members of the black community claimed that the administrators were themselves engaging in discrimination. They alleged that Johnson's and Houston's real motive was to replace the white law school dean, Fenton W. Booth, with Houston. If Johnson and Houston had hoped to transfer power from Booth to Houston, their plan worked. Houston became dean on Booth's retirement in 1930. In truth, though, no such plan existed or was needed since Booth was a willing ally in the plan to upgrade Howard, and he was at retirement age.25

Aided by individuals and organizations such as Jim Nabriet, William Hastie, the National Association for the Advancement of Colored People, and the National Bar Association, Houston and Johnson were able to convince many in the Afro-American community that the professionalization of Howard and the ideology of race consciousness were inextricably bound together. To prove to the critics and a vast segment of black Washington that the changes were for the best, Johnson, and especially Houston, had to explain how improving the law school was tied to the problems that Afro-Americans faced. First of all, Houston argued, the
institution had to respond directly to the racist element that was bent on excluding blacks from the legal community. Thus, black America desperately needed competent legal strategists who would be respected by the American law associations. A void existed in this critical area, and it was necessary that black institutions be developed to fill it. The students trained at an improved Howard, moreover, would be obligated, due to the opportunity afforded them, to be activists in the ongoing struggle for equality.

Upon becoming dean, Houston speedily transformed the law division into a quality program. First, he conducted a thorough study of its curriculum. His investigation disclosed that the law school listed a number of courses which enrolled very few students during the entire academic year. Worse yet, he discovered that due to the lack of students, for many years instructors had been assigning phantom students to their class rolls to protect their positions at the law school. In response to such findings, Houston eliminated and terminated a number of useless courses and terminated several instructors. The courses and instructors were eventually replaced with ones that Houston thought would produce better lawyers. Among the inept law faculty members that Houston replaced, for instance, was librarian James C. Waters. Although he had held the position of head law librarian for twenty years,
Waters did not have a degree in library science and was totally ignorant of basic law. 28

The Houston years also witnessed a change in the school's academic calendar. First, the academic year was lengthened to thirty-one weeks, from October 1 to June 15, and then the four-year night school was terminated and replaced with a three-year day program. Houston and his associates found that evening law school courses attracted incompetent and non-serious students. In addition, law school professors who taught night courses rarely conducted their classes as rigorously as daytime instructors. Houston insisted that it was necessary for Howard to change to a three-year, full-time day school if it was to be considered a major law school.

In revamping the law school, Houston experimented with policies that Liberal Arts Dean Charles Thompson would advocate for the entire university in his 1934 report entitled Revision of the Twenty-Year Plan with Especial Reference to the College of Liberal Arts. Thompson's report proposed that in view of the unavailability of adequate education for blacks, the federal government should support Howard University as a national university for Afro-Americans. Thompson also insisted that a first-class liberal arts division was essential to a high-quality institution. 29 Although Howard did not become a federally supported national black university, advocates for
professionalization labored diligently to make the liberal arts division a strong unit. 30

Clearly picking up from Houston's activities with the law school, Thompson also argued that relevant research on the "Negro problem," conducted by the liberal arts colleges and the professional and graduate schools, would encourage public and private sources to invest in the university. Therefore, Thompson and the Liberal Arts Council of Department Heads advised the university as a whole, and especially the graduate and professional schools, to cooperate with government agencies in conducting studies on the "black problem" in order to receive greater financial support. Thompson urged the rest of the university to follow the law's lead and upgrade its curriculum and hire competent faculty members to encourage government and private agencies to use the institution as a center for African-American research.

The upgrading of academic programs at the university and particularly the law school reflected DuBois' concept that the "talented tenth" would be the social class leading the masses to liberation. This theory helped transform Howard into a major intellectual institution for higher education. As Fred Kelly, a distinguished member of the faculty, remarked in The Journal of Negro Education, the educational, political, and cultural role of Howard was to produce black leadership in the United States. 31 In its
quest to meet the needs of the black community, the university intertwined the goal of professionalization with the goal of serving the community. After diligent effort, the overhauling of the general academic standards gave the school the distinction of being the first black university to receive full accreditation from the Association of American Colleges and Universities. Efforts to improve the law program met similar success. In 1931, the American Association of Law Schools, the American Bar Association, and the New York State Council of Law announced their decision to accredit the Howard Law School.

President Mordecai Johnson's determination to produce intelligent black leaders and Dean Charles Houston's quest to mold "social engineers" illustrates how the three concepts of the "talented tenth," black nationalism, and professionalization were welded together to make Howard the premier training ground in the study of civil rights law. As Liberal Arts Dean Charles Thompson noted, Howard became "the capstone of Negro education."
Notes


8 Ibid.


10 Ibid.

11 Ibid.


14 A. Philip Randolph and Chandler Owen, "Our Reason for Being" (Editorial), The Messenger, August 1919, pp. 11-12.


17. Ibid., pp. 63-64, 84.


22. Ibid.

23. Ibid.

24. Ibid.

25. Ibid.


27. Ibid., p. 153.

28. Ibid.

29. Charles H. Thompson, Revision of the Twenty-Year Plan with Especial Reference to the College of Liberal Arts, 20 January 1939.

30. Ibid.


CHAPTER III
THE LEGACY OF HOUSTON: THE RECRUITMENT OF CIVIL RIGHTS ADVOCATES AND ORGANIZATIONS

The transformation of Howard University Law School was a major precondition for the development of African-American civil rights. Before the Houston years, Howard was merely an academy that taught legal protocol. However, by the end of Houston's deanship, Howard's law school had emerged as an institution that excelled in the training of highly qualified civil rights advocates. Houston, father of modern civil rights litigation, employed his personal magnetism and finely-tuned legal skills to encourage neophyte and senior barristers to become civil rights activists.

Charles Houston played a singular role in defining the philosophy that guided young law school students and senior barristers alike in challenging American racism and discrimination. Houston's abilities helped attract civil rights devotees to professorships at the law school, men such as William Hastie, Bobby Miller, George M. Johnson, and James Nabriet, who later became a dean and president of the university. Such individuals promoted Houston's
ideas of civil rights litigation throughout their careers as legal activists. Houston's ideas combined the study of constitutional law with the ideology of African-American self-determination and sought to assign black lawyers the role of being the vanguard for equal rights. This vanguard would interpret the oppression of the black caste to white political and social power brokers, all the while fighting for the social equality of blacks. Attorneys who followed this legal/political concept had accepted, according to Houston, the philosophy of being a legal social engineer.

In a lecture delivered at Virginia State College in 1934, Houston expressed to an all-black audience the urgency of Afro-American attorneys arguing civil rights cases. If the race continued to neglect the practice of law, Houston warned, black Americans would suffer irreparable harm. It is an indictment against the race that in Virginia there are only "57 lawyers to serve a colored population of 495,000," he declared. "Alabama with a colored population of 719,290 has only four colored lawyers; while Massachusetts with 42,356 colored has 38 lawyers." Houston charged that the "paucity of legal talent in the race is in a large measure responsible for the deplorable social condition under which [black people] live in the United States." If the black race is to overturn discriminatory laws, he continued, it will be necessary to emulate the dominant group in developing talent to challenge the white
power structure. Arguing that white representatives of the
power structure are attorneys, he asked: Who is best to
persuade local, state, and federal officials to destroy the
institution of segregation but a black barrister?¹

In an article entitled "The Need for Negro Lawyers"
in The Journal of Negro History, Houston further elaborated
on his philosophy on blacks and civil rights litigation.
Blacks, he declared, must become interested in gaining
and protecting the rights that the Constitution of the
United States guaranteed to all its citizens. Waiting for
white liberal lawyers to fight for the rights of the
African-American represented a passivity and retardation
of the caste in understanding the nature of being indepen­
dent people. In essence, Houston maintained that freedom
is not given, but it must be fought for. Houston reminded
blacks that Caucasians, especially in the south, have a
dismal record of fighting and achieving victories on behalf
of the Negro. White barristers face too many barriers when
they take civil rights cases. Because white attorneys are
not willing to lose prestige, financial backing, and polit­
cical advancement from the white community, they prove reluc­
tant to present vigorous argumentation for the lower caste.
As Houston stated, few white lawyers are so foolish as to
give up community and financial status for an African­
American alliance.²
Yet, Houston found that the poor quality of the Afro-American attorneys was the reason why many in the black community refused to allow lawyers of their own race handle cases of great importance. From the United States census report of 1935, Houston discovered that a number of blacks listed law as their profession but had neither attended a law school nor passed the bar examination.\(^3\) Unfortunately, census enumerators failed to verify the information taken from the respondents, yet Houston concluded that many individuals claimed a legal profession for the illusion of social and personal prestige.\(^4\)

Due to the scarcity of qualified black lawyers and the lack of ability among many of those blacks who called themselves attorneys, Houston was forced to lecture and write to educators and lawyers to persuade them to assist in the training of advocates for civil rights.\(^5\) Howard and other "Negro" law schools in the country, Houston would argue, must change their philosophy of existence. These schools were not designed to grant law degrees to individuals without a purpose; they were formed to create a body of working professionals who were willing to use the judicial system for the liberation of the African caste. Thus, according to Houston, black law schools must not only emphasize the standard courses of jurisprudence, but also courses in civil rights litigation. Such training allowed the pupils to link their education to the social, political,
and economic issues that affected the destiny of black America.\(^6\)

The future of the black nation depended on the strategy of lawyers in the courts of the United States. While racism prevailed throughout the United States the hostility and discrimination that blacks experienced in the south demanded immediate attention. Thus, argued Houston, the apprentices at Howard should be specifically educated to go below the Mason-Dixon Line to confront the satanic laws of racism and discrimination. It is interesting to note that prior to Houston's activism in civil rights there were more black lawyers in the south than in the north. Logically one would conclude that a core of black attorneys would have been attacking racist laws before the tenure of Dean Houston, but the opposite existed. The lawyers who posed as fighters for racial justice were often mere puppets of the white political structure in the south. Instead of condemning the institution of segregation and widespread lynching, many of the lawyers remained passive for token financial and prestigious gains. As Earl B. Dickerson stated, some "Negro lawyers in the South thought that a cheap gift of red-eye from the mayor represented white commitment to the equality of the races."\(^7\)

Houston demanded legal activism not only to attack segregation, but also to confront the brutality of lynching of African-Americans. An example of this was seen by the
activities of two of Houston's associates, attorneys Leon A. Ramson and James G. Tyson. In 1933, Ramson and Tyson published a damaging report on California Governor Rolph's response to a public lynching. Released in the Afro-American newspaper, the report read:

We call upon Governor Rolph to close all the state's courts, dismiss all the state judges, expel all lawyers and abandon all schools in the state of California. We further demand that you pay the members of the lynching mob reasonable compensation from the state treasury for loss of time from their private business in the performance of what you denominate a public service. Do not hesitate to take the next step which inexorably issues from your official endorsement of lynching as an agency for the administration of social justice. Then those of us who disagree with your stand can at least respect you as benighted but sincere, vicious yet honest, an open enemy of orderly government who has the courage of his conviction.

The denunciation of Governor Rolph and the state courts of California by Ramson and Tyson illustrated the role of a social engineer. As Houston enunciated, the job of a social engineer is to eradicate the evils of the society with use of the judicial system. Through using the courts, black attorneys would right the wrongs that past racists had instilled in the political and social bureaucracy that retarded the productive development of the African-American community. In introductory law class, the Dean describes a social engineer as a highly skilled, perceptive, sensitive lawyer who knows how to use the law in solving the "problems of local communities" and in "bettering the conditions of the underprivileged citizens."
Houston also implied that the social engineer was the vanguard or the "super hero" of the black caste. It is he who will be "the mouthpiece of the weak and a sentinel guarding against wrong," argued the Dean. In addition to protecting the underclass from oppression, the social engineer will interpret and voice the aspirations and grievances of the Afro-American.10

Houston's notion of what black lawyers should focus on called for strong, courageous, and sincere individuals. Although most blacks in the 1930s would superficially agree with the concept, the pertinent questions were: (1) how would Houston encourage law students to devote their careers to civil rights litigation? and (2) what method would he use to gather senior lawyers into the arena of civil rights litigation? Since Houston was dedicated to building a legal fort at Howard University, he quickly initiated a program that encouraged students to take civil rights as a major field of study. As a starting point, Houston developed a lecture series at the law school that brought in the nation's premier legal liberals. Brilliant constitutionalists such as Clarence Darrow, Roscoe Pound, Arthur Garfield Hayes, and Felix Frankfurter debated various constitutional problems and issues with law school students at Howard.11

The constitutional lecture series both allowed pupils to exchange ideas with some of the nation's foremost
legal minds and generated greater awareness of constitutional issues. It was common for the sessions to run into the evenings. At times students and faculty members adjourned for a brief dinner and then resumed the discussion either at the school or one of the homes of the professors. Such marathon sessions illustrated one of the basic elements of the Houston method; that is, education in the law is a twenty-four-hour process. Although classes may end at 4:00 P.M., the training never stops. With this in mind, the Dean pushed the minds of the young legal students to their ultimate peak. In a letter to a struggling apprentice who had complained to Houston that the demands of the school were unbearable, the Dean replied:

"You must not only be good but superior, and just as superior in all respects as time, energy, money, and ability permit. The most important thing now, as fast as conditions are changing, is that no Negro tolerate any ceiling on his ambitions or imagination."  

"Old Iron Shoes," as the students affectionately nicknamed Houston, refused to permit any mediocrity. Spottswood Robinson, one of the many great civil rights attorneys who studied and labored with Charles Houston, remembered the stern warning that the Dean gave to entering classes. Without remorse, Houston told new students that the majority of them would fail to complete their legal education at the school. Houston would have the frightened pupils "look at their associates closely because many of them will not be second year students next year."  

Houston advised the
students that the study of law required the full commitment of their minds. Although the training was difficult, the rewards were great. The pupils who devoted their lives to the law became the political and social power brokers in the black community. Houston summed up the rewards of hard work in the following passage: "There was no tea for the feeble, and certainly no crepe for the dead."^14

As future leaders of the black masses, it was imperative that the students understood clearly the law and its application to civil rights issues. Houston would sometimes half-jokingly remark that, unlike doctors who could bury their mistakes, attorneys had to live with their errors. Civil rights advocates could not afford the pleasure of making errors while tens of thousands of individuals depended on them.\(^15\)

On April 19, 1935, Charles Houston resigned as dean of the school and accepted the position of head legal counsel for the NAACP. The loss of the dean did not leave the law school without a capable leader. William Hastie, Houston's younger cousin and close confidant, continued the work that Houston started in building an institution for the training of capable civil rights advocates. Although "Old Iron Shoes" or, as others called Houston, "Cement Pants," was not physically present at Howard after 1935, his ideas and concepts were very much evident.
In 1930, William Hastie left the legal firm where he was an associate to assist Houston in building a "school of civil rights attorneys." Ironically, the law firm that Hastie had worked for was the Charles Houston Law Firm of Washington, D.C., the dean's father's law firm. Although the Houston and Hastie law office was financially profitable, Hastie apparently considered the development of civil rights attorneys the foremost priority.

The appointment of William Hastie to the deanship of the law school in 1935 did not change the outlook or the course of the institution. Dean Hastie, like Houston, was dedicated to the creation of an institution that trained competent civil rights attorneys.

William Hastie, as many of his students remembered, was a carbon copy of Houston in his commitment to academic excellence. Like Houston, the new dean would remind pupils that the growth of the race depended on the skills that they acquired at the law institution. As developing legal freedom fighters, students must be willing to devote all of their time and energy to the cause of civil rights.

One reason why Hastie's outlook on civil rights and social commitment was so similar to Houston's concepts was their similar background. Hastie, as historians Richard Kluger and Gilbert Ware have stated, possessed an extremely brilliant legal and analytical mind and mirrored the educational feats of his older cousin Houston. However, the
development of Hastie came from the discipline and tutelage of his parents. William and Roberta Hastie brought their son up to have racial pride and a keen appreciation for scholarship. As a student in Washington, D.C., Hastie's parents either took their son to school in a horse and buggy or ordered him to walk instead of riding in a Jim Crow car. His parents, former citizens in the Confederate state of Tennessee, held a disdain for all forms of segregation. This fact dictated the course that William Hastie would take as an advocate for legal and social equality. William Hastie had attended the famed Paul Laurence Dunbar High School in Washington, D.C. Dunbar High was considered to be one of few elite segregated schools for blacks in the United States. Parents who wished for their children to receive a preparatory college education and, more importantly, sought for their children to be leaders of the black community, enrolled their offspring into the institute. Upon graduating, Hastie won an academic scholarship to attend prestigious Amherst College. At Amherst he earned a Phi Beta Kappa key and graduated magna cum laude. He, too, went to Harvard Law School where, like his cousin, he broke the color barrier that barred blacks from working on The Harvard Law Review. In 1930, under the tutelage of constitutionalist and progressive Felix Frankfurter, he graduated from the Harvard Law School. If there is a
connection between Hastie's views and his legal training, it probably came at this stage.\textsuperscript{16}

Felix Frankfurter, the leading progressive legal advocate of the early twentieth century, dedicated his skills to teach students that the Constitution must be used to achieve social change. Expressing his position as a United States Zionist and a supporter of radical causes such as the founding of the American Civil Liberties Union, Frankfurter urged students to utilize the law as a social tool to change the wrongs of society. In addition, he maintained that lawyers must be willing to stand for justice, even if it is an unpopular cause. Being a progressive, he maintained that society can only be regulated through the consistent effort of legal barristers who are willing to fight for under-class citizens. Therefore, if lawyers are concerned about keeping order in a judicious sense, then they must aggressively seek the eradication of hurdles that imprison certain groups from achieving real progress. Utilizing the concepts of Professor Frankfurter, Hastie, as well as Houston, often encouraged the elder constitutionalist to file \textit{amicus} briefs in the courts on behalf of the NAACP and the LDEF.\textsuperscript{17}

When Hastie became the dean of Howard's School of Law in 1935, he found that despite all of Houston's reforms, Howard still lacked basic essentials such as adequate textbooks.\textsuperscript{18} Realizing that the heart of any good educational
institution existed in the reading materials of the academy, Hastie asked legal scholars from around the nation to dispatch both law books and copies of their cases to the university. Individuals such as famed trial lawyer Clarence Darrow and Harvard Professor Felix Frankfurter sent an enormous amount of material to Howard. Hastie found that not only were legal activists such as Darrow willing to aid the poor black law school through the mailing of monographs, but they also were willing to serve as visiting lecturers on issues of the Constitution and the plight of the oppressed. This benevolence proved quite effective in shaping the students' desire to labor in the field of constitutional law and civil rights.

Along with believing that black lawyers should serve as spokespersons for the poor and the oppressed, Hastie combined racial nationalism with civil rights ideology. For example, Hastie often told the pupils that as African-American lawyers they must be willing to put themselves on the line in the defense of the aspirations of the black race. Our lawyers, he would argue, must understand that the fight for justice is not in the hands of the oppressor, but resides with the legal warrior. Thus, black lawyers will lead the crusade for the race and not individuals from other ethnic groups.19

Hastie believed that black lawyers must go to the heart of racism--the deep south--and attack the laws of
segregation, thus demonstrating to southern blacks the solicitors' willingness to risk their lives to eradicate the harsh and barbaric laws. This was, according to Hastie, a way to develop trust and to combine the objectives of the masses with those of the attorneys. As Hastie maintained:

"... there was no other way to demonstrate the presence of the black lawyer, except being seen by the [southern] jury. ... Colored lawyers either had to go into the court without regard to threats or be rendered ineffective by their own people ... it was as simple as that."

In 1932 Hastie demonstrated his ideas on civil rights litigation in *The Commonwealth of Virginia v. George Crawford*. Although Charles Houston initiated the case, Hastie became the major figure during its argumentation. Crawford was the first legal case of the NAACP under the direction of Houston as the executive legal counselor and, as such, introduced his philosophy of social engineering to citizens who were not lawyers or students at Howard's law school. Unlike future civil rights cases that focused on teachers' salaries and segregation in the educational system, Crawford concerned a first-degree murder charge. Although the case was quite different from future litigation that the Association could participate in, it had great impact in creating a precedent in the argumentation of race cases.

George Crawford, a black man, was convicted of murdering two elderly white women, Agnes Boeings Illsley and Mina Buchner, on January 12, 1932 in Loundoun County,
Virginia. Upon confessing to a white policeman, a speedy trial followed, as did sentencing. The unwritten law of the south dictated that a black who did the unspeakable to a white was taken to a lynching tree without a trial; fortunately for Crawford, the tradition was ignored on this occasion. Undoubtedly the first time that black attorneys argued in defense of a "dead man" came in the summer of 1932 when William Hastie presented the court with reasons why Crawford should be given life imprisonment instead of the electric chair or the end of a rope. Using appeals to the Christian conscience of the jury, along with well-defined and logical arguments, Hastie convinced the court to allow Crawford to live.

In saving Crawford's life, Hastie displayed the skills of black lawyers in an area of the nation that featured night riders and Klansmen. However, the attorneys did not take sole credit for the victory. Rather, they praised the enormous support that the local community provided the Association's legal activities. Hastie remembered that blacks flooded the courtroom every day of the trial. The local black community, as well as the white citizens, became impressed with the professionalism that Afro-American attorneys displayed in the courtroom. The demonstrated competence of black barristers in the argumentation of Crawford's case would allow the civil rights
proponents a degree of respect and acceptance in both the Afro-American and white communities.\footnote{21}

Hastie's abilities in the court were also displayed in his administration of Howard's law school. Although Hastie's deanship was quite similar to Houston's in respect to academic excellence and a commitment to civil rights, his tenure nonetheless broadened the base of civil rights activism. Hastie's first civil rights action as dean did not deal directly with the students of Howard, but with the white bar association in Washington, D.C. The District of Columbia Bar Association excluded blacks from its organization and also denied them service from the library that it operated in the District municipal building. With the assistance of Hastie, attorneys H. L. Brown and Pete Tyson brought suit in 1941 to compel the Association to terminate discrimination or to remove the law library from federal property. Attorney General Robert H. Jackson ordered the bar association to admit members regardless of "race, color, religion or sex." The District of Columbia Bar Association, opposed to the ruling, removed its library from federal property in order to keep its policies of racism and discrimination.\footnote{22}

Hastie's decision to attack the white bar did not begin at Howard. The attorneys had begun the campaign a couple of years before he accepted the deanship at the university. In the late 1930s, the Afro-American carried
headlines that described Hastie's activities as communist inspired. For example, the title of an article that criticized Hastie's alleged leftist contacts read, "Negro Congress is Red Inspired, Red Directed, Red Controlled." Because Hastie attacked racism and segregation, especially in the federal government, he was denounced by many blacks as well as whites. However, the attorney continued to speak out against inequality.²³

One of the issues that plagued Hastie was the discrimination that blacks received from the Washington Bar Association (WBA). When the WBA refused to integrate, Hastie organized the black attorneys in the District of Columbia to form the all-black Harlem-Terrell Lawyers' Association. Charles Houston and other prominent attorneys in the District joined the new law association.

While a few black attorneys and the majority of the white barristers branded the new association as "reds," members of the black community supported Hastie's position. Unfortunately, however, a number of conservative professors at the law school reacted vehemently against Hastie's "communist leanings" and questioned his civil rights ideology.²⁴

During the 1940s, the university remained sedate on civil rights issues. Due to the war, a number of students dropped out to enlist or to find employment to aid financially deprived families. The major accomplishment
of Hastie during this period was opening the law school to women. Although the school had a better record than most in accepting and graduating women, the number of females was low compared to that of males. At this time Pauli Murray became a student of Hastie's. Under his tutorage, Murray learned "social engineering" and the judicial skills that later earned her recognition as an excellent civil rights attorney. Howard's law school, with the admittance of Murray and other women, became one of the few legal institutions in the United States that practiced a nondiscriminatory policy.²⁵

Throughout his tenure, Hastie worked hard to make Howard's law school an accredited program. He frowned on the thought that some referred to the institution as a "good colored law school." He wanted Howard to be a Harvard in the District of Columbia that graduated good lawyers, not just black ones. However, for all his concern, Hastie found that many in the university did not appreciate his stance on the law school and civil rights litigation. In February 1946, the dean came to the conclusion that a number of faculty members and administrators were undermining the labor of the progressive individuals at the university who were trying to uplift its academic standing. He found a number of professors pillaging the school of valuable funds. Being a financially weak university, Howard lacked the financial strength of some of the other major educational
institutions. Thus, when instructors billed the school for personal materials such as travel, books, and meals, they undermined the growth of the institution. Being disturbed by this finding, Hastie informed the board of trustees of the problems that faced the university, especially the law school.26

Hastie, always known for his brilliant mind and occasional quick temper, sent members of the board of trustees a memorandum "regarding the possibility of a major breakdown in the internal machinery of the university."27 On February 15, 1946, a conference was held by the trustees' executive committee to discuss the issue that the dean had raised.28 After a one-and-one-half-hour meeting, the committee found no basis for Hastie's allegations. To the contrary, the trustees found the institution functioning smoothly and efficiently. Hastie vehemently disagreed with the board's conclusion. Finding that he and the trustees were diametrically opposed, on April 9, 1946 Hastie submitted to the board his resignation to become effective June 30, 1946.29 It appeared that board members were not surprised by Hastie's resignation. Although the Hastie communique identified the conclusion of his tenure to be June 30, 1946, the executive committee accommodated the dean with an early exit. They stated that Hastie's employment would come to an end on May 15, 1946.30
Even though Hastie's tenure at Howard ended abruptly, it certainly does not nullify the concern and commitment that he had for his students. Upholding a philosophy that demanded hard work and dedication, Hastie ingrained into his students, "It [is] better for the Omnipotent One to give men the wit and the will to continue to plan purposefully and to struggle as best they know how to change things that seem immutable." Lastly, Hastie demonstrated to law students at Howard that "Exposed to equal training and afforded equal opportunities, Negroes can compete successfully at any level in a highly competitive society."

On April 9, 1946, the board appointed law school professor George M. Johnson as the new dean. The qualifications of Johnson were inferior to those of Houston and Hastie, since he had not earned a Juris Doctorate at an accredited university. However, his tenure in the dean's office from 1946 to 1950 proved to be important in the continuous growth of the civil rights institution. The Johnson administration, for instance, concluded that the activities of the NAACP's legal department, along with the LDEF, should be merged with the activities of school. With the assistance of Charles Houston, Johnson created combined legal seminars comprised of students, faculty members, and the legal staffs of the two organizations. Since the university operated on the premise that the law students
had to work with the civil rights organization as an
unwritten prerequisite for the earning of a degree, students
were expected to attend the legal sessions or "bull"
sessions that the NAACP and LDEF held at the law school.
At these seminars, attorneys from the two organizations,
along with students and faculty members of the law school
and professors from outside departments, discussed upcoming
civil rights issues. Typically, the participants were
divided into judges, jurists, opposing attorneys, and spec-
tators who posed serious questions to lawyers who were argu-
ing the civil rights case. At one such session that lasted
well into the evening, a second-year law school student
asked a question on "restrictive covenants" that would later
be raised by Supreme Court Justice Frankfurter. According
to Houston, the rehearsal session prepared attorneys to such
an extent that when Frankfurter begged the question, the
attorneys had the answer worked out. 32

Although Johnson's administration furthered the
training of civil rights lawyers, he nonetheless was not
widely supported by the faculty. When he became dean, the
faculty of the law school was plagued with internal divi-
sions. The controversy revolved around the resignation of
William Hastie and the elevation of Johnson to the position
of dean. When the board announced that Johnson would be
the new leader, a number of prominent law professors
resigned, including Bernard S. Jefferson and Leon Ramson,
an outstanding civil rights attorney for the LDEF. An influential segment of the faculty argued that Johnson did not possess the qualifications and prestige needed to be dean of the law school. The dissatisfied professors argued that Mordecai Johnson, the President of Howard University, and the trustees had ignored, when picking a dean, professors who had given the law school many years of outstanding teaching. Such individuals, maintained Leon Ramson, deserved to be promoted to deanship before George Johnson. In the end Johnson resigned and the executive committee reluctantly elevated James Nabrit to law school dean.

James Nabrit had already had a magnificent career at the university before being named dean. Besides being an instructor in the law school, he served as the university's secretary and public relations administrator. After surveying his background, it becomes quite understandable why many of his peers supported the board's appointment.

James Nabrit graduated with honors from Northwestern Law School in Chicago in 1927. He moved to Washington, D.C. to join Houston and the faculty at the Howard University Law School. Along with Houston and E. C. Hayes, another fine civil rights advocate from the District of Columbia, Nabrit played a significant part in transforming Howard into a black think tank. In the early 1940s, Nabrit created the first course on civil rights in the United
States. The civil rights course, unlike any other in law schools in the United States, combined the history of the Constitution, the use of the Constitution as a document for social change, and the specific relevance it had for Afro-Americans. In addition to devising a civil rights curriculum, Nabrit collected and catalogued over two thousand cases for the university library between 1936 and 1960. Although the majority of the cataloguing focused on civil rights issues, a number of the cases centered on issues such as civil liberties, contract law, commerce law, and corporate law. Also, during his tenure at the university, he either argued or participated in every major civil rights case that was brought to the U.S. Supreme Court. He is best remembered for the white primary cases Nixon v. Herndon (1927) and Nixon v. Condon (1932), in which he argued successfully that Texas violated the Equal Protection Clause of the Fourteenth Amendment by refusing to allow blacks the right to vote in the state primaries.

The philosophy of Nabrit toward civil rights and civil rights litigation was consistent with the policies of Houston and the NAACP. Speaking to a group of faculty members in 1960, Nabrit stated that the university "must continue to direct a large part of its efforts toward the training and development of these young men and women who have been handicapped by segregation." While delivering the 1960 Howard University commencement address, Nabrit
spoke on the reasons why African-American attorneys must wage a full assault against segregation and discrimination. Reflecting on the 1954 Supreme Court decision in *Brown v. Board of Education*, Nabrit maintained that the verdict was only a token decision for black rights. Six years after the decision, there were five states that still refused to comply with the Supreme Court mandate of desegregation in public education. Thus, stated Nabrit, "We will never have an integrated community until there is an end to discrimination and segregation in all the vital areas of life in education, in housing, in employment, and in the entire fabric of our society, economic, political and social." To achieve this goal, black lawyers must lead the fight for equality in the nation's courts.

Although each of the deans promoted distinct changes at the school during his administration, they all rallied behind the issue of making Howard Law School a "capstone of Negro education." The deans of this period were visionaries; they saw the role of the school to be training students of "high standards . . . for [black] leadership." Not only did individuals refer to Howard as the "Harvard" of civil rights litigation, but also major civil rights organizations referred to the Howard School of Law as "the school of civil rights studies."

During the period that Howard emerged as a major institution for training civil rights lawyers, a number of
private organization had begun to discuss the need for civil rights activism. The majority of these associations were formed as separate organizations to attack the laws of segregation and discrimination. However, as the plight of blacks continued to worsen, the groups, although remaining autonomous bodies, merged into an informal confederation to attack racism. The organizations that became influential in the movement were The National Association for the Advancement of Colored People, Legal Defense and Educational Fund, National Bar Association, National Urban League, and the National Lawyers Guild.45

The oldest and most influential group to struggle for the rights of the black American in the twentieth century is the NAACP. In response to a race riot in Springfield, Illinois in 1906, the black scholar William E. B. DuBois called Oswald Garrison Villard, Walter Sacks, John Hayes Holmes, and Mary White Ovington together on May 10, 1910 in New York City to incorporate the new NAACP. According to the founders, the Association's objectives were:

"(1) the abolition of enforced segregation; (2) equal education opportunities for Negroes and whites; (3) enfranchisement of the Negro; and (4) enforcement of the Fourteenth and Fifteenth Amendments."46

The Association's earliest efforts focused on ending lynching through Congressional action. Studies by Booker T. Washington's Tuskegee Institute and The Chicago Defender
revealed that between 1890 and 1909, over two thousand African-Americans had been lynched. In 1919, the NAACP published a study on lynching entitled *Thirty Years of Lynching in the United States*. The Association used this publication to rally support for an anti-lynching law. By 1915, however, the NAACP had begun to turn to the courtroom as the arena in which to battle legal and social racism. Court activism by the NAACP demonstrated the group's desire to challenge the legality of the decision in the 1896 *Plessy v. Ferguson* case. Although the Association relied on mass marches and legislative action, it found the courtroom to be a much more effective place to challenge segregation. The decision to use the legal system rested primarily on two considerations, the first being financial and the second feasibility. The organization represented a program that challenged the status quo of early twentieth-century America. However, the purpose was not so extreme that it alienated philanthropists from donating to the organization. Progressive whites were more willing to give to the organization if it appeared that the Association worked within the political system for social change. Secondly, the leaders of NAACP found that a few judges and jurists could eradicate an unjust law quicker and more efficiently than several hundred senators and congressmen.

The activism of the Association focused primarily on litigation. The NAACP's move into the courtroom began
with a stunning victory in *Gwimm v. United States* (1915). The NAACP argued that the Louisiana grandfather clause, enacted in 1898, discriminated against blacks in voting in local, state, and federal elections. throughout the late teens and twenties, the NAACP recorded a number of Supreme Court victories. Nonetheless, the Association lacked consistent, dedicated, and competent legal strategists to take the Afro-American struggle into the courts.

From 1915 to 1939, the NAACP National Legal Committee relied on white attorneys to volunteer their time to fight for the black cause. Although black barristers often volunteered to tackle the laws of segregation, most lacked the legal training and the experience to aid in civil rights litigation. White attorneys, on the other hand, had the legal experience but they were not willing to undermine lucrative private practices to work permanently for the NAACP. Because of incompetent black and inconsistent white volunteers, African-American rights suffered. It was in response to this need for proficient black barristers that the Association recruited Houston in 1935 when Nathan Margold, the chief white legal counsel for the NAACP, resigned. In 1939 Houston became the first paid, full-time attorney for the Association.

Houston's participation in civil rights litigation provided a direct link between Howard's law school and civil rights organizations. Houston relied upon members of the
law faculty such as Hastie, Nabrit, and Hayes for advice in a number of cases. As time went on, a host of prominent law professors at Howard University joined Houston at the NAACP. Joining Howard's law faculty in working with the NAACP were distinguished scholars from other departments of the university, among them Gunnar Myrdal, E. Franklin Frazier, and John Hope Franklin. Likewise, occasional graduate students majoring in history and political science participated in the practice sessions at the law school.

Although the NAACP played an important role in the civil rights movement, it lacked a legal arm to handle cases that involved discrimination and segregation. In late 1939, the NAACP Legal Defense and Educational Fund was incorporated. The "Inc. Fund," as it was also known, was separate from the Association's propaganda activities. The sole purpose for establishing the LDEF was to enable it to receive tax-deductible gifts. In many aspects, the NAACP Legal Defense and Educational Fund and the NAACP Legal Committee functioned as one organization. The majority of the attorneys were members of both groups, and they usually combined their forces to fight in discrimination cases. It was only in the late 1970s that the two organizations have "really" identified themselves as two different groups.

In 1924, another civil rights organization emerged to assist attorneys in cases that involved race relations.
George H. Woodson founded the National Bar Association in Iowa. In August 1925, the new NBA became incorporated. The NBA was formed in response to the segregation policies of the American Bar Association, which restricted membership to white lawyers. Therefore, the NBA developed as a guild that handled issues that were germane to African-American attorneys.

The NBA also had a strong commitment to aid African-Americans in contesting legal segregation and discrimination. As the NAACP Legal Committee and NAACP Legal Defense and Educational Fund worked in conjunction with each other and with Howard Law School in civil rights litigation, so too the NBA worked with the law school and the national black legal groups. Many of the members of the NBA were officers and directors in the Fund and the Legal Committee. The NBA argued that it was imperative to have black lawyers in the south. However, due to Jim Crow policies in law school libraries and legal archives, civil rights barristers worked at a disadvantage in arguing cases. The NBA agreed with Houston's call for more qualified black lawyers, yet it reported a deficiency of black attorneys in the nation. The Bar stated that "9 million Negroes who live in the South are serviced by only 2 hundred 24 lawyers, while twelve hundred Negro lawyers . . . service the other four and a half million Negroes" in the country.
In 1910 the Association for the Protection of Colored Women, the Committee for Improving the Industrial Conditions for Negroes, and the National League for the Protection of Colored Women gathered in New York City to form the National League on Urban Conditions among Negroes. Later the name was shortened to the National Urban League. Unlike the other organizations, the League was not formed to combat legal segregation, but instead to develop a dialogue with white business and community leaders that would assist in securing equal opportunities for blacks. While the main focus of the NUL was on building a biracial urban community, it nonetheless became instrumental in writing *amicus* briefs on behalf of the NAACP.

Although the above-mentioned organizations were predominantly black in composition, it did not mean that all of the professional groups that supported civil rights were black. Fitting a different mold was the National Lawyers Guild. The Guild was organized in response to the growing elitism of lawyers and the American Bar Association. The Guild maintained that wealthy white attorneys controlled the law schools and the professional associations. This control discriminated against people who were poor, non-white, and non-male. Thus, the Guild was organized to discuss and find solutions for barristers who did not fit the image of ABA advocates.
In late 1936, radical attorneys such as Morris Ernst, Frank Walsh, and Jerome Frank met in Manhattan to create the NLG. As the Guild grew, it became an organization that represented the ideas of the most radical lawyers in the nation. This was in part because the Guild did not discriminate on the basis of race or gender. By the mid-1930s, black radical attorneys such as Charles Houston, Earl B. Dickerson, a civil rights attorney in Chicago, and Conrad Lynn, a Harlem socialist, had become important members of the group with Houston serving on the executive board. While the NLG was looked at as being a "communist front organization," it assisted the Association and Howard University Law School with research material and financial support.55

Houston's ideology of "social engineering" both influenced the national legal organizations and helped make Howard Law School the legal center for civil rights in the United States. The deans who followed Houston understood that the mission of the school was, first, to serve the race, and secondly, to equalize the disparity between the races.56 With this in mind, Deans Hastie, Johnson, and Nabrit linked the curriculum of the school with the objectives of the NAACP, LDEF, and the NBA. Students, established attorneys, and scholars attended Howard Law School for courses and conferences that were geared to civil rights litigation in the United States.57
Notes


2 Ibid.

3 The American Bar Association, the regulatory body of the profession of law in the United States, requires that individuals wishing to practice as lawyers pass an extensive examination of the regulations and laws, state and federal. Some legal historians argue that the examination was developed to exclude blacks, women, and other minorities from the practice of law. For an extensive discussion, see Jerold S. Auerbach, Unequal Justice: Lawyers and Social Change in Modern America (New York: Oxford University Press, 1976, 1977).

4 Houston, "Alabama Has 4 Lawyers," p. 34.

5 Ibid.

6 Ibid.


9 "Houston Asks Rolph to Abolish Courts" (editorial), Afro-American, December 1933.


11 Ibid., pp. 84, 85.

12 Ibid.

13 Ibid., p. 77.

15 Ibid., pp. 5, 77.


17


19 Ibid.

20 Ibid.


22 "McNeil, "Meet the Group's Needs," p. 82.


26 Ibid.


29 Ibid., p. 376.

30 Kluger, Simple Justice, p. 156.

31 Logan, Howard University, p. 376.

32 Ibid.

34 Ibid., p. 376.


36 Ibid.


38 Ibid., Howard University, p. 561.


43 Ibid.


45 The black organizations that formed during the early stages of the twentieth century to protect and fight for the civil rights of the Afro-Americans used the term "National" to denote the racial clientele of the group. Notice that groups in the eighteenth and nineteenth centuries used the term "African" to denote racial and political objectives. For a further discussion, see V. P. Franklin, Black Self-Determination: A Cultural History of the Faith of the Fathers (Westport, Connecticut: Lawrence Hill and Company, 1984).
Currently the organizations are locked in battle over the control and use of the NAACP letterhead. Nonetheless, the groups worked in harmony from the "Fund's" inception through the black cultural revolution of the 1960s.


CHAPTER IV
FORGING A NETWORK OF LAWYERS, ACADEMICIANS,
AND ASSOCIATIONS

The legal activists who joined Charles Houston in civil rights litigation often held multiple memberships in the National Bar Association, National Lawyers Guild, Legal Defense and Educational Fund, National Urban League, and the National Association for the Advancement of Colored People. In addition, many of the advocates were products of the Howard University Law School. Although these advocates were keenly knowledgeable, they were not able to function as a unified body until the NAACP and its legal committee formulated a strategy for approaching civil rights cases. Between 1928 and 1933, prominent members of the Association such as Arthur Springarn, William E. B. DuBois, and Charles Thompson debated the future of the organization as a tool for political activism. This topic was at the core of the three different blueprints for advancing Afro-American rights developed by the Garland Fund, Nathan Margold, and Charles Houston.

In 1922 Charles Garland, a wealthy Harvard University graduate, decided to empty his millions into the hands
of radical organizations that devoted their energies to civil liberties and civil rights. Organizations that received Garland stipends included the United Mine Workers of America, The Rand School of Social Science, the League for Industrial Democracy, the magazine The New Masses, the American Birth Control League, the Sacco-Vanzetti Defense League, Vanguard Press, the Brotherhood of Sleeping Car Porters, and the NAACP. Unfortunately, the Association received only $100,000. The gift nonetheless assisted the radical Association in advancing civil rights litigation. As NAACP President Walter White would remark years later concerning the Garland stipend:

... the gift was a godsend that did not come too soon. The $100,000 helped to keep the Association afloat during the 1930s when the depression limited the activities of the organization drastically. If it was not for the gift, the legal struggle of the civil rights group would have taken a different course.

On October 4, 1930, the NAACP's committee charged with forming a legal strategy and the Joint Committee, an oversight group with members from the Garland Fund and the NAACP, selected Harvard law school scholar Nathan Margold to study the state of law in reference to African-American civil rights. The white constitutional scholar prepared a "Preliminary Report for the Joint Committee Supervising the Expenditure of the 1930 Appropriation by the American Fund for Public Service to the NAACP." The Margold Report, as it was later called, detailed state and federal law in
the areas of civil rights, especially in relationship to the Equal Protection Clause of the U.S. Constitution, restricted covenants in residential areas, segregated transportation, discrimination in jury selections, and segregated education. In addition, the Margold Report included a section that dealt with the negative reaction of white sociologists and philanthropists toward a black campaign for civil rights.³ Throughout the report, Margold's theme centered on the direct assault on segregation. He maintained that $100,000 should be utilized to develop a major case that would attack the constitutionality of segregation. He argued that a successful campaign could be undertaken if the 1886 Supreme Court equal protection decision in Yick Wo v. Hopkins was utilized. Specifically, Margold wrote:

It would be a great mistake to fritter away our limited funds on sporadic attempts to force the making of equal divisions of school funds in the few instances where such attempts might be expected to succeed. On the other hand, if we boldly challenge the constitutional validity of segregation if and when accompanied irremediably by discrimination, we can strike directly at the most prolific source of discrimination. We can transform into authoritative adjudication the principle of law, now only theoretically inferable from Yick Wo v. Hopkins, that segregation coupled with discrimination resulting from administrative action permitted but not required by state statutes, is just as much a denial of equal protection of the laws as is segregation coupled with discrimination required by express statutory enactment.⁴

One consequence of the Garland gift was that the Association was able to obtain the service of Margold, a former assistant attorney general of the United States. The book-length
report described the inequality of segregatory education in the country. He found that especially in the southern states, legislatures unequally distributed state funds to white and black schools. Afro-American students consistently received less financial assistance than did their white counterparts, stated Margold.5

In developing his recommendations, Margold was greatly influenced by a memorandum from the Garland Fund to the Association that proposed that taxpayers' suits be instigated to assure equal as well as separate public schools in states that had segregated school systems. The Fund listed Alabama, Arkansas, Florida, Georgia, and South Carolina as the target areas. The Fund argued:

Such taxpayers' suits . . . will (a) make the cost of the dual system so prohibitive as to speed the abolishment of segregated schools; (b) serve as examples and give courage to Negroes to bring similar actions; (c) cases will likely be appealed by city authorities, thus causing higher court decisions to cover wider territory; (d) focus as nothing else will in public attention north and south upon the vicious discrimination in the apportionment of public school funds so far as Negroes are concerned, in certain of these states.6

Margold understood the logic and concerns of the Garland Fund; however, he did not agree with its plan or analysis. The Garland Fund's legal strategy, he maintained, was wasteful and time consuming. Picking away at specific types of cases, such as litigation dealing with graduate and professional schools, would have very little effect on the eradication of Jim Crow schools. He argued that the
Garland Fund's strategy actually pressured the nation to recommit to *Plessy* rather than do away with segregation, yet the goal is to end separate schools, not obtain equality in Jim Crow.

In 1933, Nathan Margold notified the Joint Committee that he would be leaving the NAACP. Although Margold stated that other obligations, such as his new position as a solicitor with the Department of Interior, prevented him from directing the legal campaign, the underlying reasons were financial and the unwillingness of many members to embrace Margold's plan for attacking segregation. The Depression of the 1930s severely reduced NAACP funds. Staff members had to be released or take a substantial cut in salary. Margold, although believing in the cause of civil rights, was unwilling to reduce his standard of living with a meager salary. The vacancy eventually led to the hiring of Charles Houston, who would not utilize the Margold plan until *McLaurin v. Oklahoma* (1950).7

The Margold Report was an important and remarkable document in the development of civil rights litigation. Its analysis prevented attorneys and civil rights organizations from being trapped into a narrow stream of law. Rather, it allowed them to find precedents which had either been forgotten or ignored as they advanced cases designed to overrule the *Plessy* decision. Lastly, the report outlined an approach that would force the Supreme Court to
make a decision either sustaining or ending segregation in public schools.

The resignation of Margold temporarily left the NAACP legal committee without a head. Unfortunately, it took the Association two years to find a replacement. The delay of two years in replacing Margold seems to confirm his criticism of the sluggishness of the NAACP. However, during this period the LDEF was establishing a new generation of leaders. Many posts that whites held were by the end of the 1930s controlled by Afro-Americans. Nonetheless, the hiring of Houston to lead the struggle after Margold was because the committee could not find an available white lawyer. Originally the committee had offered the position to Columbia University's constitutional professor Karl Llewellyn. Llewellyn quickly rejected the offer by citing his lack of courtroom experience. The rejection temporarily left the Association stunned and confused. In the meantime Walter White, the first black executive secretary for the Association, had been in communication with Felix Frankfurter concerning the issue. Frankfurter told White that he had a former student who could fill the position. After hearing so many good things about Charles Houston, White wrote the Joint Committee that he would be offering Houston the position of Special Counsel. White's communique not only described Houston as a brilliant student from an Ivy League law school, but also as a person who was
committed to civil rights. In July 1935, Houston formally accepted the position of Special Counsel for the Association's Legal Defense and Educational Fund.

When Houston had been appointed dean of the Howard University Law School by President Mordecai Johnson, he overhauled the school's curriculum, staff, and faculty. In the same manner, the dean totally revamped Margold's legal blueprint. Houston argued that Margold's analysis was too risky to be used in southern states. Houston's concern centered on the dangers of a frontal attack on segregated schools. He maintained that an assault such as Margold's placed the black community in jeopardy of white retaliatory violence. Retaliatory violence would undermine black community support and cause the NAACP to lose support. Groups such as the Ku Klux Klan, along with unorganized white racists, might employ extra-legal means to frighten the local black community from supporting the Association's efforts in the breaking of segregatory education. Houston remedied this by making the border states, not the deep southern states, the target of civil rights litigation. For a successful legal campaign, claimed Houston, Afro-Americans must support the movement totally—with financial as well as spiritual and physical assistance.

Unlike the Margold Report that assaulted the legality of segregation at the elementary and secondary
level as well as in graduate and professional schools, the Houston blueprint attacked discrimination exclusively in graduate and professional schools. The reasoning behind this approach, stated Houston, was that the small numbers of qualified African-Americans applying to institutions of higher learning would not massively threaten the Jim Crow society of the southland. The goal of the blueprint was merely to show the expensive nature of school segregation on a state's economy. The states under the Plessy verdict were bound by law to provide an equal black academy in every respect to those available for whites. Either the states comply with the ruling, argued Houston, or they integrate blacks into the white graduate and professionals schools. The courts would force the states to make a decision on segregation, primarily because the courts themselves would be pressured by the Association.12

A paradoxical side of the Houston plan centered on gaining greater financial support for black institutions and students. Even within a discriminatory education system, the government must be forced to provide public Jim Crow schools with the means to grant blacks an equal education. Houston's strategy reflected his gravitation toward concepts that dealt with nationalism and race solidarity. Another interesting aspect of Houston's vision rested in securing equal salaries for black teachers in the south. He maintained that the Association must show that the few
adequate black teachers who taught in the Jim Crow system were unfairly discriminated against in salary negotiations. Houston argued that Afro-American instructors worked twice as hard as their white counterparts, due to inadequate facilities. Their labor, he stated, must be rewarded by legislatures through the granting of competitive salaries.\footnote{13}

In addition, argued Houston, the Margold Report threatened the respect and influence of the Association in the black community. Without an adequate test to reveal the feelings of southern blacks toward civil rights litigation, the NAACP ran the risk of embarrassment and alienation from the black grassroots. Instead of attacking discrimination at full force in the deep south, the early cases had to be handled in the relative safety of the border states if the legal campaign was to be a success. Fortunately, states such as Maryland had reasonably strong and active NAACP chapters coupled with a small, but vocal, white liberal population. This combination, thought Houston, provided the Association with the momentum to initiate civil rights litigation with only minor negative repercussions.\footnote{14}

While members of the Association's executive board debated the future role of the organization in civil rights litigation, Houston placed his blueprint into action. Utilizing the ties he had developed as the dean of the Howard University Law School, he recruited the best legal minds from the school to join him in the fight for
integrated school systems. For the initial test case, Donald Murray v. The University of Maryland (1936), Houston recruited Thurgood Marshall, a recent graduate of the law school. Marshall became the leading presenter of LDEF's civil rights cases throughout the 1930s, 1940s, and 1950s. In 1940, Marshall succeeded Houston as the Director-Counsel of the NAACP's Legal Defense and Educational Fund. His skill as a debater and legal strategist made him one of the most sought-after lawyers during the civil rights era. Joining Marshall were Bedford V. Lawson, the special counsel to America's first black fraternity, Alpha Phi Alpha, and faculty member at the Howard Law School, and William Gosnell, a brilliant and elderly black lawyer from Baltimore. Financial backing for the lawyers came from the Alphas, the New Negro Alliance (a District-of-Columbia-based black businessmen and professional association that funded civil rights litigation), and the NAACP Baltimore branch. 

In 1934 Donald Murray, a native of Baltimore, applied to study law at the lily-white University of Maryland Law School. Ignoring the fact that Howard's law school was less than thirty miles away in the District of Columbia and that Maryland's tuition program provided blacks with funds to attend out-of-state graduate and professional schools, Murray invoked the Equal Protection Clause of the Fourteenth Amendment when he was denied admission. In initiating the suit Murray, under the tutelage of the
attorneys, wrote the President of the University of Maryland, Raymond A. Pearson, requesting admission to the university. Within a week Pearson answered Murray, notifying him of the state's segregatory policy in professional education. Pearson wrote:

Under the general laws of this state the University maintains the Prince Anne Academy as a separate institution of higher learning for the education of Negroes. In order to insure equality of opportunity . . . the 1933 Legislature passed Chapter 234, creating partial scholarships at Morgan College or institutions outside of the state for Negro students who may desire to take professional courses or other work not given at the Prince Anne Academy.

Should you desire to make application for such scholarship, notify me, and I will see that such application is duly filed.  

President Pearson apparently underestimated the intelligence of Murray's counselors when he claimed that the Prince Anne Academy was an "institution of higher learning." While holding an accreditation rating of "B," Princess Anne Academy was not highly respected for its academic program and did not have established professional schools. Furthermore, Pearson's understanding of Maryland's segregated education system became questionable when he encouraged Murray to attend Morgan College for legal training, since the Jim Crow school neither had a law program nor a pre-law curriculum for the undergraduate students. Pearson's ignorance was additionally highlighted when he referred to Chapter 234 as an alternative program which would allow Murray to study law. The out-of-state scholarship program for black
students that the Maryland legislature had initiated did not have any money for disbursement to qualified students. Thus, Chapter 234 merely represented a paper facade to appease the radical elements in the black community.\(^1\)

To pressure the university even more, Houston and Marshall instructed Murray to send in his application to the law school plus the $2 handling fee. In a short but predicted response, the school's registrar returned the money order with a letter stating that black students must attend Princess Anne Academy for advanced training.\(^2\)

Murray next wrote the Board of Regents concerning its policy of discriminating against African-Americans. Murray stated:

> I am a citizen of the State of Maryland and fully qualified to become a student at the University of Maryland Law School. No other State institution affords a legal education. The arbitrary action of the officials of the University of Maryland in returning my application was unjust and unreasonable and contrary to the [Constitution of the] United States and the constitution of this state. I, therefore, appeal to you as the governing body of the University to accept the enclosed application and money order and to have my qualifications investigated within a reasonable time . . . I am ready, willing and able to meet all requirements of the State and to apply myself diligently to work.\(^3\)

Unfortunately for Murray, but amusing to Charles Houston, the Board of Regents had President Pearson again return the money order, along with a rejection notice for admission. But the letter this time argued that Howard's law school was an excellent institution for the training of law students. With its outstanding reputation in the education
of black people for the profession of law, Murray should forfeit the suit against the University of Maryland and enroll in the Howard University Law School. Houston and Marshall were trying to force the Court to rule that separate education had to be equal. They reasoned that states would abandon segregated education rather than run two expensive systems, for example, two Universities of Maryland. 22

In Murray v. Pearson, as the case became known, Houston and Marshall made a shambles of Maryland's defense. They did so by first attacking the administering of segregated education by the state by arguing that Plessy's separate-but-equal provision had never been enforced in Maryland. Secondly, they maintained that separate cannot be equal in a Jim Crow society that relegated certain members to second-class status.

The major feature of the Murray case was that it set a precedent for the Association's legal fight for the next decade. The NAACP strategy was not to attack Maryland's constitutional right to segregate black and white students, but rather to insist that the state grant Afro-Americans learning opportunities that equaled those of white Marylanders. Specifically, the advocates were concerned with the administration of the segregatory rule. This is the concept that Houston laid in his legal blueprint.
On June 5, 1935, Judge Eugene O'Dunne of the Baltimore City Court issued a writ of mandamus ordering President Pearson to admit Donald Murray to the University of Maryland Law School. Murray went on to attend the law school and to graduate near the top of his class. Upon the completion of his Juris Doctorate, he joined the NAACP and the Legal Defense and Educational Fund in Baltimore. Working alongside Houston and other civil rights advocates, Murray played a significant role in civil rights litigation during the pre-Brown era.

The Murray case revealed without a doubt that the Association's legalistic goals centered on attacking discrimination in the graduate and professional schools of the border states, and its strategy followed Houston's ideas. For the remainder of the 1930s, the "Inc. Fund" and the legal committee of the NAACP labored to develop constitutional cases such as Murray v. Pearson.

Throughout the 1930s Houston, Marshall, and other representatives of the "Inc. Fund" and the legal committee toured the nation, lecturing on the inequality of the dual educational system in the south. Gaining the support of local blacks, the Association was successful in initiating legal cases in a number of southern localities. By the end of the 1930s, the civil rights advocates had begun litigation in Tennessee, West Virginia, and North Carolina.
Unfortunately, the Association encountered a number of problems and issues that threatened its activities.

One of the problems that threatened the momentum of legal activities for civil rights was white retaliatory violence. Many southern blacks, especially older citizens, were fearful of aligning themselves with the anti-discrimination movement. Conservative black southern leaders pointed out that while Houston could fly back to Washington and Marshall could return to New York, the local residents had to face the hatred and savage actions of white racists. African-Americans did not exaggerate the anger of Caucasians over the Association's involvement in local affairs. When a civil case was initiated in Orlando, Florida, *The Orlando Evening Sentinel* openly threatened that "If smart lawyers or agents of different outside organizations seek to hamper justice through the employment of legal technicalities, they may bring suffering to many innocent Negroes."\(^{24}\) In a cartoon editorial, *The Orlando Morning Sentinel* warned that "the Supreme penalty" would be given to outsiders as well as to the local black community.\(^{25}\)

Another problem that perplexed civil rights advocates was identifying competent plaintiffs. Quite often advocates were confronted with people who attempted to use the legal struggle for their own personal advancement. For example, Charles Wrighten contacted the New York City branch of the NAACP and claimed he had been discriminated
against by the South Carolina University Law School. The Association recruited Edward Duncan and other advocates from the Inc. Fund to lead the fight against the university. However, as the litigation proceeded, Duncan found that Wrighten had utilized every possible trick to get into law school—any law institution. When the civil rights advocates of the Association discovered the deceit of Wrighten, they gradually withdrew their support. Unfortunately for the Association, the retreat from the case created negative headlines in the black community. Wrighten complained that the activities of the organization created undue problems for him in the small town in which he resided. In a letter to Thurgood Marshall and James M. Hinton, the branch president of the Clarendon, South Carolina NAACP, Wrighten stated, "[I] can't find a job--due to [the] N.A.A.C.P. coverage of the case . . ."26

Capitalizing on Wrighten's concerns, southern whites maintained that "Negroes" such as the plaintiff were happy and contented before northerners interfered in the domestic affairs of the old Confederacy. These dark carpetbaggers, maintained paternal whites, "are using the masses [southern blacks] to line their pockets with gold along with the tokens that Northern whites give them to break the peace and harmony of the Southern black[s]." White racists continued by arguing that northern agitators placed the
black community in danger from violent activism of southern whites who disagreed with the Association's policies.27

Civil rights activist and socialist attorney Conrad Lynn stated regretfully that a number of innocent Afro-Americans were terrorized and murdered due to the fight for educational and social equality.28 White xenophobia, he continued, caused them to strike out at the most oppressed group--southern blacks.29 Therefore, the African-American attorneys who traveled to the deep south were not the bravest nor most "heroic" participants in the civil rights struggle. Rather, the black people who lived and worked in the heart of racist American held that honor.

Regretfully, the belief that the Association's involvement in southern educational cases escalated white violence toward the black underclass caused numerous southern African-American leaders to repudiate the strategy of Houston. A disproportionate amount of the criticism of Houston's strategy came from educators who taught at all-black colleges and universities. Charles Thompson, editor of The Journal of Negro Education, argued that many black scholars were cowards and reactionaries; they were more concerned with personal employment than with mass liberation.30

Black leaders who condemned educational litigation simultaneously pushed for the modernization of black colleges below the Mason-Dixon Line. In an attempt to ride
the momentum of civil rights activism, these race conductors
lobbied southern politicians to pass bills in state legis­
latures that made *Plessy* more defensible by the appropria­
tion of more state funds into Jim Crow universities. In
Mississippi, for example, the Mississippi Educational
Council was formed by white liberals and black educators
to ask the governor and the legislature to initiate a bill
to equalize funding for the dual educational facilities of
the state.31 Interestingly, most of the bills that legisla­
tures approved did not aid black institutions. Very seldom
did the legislatures appropriate sufficient funds to ade­
quately modernize the facilities of black colleges and uni­
versities.

Reactionary actions by some black leaders encouraged
influential whites to display their racist views overtly.
For instance, Dr. Gary B. Johnson of the University of North
Carolina told the 1933 graduating class from all-black
Virginia State College that the NAACP's program to desegre­
gate the schools was unrealistic. He encouraged the civil
rights organization to devote its energies toward a practi­
cal program that would benefit the lives of the nation's
black population.32 The Afro-American students and faculty
members of the college gave Johnson a standing ovation for
his paternalism. White politicians such as Senator H. L.
Davis used these times to capitalize on the ignorance and
loathbeg positions of backward "Negro" leaders. Davis,
in a speech before the South Carolina Senate, argued that blacks did not expect or wish for the same "educational and social privileges that whites enjoyed." Davis, like many other southern state politicians, went to great pains to show why integration was not needed for the southern black. He charged that NAACP leaders were conning the African-American underclass into believing that an end to the separate school systems would help the masses, when in reality, according to Davis, only the black elite would benefit and the majority of blacks would suffer.

The Association's involvement in civil rights litigation not only created an uproar among conservative black educators and white racists, but it caused a number of local and state NAACP representatives to harshly critique the activities of the organization. For example, the Texas branch of the NAACP sought, without the advice of the national NAACP office, to get the legislature to appropriate funds to build a black law school. The branch leaders argued that national leaders did not understand the plight of blacks in Texas. They argued that a Jim Crow law school could be more beneficial to Afro-Americans than the integrating of white schools. In light of this, Assistant National Counsel Robert Carter had to remind Troy Carter of the Association's Texas branch "to make sure our leaders do not support a segregated school that the State of Texas is attempting to set up." But, like a number of chapter
leaders throughout the south, many in the Lone Star region argued that it was best for them to support the development of separate schools since the black masses did not understand the full perimeters of the segregation issue, and thus they would not appreciate or take advantage of an integrated graduate or professional school.\textsuperscript{36}

The most interesting and constructive debate over the litigation efforts occurred at the national level within the Inc. Fund and the Association. Unlike some of the representatives in the local districts, national officials concerned themselves with the issue because of their genuine regard for the future of African-American education. At the center of the debate were William E. B. DuBois, former editor of The Crisis, and Charles Thompson, editor of The Journal of Negro Education.

During the 1930s, The Journal of Negro Education published articles dealing with the education of black Americans. Under the guidance of Howard University professor Charles Thompson, a host of scholars, black and white, submitted articles on segregation and education. As a forum for scholarly debate on the state of black education, the Journal became a valuable tool for the Association in constructing litigation. In 1935, the Journal's "Yearbook," as Thompson titled these special editions, was devoted to "The Courts and the Negro School."\textsuperscript{37} The majority of the contributors to the 1935 "Yearbook" argued that segregatory
laws involving education should not be challenged since the chance of winning a court case was slim.

The skepticism of the scholars was not entirely unwarranted. Reviewing the struggle for equal education, the Journal presented a dismal picture. In 113 cases involving twenty-nine states and the District of Columbia, the issue of the constitutionality of segregation had been questioned forty-nine times. In the majority of the cases, the state supreme court had ruled that the separation of the races in schools was constitutional. Blacks only benefited from the Court where segregation was practiced without a local statute and when it was financed by separate tax collections whereby each state funded its own schools. This caused the attorneys of the NAACP to be extremely careful in choosing the areas for civil rights litigation. It would be a waste of money and time as well as an embarrassment if advocates attempted to attack segregation in areas where blacks financially supported Jim Crow education. Therefore, the most that blacks hoped for was the legitimate administration of the equal clause of the Plessy decision.

The Plessy v. Ferguson decision's "equal doctrine" did not really influence the way southern states governed their dual educational systems. In the 1935 "Yearbook," scholars reported that southern states allotted, on the average, two and one-half times more financial aid to white school districts than to their black counterparts. In
addition, the salaries of black secondary and college-
level instructors were considerably lower than those of
whites. Lastly, the "Yearbook" reported that the majority of
all fellowships were issued to white, not black, students.39

In response to court decisions upholding educational
segregation, in 1935 W. E. B. DuBois published a provocative
essay in The Journal of Negro History entitled "Does the Negro Need Separate Schools?"40 In the tradition of Marcus Garvey's Universal Negro Improvement Association and Fard Muhammad of the Nation of Islam, DuBois argued that blacks must temporarily accept the position that integration is not a realistic goal for the black community at the present time. African-Americans, continued DuBois, must look to themselves in providing a viable educational alternative to discrimination. Instead of fighting for integration, which systematically created concepts of self-hatred among blacks, Afro-Americans should develop institutions controlled and administered by them that would encourage race pride and black nationalism in the otherwise passive and lethargic black. DuBois felt that black education would be the force to get blacks as a whole to be more aggressive and pragmatic and to force a strong and creative community in the United States. Blacks, through nationalism in education, would replace feelings of inferiority with a "firm and unshakable belief that twelve million American Negroes
have the inborn capacity to accomplish just as much as any
nation of twelve million anywhere in the world ever
accomplished..."41

In arguing that black schools were a cure for white
rascism, DuBois added:

I know that this article will be interpreted by cer-
tain illiterate 'nitwits' as a plan for segregated Negro
schools and colleges. It is not... It is saying in
plane [sic] English: That a separate Negro school,
where children are treated like human beings, trained
by teachers of their own race, who know what it means
to be black in the year of salvation of 1935, is infi-
nitely better than making our boys and girls doormats
to be spit and tramped upon and lied to by ignorant
social climbers, whose sole claim to superiority is
ability to kick 'niggers' when they are down.42

In his zeal to ignite black pride and nationalism, DuBois
neglected an important question: how do you instill race
pride in black children who attend Jim Crow schools in a
segregated society that exhibits hatred and oppression
toward its dark citizens? Fortunately, social scientists
had begun to tackle this complex issue. In the article
"Some Psychogenic Hazards of Segregated Education of
Negroes," also published in the 1935 "Yearbook," Howard Hale
Long, assistant superintendent of the public school system
in Washington, D.C., addressed some of the issues that
DuBois had ignored. He maintained that black children are
made to feel inferior before entering into the public school
system. Children, observing the treatment that their
parents received from the white population, see that their
heroes and guardians are not respected as adults and treated
as first-class citizens. Therefore, stated Long, segregated education builds on an inferiority complex that Afro-Americans already have from living as a segregated caste.

Long focused his study on a "certain phenomena which results from segregated education of Negroes and thereby, in part, to determine whether the real harm does not lie in the rather neglected field of pauperized and gnarled personality development." Throughout, Long tried to capture the forces shaping the "feeling of the colored citizen." The other world that surrounded the black was made up of a highly structured society that utilized tradition and laws to keep the society regulated along race lines. To gather relief from the hideousness of segregation, blacks, Long argued, resort to fantasies that may cause aggressive, juvenile behavior toward their oppression. In the analysis of the problem, Long stated:

There is a growing belief that the almost ineradicable architecture of the response is laid down early in childhood and that in a few years the construct becomes so set that fundamental changes become very difficult if not impossible. . . . To look forward to a life apart from the general populace in the midst of which one must live with limited choice and opportunity, regardless of ability, is a dysgenic factor of first importance. It chills ambitions in embryo. . . . More often mediocrity is accepted as the standard so that there is a toneless effort--a what's-the-use-attitude . . .

Living in a society that omitted people with dark pigmentation from major roles and activities caused black children to develop an inferiority complex, according to Long. This
negative view of themselves and their surroundings crippled their advancement as productive citizens. Observing the world through the lens of a black youth, it is quite understandable, wrote Long, that there is a high delinquent rate among the black underclass population. Since the "normal" or white world does not want them, black youngsters seek to find a place or group that will accept their "abnormality." 45

Although Long disagreed with DuBois' theory of voluntary separation from the larger American community, he failed to supply a solution to the problem of discrimination. In fact, the logic of Long's analysis led to a conclusion that the blacks' existence as a functional and meritorious group in the United States was only a wishful dream. Long's critique dooms the black community as a permanent underclass. African-Americans were locked in an economic, political, and social inferior position that forced them to wait patiently for paternal whites to supply token reforms.

Critiquing Long's and DuBois' ideas, the Journal's editor, Charles Thompson, argued that passivity among blacks had aided in their exclusion from the political, social, and economic life of the nation. Instead of remaining discontent and isolated, Thompson argued, blacks must be aggressive in their quest for freedom and justice. Black aggressiveness should not be centered on migrating back to
the African homeland or revolting militarily against white America, but rather on escalating attacks on the current system through the Supreme Court. Appeals to the judges of the bench, according to Thompson, exhibited the Afro-American's legitimate hatred of segregatory laws and his/her dissonent in accepting second-class accommodations instead of first-class citizenship.

Expressing the ideas of the NAACP and black middle-class professional reformers, Thompson did not understand DuBois' voicing a conservative, B. T. Washington concept of a "radicalized" self-help program. Perplexed and shocked by the socialist scholar, Thompson systematically repudiated DuBois' segregatory "do for self" ideology, implying that a "brass monkey" could see that segregation or, as DuBois argued, separation, cultivated an inferiority complex in black children.

Although Thompson maintained that the concept of "separate but equal" was a judicial and social fallacy, he did not contend that it should be directly challenged in the courtroom. Understanding the tradition of white supremacy in the United States, Thompson felt the most logical way to eradicate discrimination was to convince the states that segregation imposed an unacceptable economic burden to provide equal facilities for white as well as black students. In an elaborate statement, Thompson stressed his position:
Separate schools are generally uneconomical, and financial burdensome. Consequently, where sufficient funds are not available to support decent schools for both whites and Negroes, and even in many cases where they are sufficient, it is the Negro school that suffers and there is very little that is done about it. Those who argue that the separate school with equal facilities is superior to the mixed school with prejudice should know that the separate school with equal facilities is a fiction.

The debate in the Association over the legal strategy in civil rights litigation concluded when Thompson left the editorship of The Journal of Negro Education in the 1940s. By reading the Journal, attorneys and laypersons were able to draw a definitive analysis of the problem of segregation and the course of action that blacks should take. The contributors overwhelmingly agreed that Plessy was an evil and that court action must be taken to eradicate this unjust decision. However, they maintained that the assault be systematic and aggressive but still safe for the black underclass that lived in Dixie. After evaluating the strengths and weaknesses of various proposals, these legal and academic advocates for justice concluded that Charles Houston's analysis would be used in the Association's and Inc. Fund's quest to eradicate Jim Crowism in graduate and professional education.
Notes


2 Ibid.

3 Ibid.

4 Ibid. See also Yick Wo v. Hopkins, 118 U.S. 356 (1886).


6 Ibid.


10 Ibid.

11 Ibid.

12 McNeil, Groundwork, p. 141.

13 Ibid.

14 Ibid., p. 142.


17 Raymond Pearson to Donald Murray, 14 December 1934, National Association for the Advancement of Colored People Collection, Library of Congress, Washington, D.C.

18 Ibid.

19 Afro-American, 22 June 1935; see also Murray v. Maryland.

20 Registrar, University of Maryland, to Donald Murray, 5 March 1935, National Association for the Advancement of Colored People Collection, Library of Congress, Washington, D.C.

21 Donald Murray to Board of Regents, University of Maryland, 5 March 1935, National Association for the Advancement of Colored People Collection, Library of Congress, Washington, D.C.

22 McNeil, Groundwork, p. 139.

23 Ibid.

24 Annual Report, National Association for the Advancement of Colored People, 1949, p. 50, National Association for the Advancement of Colored People Collection, Library of Congress, Washington, D.C.

25 Ibid.


28 Interview with Conrad Lymn, attorney, The Ohio State University, Columbus, Ohio, 23 April 1986.

29 Ibid.

30 The Journal of Negro History 9 (1940):256.
"Fight for Equal Education Is Criticized--Speaker Hits NAACP at Graduation--Professor Cites Gains Case in Address to Virginia Grads," Chicago Defender, June 1939.

33 The Journal of Negro History 9 (1940):255.

34 Ibid.


37 Kluger, Simple Justice, p. 169.

38 "Educational Inequalities Must Go," The Journal of Negro Education XLII (October 1935); "How to Fight Better Schools," The Journal of Negro Education XLII (February 1936).

39 See the entire edition of The Journal of Negro History II (January 1933).


41 Ibid.

42 Ibid.


44 Ibid.


46 Ibid.
CHAPTER V
GATHERING THE FLOCK

After the completion of Murray, Charles Houston went on an extensive tour of the nation to recruit assertive, bright, and radical lawyers to join the fight against segregation. Criss-crossing the country, Houston lectured at black colleges and universities, churches, legal and educational conferences, and called upon available advocates to use their skills to aid the African-American community in achieving justice and equality.

Houston consistently told black audiences that the fight for social justice rested with African-American attorneys and not with white advocates. White attorneys, he maintained, typically did not have the interest of the black community in their hearts. Thus, it was highly unlikely that lawyers from outside the black community would labor diligently for African-American rights. However, continued Houston, it was not due to racism that white advocates were reluctant to pursue the equality of blacks. Rather, white attorneys were extremely concerned with their professional and political lives. Therefore, blacks could not expect white judges and elected politicians to commit
political or professional suicide on their behalf. Instead, "We must fight our own battles."¹

Houston was concerned with developing a network of local attorneys to implement civil rights litigation at the state level. If the Association could influence young and assertive southern black attorneys to join a strike force that assaulted legal segregation, then the possibility of overruling the Plessy decision would be greatly improved. According to Judge Edward Dudley of New York City, a former assistant to Thurgood Marshall in the Legal Defense and Educational Fund, "there were few black attorneys in the United States" for Houston to choose from in forming a strike force of barristers.² Nonetheless, the few advocates that were recruited supplied the Association and the LDEF with the talent needed to challenge the laws and traditions of segregation.

The first attorney recruited by Charles Houston was Thurgood Marshall. Marshall, a brilliant student under the tutelage of Houston at Howard University Law School, became a driving force in the NAACP and the LDEF after earning his law degree in 1933. As the NAACP chief legal officer and the LDEF assistant counsel, he participated and argued in the Association's key civil rights cases throughout the nation, the most famous being Brown v. Board of Education of Topeka, Kansas.
Marshall, a fierce civil rights combatant, not only served Houston as researcher and legal analyst, but also as a recruiter. Many of the attorneys who joined the national network, such as Earl B. Dickerson, were influenced directly or indirectly by Marshall.\(^3\)

One of the first attorneys to join in the fight was Earl B. Dickerson of Chicago. Dickerson was the first black to enroll and graduate from the University of Chicago Law School. After earning his Juris Doctorate, he went on to become one of Chicago's most prominent black attorneys. Born in 1891 in Canton, Mississippi, Dickerson came to Chicago at the age of fifteen to study at the Laboratory High School of the University of Chicago. The Laboratory School was considered by many to be the mecca of higher education in the United States.\(^4\) In 1909, at the age of eighteen, he graduated and went on to earn a bachelor's degree from the University of Illinois in Champaign. After graduation, he took a job for one year as a teacher at Tuskegee Institute. He enrolled at the University of Chicago Law School in 1915. He interrupted his schooling for two years to join the U.S. Army during World War I and became the first black to earn the rank of lieutenant. After the war, he resumed his law studies and, in 1940, became the first black to graduate from the University of Chicago Law School. As a lawyer, he argued a number of civil rights cases. Like a number of attorneys who
eventually joined the Legal Committee and the Inc. Fund, Dickerson worked for years fighting racism independently of any organization. Dickerson was committed to the social, political, and economic advancement of the Afro-American nation. He labored tirelessly to make the laws of the nation a truth for all its citizens. In 1940, Dickerson demonstrated his disdain for racism in his famed argumentation of *Hansberry v. Lee.*

Prior to 1940, African-Americans in Chicago lived under restrictive covenants. These laws limited the communities where blacks resided in the windy city. In Hyde Park, one of the more prestigious areas of the metropolis and home of the University of Chicago, blacks were prohibited by law from living or operating a business. When the Hansberry family decided to challenge the law by attempting to purchase a house, they were turned down. Consequently, they asked attorney Dickerson to represent them. He took the case all the way to the U.S. Supreme Court. Dickerson rested his presentation on the technical point that the law legalizing restrictive covenants stipulated that 85 percent of the residences in the neighborhood must agree that people of color are to be excluded from the community. Dickerson found that less than 85 percent of the Hyde Park residents had signed the contract to keep minorities out. Therefore, the contract, argued Dickerson, was not binding since the allotted number of people did not endorse the covenant.
The victory opened up Chicago to all of its three million citizens. Although the case did not argue that restrictive covenants were unlawful, it marked the beginning of the end of restrictive covenants not only in Chicago, but also across the nation.  

The importance of a person like Dickerson to the building of a civil rights network lay with his brilliant legal mind and with his concern for the plight of the poor. His involvement as the president of the Chicago branch of the National Urban League and the president of the National Bar Association kept him abreast of the problems that affected the black masses. Living in a city that contained one of the nation's largest black as well as Ku Klux Klan populations, Dickerson was able to observe first-hand racism in employment, education, and housing. As a resident of the nation's second largest city and the location of the infamous race riot of 1919, it is understandable why Dickerson eagerly joined Houston's army of legal activists.

Houston, as well as Thurgood Marshall, was thankful when Dickerson aligned with the nationwide legal campaign. "Being one of the best lawyers in the midwest," Houston found Dickerson "the sort of fellow who just never could be satisfied with the status quo, who could never be content with the way things were." Thus, Dickerson worked with the network to chart the course, map the strategy, and execute
the maneuvers that eventually unlocked the doors of justice, freedom, and equality for the African-American.  

Indicative of the type of attorneys who answered the call of Houston, Dickerson diligently labored to make the network a reality. Like Houston, Dickerson traveled the circuit lecturing on the evils of Plessy and the need for black attorneys to join in the struggle for liberation. Addressing barristers at such conferences as the National Bar Association, National Lawyers Guild, and Legal Defense and Educational Fund, he critiqued the bigotry of the "separate but equal" clause and the dedication of black attorneys to the elevation of the race. Dickerson's fiery denunciation of Plessy v. Ferguson and his unyielding display of black pride caused his associates to label him the "Plessy man" or the "Plessy orator."  

The attorneys who decided to aid the civil rights movement were motivated both by the concept of black nationalism and by professionalism. These young lawyers were much different from their predecessors, who had been cautious about handling cases that focused on issues of discrimination and racism. Unlike the older and more conservative barristers who often were connected to the white political and economic structure, the newer attorneys avoided ties with racist southern politicians. Thus, they did not have anything to lose if they supported the activities of the NAACP. As Walter White stated, these young lawyers were
bolder and less fearful than the backward country Negro lawyers. They were willing to undergo physical and financial hardships that the older lawyers were not willing to take.9

These new attorneys were not only assertive and radical, but they also knew the law. Members of the developing strike force had to "understand the social order as well as the legal system" if they expected to persuade the courts and the community to support laws that would equalize blacks to whites in the United States.10 They had to be able to confront brilliant but racist attorneys who would utilize every tactic that was available to ignite the emotions of the black advocates in the courtroom. It is important to remember that the Association's attorneys were equally concerned with presenting a positive view of themselves to the black community. Traditionally, black attorneys were perceived as incompetent by many Afro-Americans. In contrast, the attorneys who worked closely with the Association, stated Earl B. Dickerson, "were brilliant men."11

Likewise, William Hastie reminded the attorneys who wished to join the network of "social engineers" that "no allowance would be made for the deficient background of any advocate, for inferior early training or for inadequate grasp of subject matter." In addition, "there would be no substitute for outstanding ability and resourcefulness and
years of vigorous preparation." Holding these ideals, Hastie worked primarily to improve the Howard University Law School for the training of civil rights attorneys. But what about the attorneys who held Juris Doctorates from institutions other than Howard? For such lawyers, Hastie organized sessions to discuss the legal strategies of upcoming civil rights cases. These meetings, usually held at the law school, were known as "dry run" conferences.13

Although "dry run" sessions were held in cities such as New York, Philadelphia, Chicago, St. Louis, and Houston, the majority of them were conducted in the District of Columbia. Due to its being the location of the U.S. Supreme Court and the Howard University Law School, it was logical for the meetings to be held in the nation's capital. Conducted as intellectual seminars as well as legal plays, performers such as Thurgood Marshall led his associates and the law students through sessions on legal methodology and argumentation. The rehearsals, as they were commonly called, were tedious affairs that often lasted throughout the night.14

The rehearsals or sessions were quite memorable to the participants. A graduate of the law school, Eugene Clarke, remembered the atmosphere of the gatherings:

It was an amazing thing. Thurgood had everything except his morning coat and his walking pants on. He would stand up and make his remarks as though he was talking to the justices of the Supreme Court, and then he would go into his argument in support of his position. He
would be interrupted intermittently by faculty, very seldom by a student, because we were too awed to do much, but we would laugh and take sides with whoever was arguing. Everybody was a little afraid to put his hand up for fear he would sound stupid. . . . But, it left its impression upon us. 

Occasionally the rehearsals were outside of the law school. Edward Dudley felt that the best sessions were held in the home of one of the associates. Sometimes the hosts lived in the District of Columbia, while often they did not. The house sessions—where drink and refreshments flowed—were more lively than the rehearsals at the law school. Not only did the sessions serve to sharpen the lawyers' preparation for court battle, but they also bonded together the network of attorneys. Along with specific cases, issues of professionalism, politics, education, employment, and racism were discussed more frequently at the house rehearsals than at the sessions on campus. 

The attorneys who regularly frequented the sessions resided in the east and were closely associated with the national offices of the NAACP and Inc. Fund in New York City. But in areas such as Iowa, Indiana, and Ohio, the network gathered on a non-formal basis. Along with the meetings of their legal associations that were separate from the all-white groups, the attorneys intercoursed at churches, lodges, fraternity gatherings, and at college alumni meetings. The fact that advocates in the strike
force came from similar backgrounds aided their social interaction.

For this study, a questionnaire was sent to one hundred attorneys identified as part of the civil rights network from 1930 to 1960. It was found that the majority of the attorneys (1) were from the south, (2) graduated from black undergraduate colleges, (3) were members of college fraternities, (4) held membership in the African Methodist Episcopal Church, and (5) worked in small, private practices.¹⁷

In a city such as Columbus, Ohio, which had less than fifty black attorneys in the late 1950s and a weak Afro-American bar association (Elihu Root Association), the social networks that were formed in colleges and universities became quite important. Robert Duncan, one of the few black advocates to graduate from The Ohio State University Law School in the 1950s, stated that the "church, lodge, and fraternities became important entities in establishing a dialogue and support group for attorneys in small and medium-sized cities in the midwest."¹⁸ While these attorneys did not attend the conferences in the District of Columbia, they carried on the struggle to eradicate discrimination at the local level. These attorneys, like their peers at the national level, held a firm belief in social justice and race pride, and became quite influential in developing and presenting civil rights litigation.
The majority of the advocates in the outlying districts communicated with each other through non-formal means. However, in cities such as Chicago, Cleveland, St. Louis, and Pittsburgh, Afro-American barristers formed strong local legal associations. These organizations worked closely with the local Urban League and chapter of the National Association for the Advancement of Colored People in challenging segregation at the city and state level. At times the close interaction of the groups gave an appearance of one cohesive body working together on racial litigation. As these organizations grew and their influence in the black community increased, representatives from the national NAACP Legal Committee, the Inc. Fund, the National Bar Association, and the National Lawyers Guild proved increasingly willing to speak at local meetings to help raise money and to assist in various civil rights cases. Individuals such as Earl B. Dickerson, who held membership in a host of civil rights agencies, traveled to a number of cities to lecture on the need for civil rights attorneys and litigation.

The activities of the black civil rights attorneys in the midwest were a bit different from their counterparts in the south. Since civil rights litigation in the middle west focused on enforcement of state and federal civil rights law, the northern attorneys did not suffer the same hostility that their southern associates experienced. The
southern "social engineer" confronted the tradition of segregation and legal discrimination that made the work of the southern lawyer more confusing and dangerous than that of his northern counterpart. Oftentimes the attorney had to confront face-to-face the Ku Klux Klan and the Night Riders, and always the monstrous portrait of these racist groups was in the southern black attorney's consciousness.

Violence and civil rights litigation went hand-in-hand. In Nashville, Tennessee, attorney Z. Alexander Looby --called by Houston "the best trained and most outstanding lawyer in Tennessee"--was brutally attacked by reactionary whites. Looby, a member of the national NAACP Legal Committee, was "bombed from his bed" and his home ruined by the explosion of dynamite. Fortunately, Looby survived the encounter.

At times whites influenced ignorant blacks to challenge the NAACP attorneys. In the early 1930s, Oliver Hill --a brilliant advocate of the civil rights movement--was physically manhandled by a "Negro" hired to disrupt the civil rights case that Hill was arguing in Virginia. As Hill was leaving the courtroom, a burly black man viciously punched him in the face, knocking him to the ground. The man, not realizing that Hill was respected by the local Afro-American community, encountered a crowd of angry blacks bent on making an example of him. Fortunately for the man, the police saved him from a sure lynching.
Members of the network encountered racism and violence frequently. Amazingly, only a few allowed the threat of death to separate them from the movement. Perhaps their passion for social justice and race price freed them from fears of retaliatory violence by white bigots. Edward Dudley amusingly recalled that "we were not only courageous, we were too damn stubborn to allow white racists to keep us from our duty in fighting for the freedom of our people."22 The zeal of the attorneys aided the Association in presenting civil rights litigation. At times, however, the lawyers' excitement and heightened black consciousness created problems for the national office in the actual argumentation of cases.

Many of the southern attorneys who joined the network held a deep hatred not only toward discriminatory laws, but also toward whites. Living in areas where laws restricted black economic, political, and social development, many of the younger and more militant southern black attorneys displayed emotional stress in writing briefs and in presenting cases to the courts. These lawyers, like the people they represented, were excluded from the fruits of the American community. Barred from such professional organizations as the American Bar Association, and prevented from joining the major law firms of the country, they occasionally used the courts as podiums to voice their personal distress. Thurgood Marshall, Earl Dickerson, Leon
Ransom, and a few others constantly warned the attorneys that elevated emotionalism might cause them to lose cases unnecessarily. "It was hell at times," blasted Dudley, "to keep some of those southern lawyers in check."\(^{23}\) Out of the hundred or so attorneys who labored on civil rights litigation between 1930 and 1954, only a few actually argued the cases. Thurgood Marshall, Charles Houston, Leon Ransom, and James M. Nabrit handled most of the actual arguments in the litigation simply because the majority of the lawyers were, vocally, too radical.

The network also included attorneys who aligned themselves to the radical National Lawyers Guild. Between 1930 and 1954, the Guild linked itself to leftist political and economic causes. In fact, the organization was rumored to be a communist front and not particularly cordial to the NAACP.\(^{24}\) Attorney Conrad Lynn, who left the Association to join the Guild, considered the network part of the "establishment."\(^{25}\) In the *Scottsboro* case, where nine innocent black youth were sentenced to life imprisonment for the alleged rape of two white women, Lynn maintained that the Association was too bourgeois to defend the Afro-American lads. It was not until the Communist Party ordered its lawyers to begin litigation for the boys that the NAACP accepted the challenge to defend the plaintiffs.\(^{26}\) The Association again showed its ambivalence in handling radical issues in the famed Kissing case of North Carolina.
This case involved two black boys of seven and nine years of age and an equally innocent white girl of nine years. The malicious judge and legal system sentenced the two black children to life in prison for kissing their white schoolmate. The court argued that the boys had raped the white girl. Lynn felt that the Association's reluctant involvement in the Scottsboro and Kissing cases demonstrated that although it gave the appearance of a radical group, it was actually quite conservative.27

Conrad Lynn was one of only a handful of attorneys in the network who affiliated with the National Lawyers Guild. For the most part, the Guild housed barristers who were interested in making a legal or radical point during trial instead of in winning cases for the plaintiffs. As the records show, Lynn lost more cases for the Guild than he won. Attorneys in the network were also concerned with making a lasting point in the courtroom but, unlike their leftist colleagues, they knew that actually winning litigation would be more beneficial to the liberation of the African-American community. Nonetheless, the Guild aided the attorneys for the Association by writing amicus briefs on various cases.

The strike force that developed under the tutelage of Charles Houston consisted of some of the most brilliant legal minds in the United States. In the judgment of Houston, Nashville's Z. Alexander Looby was "the best
trained and most outstanding lawyer in Tennessee"; George
Johnson of California was "one of the best connected young
lawyers on the Pacific Coast"; Alexander P. Tureaud of New
Orleans was "a leader of the fight against disfranchisement
in Louisiana, president of a strong Catholic organization,
and strong influence with young elements in New Orleans";
Chester Gillespie, Cleveland branch president, was "one of
the most faithful workers in the Association"; Earl Dickers­
on of Chicago, Assistant Attorney General of Illinois,
active branch president of the Urban League and Legal Com­
mittee, was one "of the best lawyers in the Middle West";
Raymond Pace Alexander of Philadelphia, an ex-president of
the National Bar Association, was an "outstanding trial
lawyer of the East"; M. Hugh Thompson of Durham, North
Carolina was "very steady, deeply interested in Association
work, good lawyer"; and Leon Ransom of Washington, D.C. was
described as "one of the best legal minds in the Negro
Race." 28

Although the attorneys who argued cases at the local
and national level were black, a number of white barristers
volunteered as researchers for the Association. Before the
advent of Houston and Marshall, the Association used white
attorneys to present cases. Advocates such as Arthur
Springarn and Clarence Darrow labored diligently in prepar­
ing litigation for the civil rights organization but, for
the most part, white attorneys lacked the will and
dedication to struggle for African-American rights. Therefore, when the Legal Committee of the NAACP and the LDEF employed Houston as the chief counsel, Houston's first task was to dismiss the incompetent white attorneys and employ good black lawyers to serve in their place. As the struggle for eradication of segregatory laws advanced, Houston and Marshall called on the legal expertise of white constitutional scholars at Harvard, Columbia, and University of Chicago, along with the liberal members of the ABA, to supply the network with valuable advice and important information.

Although Houston's "blueprint" called for Afro-American lawyers to overtly conduct the civil rights struggle and for white attorneys to take a secondary role in the movement, the whites' contributions to the legal organization were important. Young Jewish attorneys like Milton Konvitz thought it an honor to labor for the Association. Realizing that the struggle was essentially a black movement, Konvitz accepted his role as a researcher for the network. Edward Dudley, assistant counsel to Thurgood Marshall, claimed that Konvitz was the "hardest working" and "best researcher" of the Inc. Fund. Another white legal ally was Jack Greenberg, who later became the chief counsel of the Inc. Fund. A graduate of Columbia University Law School, the twenty-four-year-old felt no discomfort working in a black world. Primarily a researcher, he
brought to the network a first-rate analytical mind. As employees of the NAACP and the LDEF, Greenberg and Konvitz were the exceptions among whites working for civil rights, most of whom had no formal ties with the Association.

Although the strike force contained outstanding attorneys in its ranks, there were times that outside assistance was needed. On complex issues, Houston and Marshall would write letters to thirty or more sympathetic legal scholars throughout the nation. These intellectuals would reply with analyses and recommendations for the Association to consider. Usually lawyers in the front office would put the recommendations into practice, first at the rehearsals and later at the actual trials. The white attorneys also wrote *amicus* briefs for the Association; this was perhaps their most important role.

The *friends* of the court briefs came not only from universities and legal associations, but also from labor and civic organizations. Among the groups that frequently sent briefs to the courts in support of the Association and the Inc. Fund were the American Jewish Committee, American Veterans Committee, Congress of Industrial Organization, and the American Catholic League.

Legal scholars from white universities sometimes gave the network a view of an issue the Association sometimes overlooked. However, the group that supplied the network with the most fire power to challenge the doctrine
of the Plessy decision were the scholars of the social sciences and the hard sciences. These scholars made their findings available most often in the annual yearbook of The Journal of Negro Education.

The number of barristers and academicians who joined the strike force is questionable. Edward Dudley, a former assistant counselor in the NAACP, stated that there were less than twenty attorneys in the group. However, with the number of cases that dealt with civil rights litigation throughout the nation between 1930 and 1954, it can be assumed that there were at least one hundred attorneys involved in the struggle. Not all of the network attorneys argued cases before the state or federal courts, but they did play a role in the formation of many of the cases. Some of the attorneys functioned only as sentinels. When civil rights were violated, they contacted the national attorneys who then took up the issue. Others served as researchers. They set up test cases that would measure the reaction of the community. Although Marshall and Houston presented many of the cases, their arguments depended heavily on the activities of the local attorneys.

The network of attorneys included a great number in the north as well as in the south. However, since the struggle for civil rights centered first in the "old Confederacy," the discussion will focus on advocates below the Mason-Dixon Line. While network members were scattered
throughout the nation, there are a number of characteristics that tied them together, with education being the premier connector.

During the era of the civil rights litigation movement, the majority of black lawyers, as well as most black professionals, attended southern Afro-American institutions. Even after northern schools such as The Ohio State University, Columbia University, and the University of Chicago admitted Afro-Africans, blacks continued, even in the north, to attend undergraduate schools like Fisk, Lincoln, Hampton, and Howard.\textsuperscript{34} The same was true for graduate and professional schools. For example, students who wished to enter the field of law considered Howard University before all other schools. The prominence of the Howard connection and civil rights was demonstrated overwhelmingly in the nation's capital—Washington.

One of the earliest attorneys to focus on civil rights in the District of Columbia was George E. C. Hayes. Hayes, a Brown University graduate, received his law degree from Howard University in 1918. Hayes later opened a successful firm in D.C. while also teaching law at the university. He also functioned as the attorney for the school and served on the District's board of education. Hayes is most noted, however, for his argument in \textit{Bolling v. Sharpe} (1954). In \textit{Bolling}, which was one of the five cases that were part of \textit{Brown}, Hayes argued that prohibiting black
children from attending non-Jim-Crow schools was simply "pure racism." The purpose of educational discrimination was to keep black Americans in Washington from functioning as equals with whites.35

In 1936, Howard University produced another fine attorney in William Bryant. Perhaps one of the more brilliant of the network, Bryant graduated at the top of his class. Due to discrimination in the District, however, Bryant was unable to earn employment as a lawyer. Desperate, Bryant took a job as an elevator conductor until Charles Houston and Associates recruited him for one of the finest black firms in the District. As a member of the firm and also of the LDEF, Bryant labored many hours doing research in the field of civil rights.36

In 1939, a close associate of Charles Houston, Joseph C. Waddy, graduated from Howard University Law School. Like Bryant, Waddy joined Houston's law firm in the early 1940s. Waddy's greatest asset was his analytical mind. Very often Charles Houston and Walter White would seek Waddy out to discuss upcoming cases and problems that the NAACP had with many of its local chapters. Waddy occasionally traveled for the Inc. Fund to southern areas to assist in the formation of civil rights litigation.37

One of the areas that was important to the general network was Richmond, Virginia. Close to Washington and New York, where the national headquarters were located, the
Richmond attorneys who labored with the Association had easy access to pertinent civil rights information. The two most prominent civil rights barristers in Virginia were Spottswood Robinson III and Oliver Hill.

Spottswood Robinson, a graduate of Virginia Union University, earned his law degree from Howard University in 1939. Even before passing the Virginia Bar in 1943, he taught in the law school at Howard. In 1960, he became dean of the school from which he graduated. In 1948, Robinson joined the LDEF. As a representative of that organization, he aided Oliver Hill in desegregating the school system in Virginia.38

Oliver Hill, eight years older than Robinson, was also a graduate of Howard's law program. He received his law degree in 1933. Hill, like Robinson, is best known for the development and argumentation of *Davis v. County School Board of Prince Edward County* (1952).39 Rallying black support throughout the state, the attorneys argued that Prince Edwards County discriminated against black children. By forcing them to attend inferior schools, Prince Edward County caused Afro-American children to suffer mental and emotional harm. Reasoning that the county would eradicate segregation instead of issuing funds to equalize Jim Crow facilities, Oliver and Robinson argued for full equalization of white and black schools or integration. However, the racists who controlled the county school board were one
step ahead of the civil rights duo. They received $600,000 from the state's Literary Fund and $275,000 from the Battle Fund to build a new, separate school. Less than thirty days had passed after the Davis decision, in which the court stated that separation of the races was a tradition that neither harmed not hurt either race, before the county started construction on the "colored" school.40

Although Oliver and Robinson gained a superficial victory by forcing Virginia to equalize secondary schools in Prince Edwards County, it was not a victory that called for a celebration. The two attorneys worked many years to desegregate the system. However, due to the county's economic wealth and its small black population, Prince Edward was quite difficult to desegregate. It would not be until the 1970s that the county would relinquish its hold on segregation.

The civil rights struggle developed lawyers who were not only knowledgeable of the law, but possessed immense common sense, sensitivity to community issues, and physical strength and stamina. With such pressures, it is extraordinary that in a state like Georgia a visibly strong network would develop. Unlike some of the states in the upper south, Georgia contained racists who openly displayed their affiliation with lawless groups such as the Ku Klux Klan. Such groups did not mind using extralegal means to
frighten and disrupt the growth of organizations like the LDEF.

The majority of the Georgia attorneys who worked with the Association resided in Atlanta. The "Gate City," as Atlanta was nicknamed, was far from being a metropolitan community that opened its door to black lawyers. Before Brown, for instance, blacks were denied membership in both the Atlanta and Georgia Bar Associations. Nonetheless, in the face of adversity, a number of civil rights attorneys emerged to assist the Association in the struggle for desegregation.

As the NAACP had its national "dean," Charles Houston, Atlanta had its regional "dean," Austin Walden. Walden, who took his undergraduate degree at Atlanta University in 1907 and his Juris Doctorate from the University of Michigan in 1911, was the first black to practice law in the state. The importance of Walden rested on his connections with civic and religious organizations. When national attorneys like Marshall arrived in Atlanta, it was important for them to get community assistance and the support of established leadership. Since Walden was well-respected, he influenced the community to accept the idea of outsiders and younger attorneys who worked in civil rights. In 1964, when Mayor Ivan Allen appointed him to the Municipal Court of Atlanta, Walden became the first
black since Reconstruction to hold a judgeship in the south.41

In 1913, Forsyth County, Georgia gave birth to perhaps one of the most radical black lawyers in the history of the state, Samuel B. Wright, Jr. Graduating with honors from Morris Brown College in 1934 and taking a J.D. degree from Howard in 1946, Wright was noted for his stand against discrimination by the Atlanta and Georgia Bar Associations. Wright maintained that since blacks were excluded from white bar associations, it was imperative that Afro-American attorneys, as well as the black community, had an organization that would serve the unique needs of black barristers and the community they represented. With his assistance, the Gate City Bar Association was created in 1940.42 Although Walden and Wright attempted to keep the community conscious of civil rights, it would not be until 1955 that black lawyers seriously challenged the state's laws of apartheid. In that year, civil rights attorney R. E. Thomas, a graduate of Atlanta University, Morehouse College, and University of Michigan Law School, brought Holmes v. City of Atlanta to court. Thomas argued that since the Supreme Court handed out a precedent in Brown to desegregate, the city did not have any right to continue separate public facilities such as the Bar Law Library. The Court eventually agreed with Thomas, causing Atlanta to desegregate.43
During the pre-Brown era, Texas played an important role in civil rights litigation and the Association's activities. Black community involvement and the sophistication of the legal network in that state placed it at the center of the debate over desegregation. Even before the Association started a movement to challenge Plessy, advocates in Texas had begun to fight for the rights of the race in the state courts.

In 1919, R. D. Evans of Waco, Texas presented the first case to the state's supreme court which attempted to end that state's white primary, a tactic that the Democratic Party used to prevent blacks from having political power. Evans took the case to the U.S. Supreme Court, only to be told that the case was mooted since the primary was held before Evans could argue the case. Evans continued to work with the NAACP to terminate the white primary. While the Association handled the case, it did so in a maze of internal friction. Many in the NAACP were reluctant to hire an Afro-American to handle the litigation. Unfortunately, it would not be until the 1930s that the Association would decide that a black attorney was competent enough to conduct the white primary case.44

The Texas civil rights campaign advanced considerably in the 1930s. With the assistance of Charles Houston and Thurgood Marshall, such Texas barristers as Carter
Wesley, W. J. Durham, and J. Alston Atkins challenged once again the white primary as well as educational segregation.

Carter Wesley, a close associate of Houston, entered the civil rights struggle soon after he had earned the Juris Doctorate from Northwestern University Law School in 1922. Upon graduation, Wesley moved to Tulsa, Oklahoma, where he opened a law firm with a young Fisk and Yale Law School graduate, J. Alston Atkins. The law firm was quite profitable and successful until 1925, when the duo represented a mixed black/Native American by the name of Leonard Ingram in a land claims case. Ingram hired Wesley and Alston to administer the 160 oil-rich acres he owned and to defend him from whites who sought to rob Ingram of his property. Upon completion of their contract, Wesley and Atkins billed Ingram $40,000 for their services. Appalled by the bill, blacks in Tulsa branded Wesley and Alston as "cheats and robbers." In fact, another black attorney sued the two in an attempt to recover some of Ingram's money.45

Unable to practice in Tulsa any longer, Wesley and Atkins moved to Houston, Texas in 1927. Here they joined C. F. Richardson, editor of the black newspaper The Informer and two other businessmen, George H. Webster and S. B. Williams, in establishing the Safety Loan and Brokerage Company, Inc. The enterprise was quite profitable until the stock market crash of 1929. Recovering from their losses, Atkins and Wesley, along with Webster, Richardson,
and Williams, established the Webster-Richardson Publishing Company, which eventually absorbed The Informer. Under the leadership of Wesley and Atkins, the paper became a beacon for black rights. In response, the Ku Klux Klan attempted to burn the company's building. In reorganization after the disaster, Wesley took control of the total operation and changed the name of the company to the Informer Publishing Company. By 1940, the company ran a statewide syndicate of Afro-American papers including the Dallas Express and the San Antonio Informer. Later in the 1940s, Wesley created the National Newspaper Publisher's Association. Although Wesley and Atkins are known for their business acumen and their radical thinking, their real legal skill showed during the first two white primary cases which they won on appeal, Nixon v. Condon (1932) and Grovey v. Townsend (1935). In 1924, a Texas statute declared "in no event shall a Negro be eligible to participate in a Democratic Party primary election in the State of Texas." Challenging the ruling, Lawrence D. Nixon, a physician from El Paso, brought suit for damages against the officers of the local Democratic Party. The Supreme Court of the United States decided that denying the ballot to Afro-Americans by statute was a clear violation of the Equal Protection Clause of the Fourteenth Amendment. However, the Texas legislature reinstated the white primary by giving the
state executive committee of the party the power to prescribe
the qualifications for voting. Again Nixon challenged the
party in the Supreme Court. In these cases, the Court ruled
that the white primary was not a private club that could
exclude people by race, but a congregation of citizens whose
primary interest was to advance the lives of all Texas
residents. 50

As for cases dealing with school desegregation,
Wesley and Atkins took a secondary role. Although aiding
the national attorneys in research, they spent more time
influencing the public through The Informer of the need to
desegregate Texas schools.

The black attorneys who labored in Texas during the
New Deal and World War II era were not graduates of any law
school in the state. It would not be until 1950 that an
Afro-American lawyer would earn a degree from a Texas
school. Moreover, this event occurred only in response to
a suit brought by letter carrier Herman Sweatt, who wished
to attend the University of Texas Law School in Austin,
Texas. James M. Nabrit, who later became dean at Howard's
law school; W. J. Durham, an early civil rights attorney
in Houston; and Thurgood Marshall, national advocate for
the NAACP, handled the case.

When Sweatt applied to the University of Texas Law
School, his application was rejected on account of his race.
In an unprecedented move, Sweatt filed suit against the
university in 1946. The case, *Sweatt v. Painter*, was first heard in the district court in Travis County, where Austin is located. At first glance it appeared that the court was willing to "right the wrongs" of inferior facilities by ordering the construction of a separate black law school. The court had planned to build a law school at all-black Prairie View University (formerly known as Prairie View State Normal and Industrial College for Negroes). However, the law school, which would be as inadequate as the rest of Prairie View University, was "nipped in the bud" when Nabrit and Durham decided to appeal the decision. The lawyers maintained that the makeshift arrangements of the state did not constitute an adequate law school for legal study. Specifically, they argued that the two rooms that the state rented to house the school in Houston (which was forty miles from Prairie View), along with the two black law school professors the state hired, the presence of Sweatt as the only student, and an inadequate library, reflected the inferiority of the "thrown together" law school as compared to the University of Texas School of Law.\textsuperscript{51}

The Court of Appeals assumed that Sweatt and his lawyers would be satisfied with the establishment of an all-black law school and ordered the state to dispense $100,000 for a law school in the basement of an office building in downtown Austin. Although the school had three law
professors, a 10,000-book library, and was a few minutes' walk from the state law library, it still did not answer Sweatt's quest for a legal education. The attorneys appealed to the state's Supreme Court. 52

During this stage, Nabrit and Durham illustrated their talents as competent civil rights researchers and attorneys. Attorney General Price Daniel, who represented the state, was a well-schooled trial lawyer. His oratorical skills and his legal perception kept the attorneys off-balance. When Daniel tricked Sweatt into admitting that the trial was financed by the NAACP and that it was merely a test case, Durham objected, noting that the issue of finances was "completely immaterial." It had nothing to do with the issue of segregation. The judge overruled Durham's objection to the attorney general's questioning. While doing so, the court laid its decision against the Association. It would be three years before the U.S. Supreme Court would hear and overturn the lower court's decision. 53 The Sweatt case laid the foundation of the Brown verdict of 1954. Nabrit and Durham, along with Thurgood Marshall, argued that while the Equal Protection Clause of the Fourteenth Amendment was violated, racial segregation was unequal and undemocratic. While the Supreme Court accepted the argument that separate racial public institutions could not be equal, the justices nonetheless refused to question the constitutionality of the Plessy formula.
The Court's decision allowed Texas the time to construct a modern Jim Crow law school before the eventual destruction of *Plessy* in *Brown*.

The argumentation of *Sweatt* aided the increase in the number of black lawyers in Texas. Before the creation of the Jim Crow law school, which became the Thurgood Marshall School of Law on the campus of Texas Southern University, Texas had less than twenty-five black advocates. On a positive note, the new segregated school produced black attorneys who eventually labored with the Association to eradicate discrimination and segregation.\(^5^4\)

The network of barristers that Houston pulled together represented a fighting force for social and political change in the United States. Expressing the view of millions of black Americans who longed for equality, the attorneys, no matter if they were presenting litigation in New York or Florida, showed exceptional intelligence and courage. The lawyers mentioned above represented the many individuals who labored in the civil rights litigation struggle. Working indirectly with the National Bar Association and the National Lawyers Guild, or directly in the NAACP or the Inc. Fund, the "social engineers" forged a cooperative body that labored to make America free and accessible for all of her citizens.
Notes


5 Interview with Earl B. Dickerson, former Chicago National Urban League President, Chicago, Illinois, 8 August 1984; see also Hansberry v. Lee, 311 U.S. 32 (1940).

6 Earl B. Dickerson's argument did not focus a direct attack on segregation and discrimination of restrictive covenants. It lay with the fulfillment of a legal contract between the white residents in Hyde Park. The argument is similar to the Houston blueprint that centered on forcing the states to adhere to Plessy to the letter.


10 Ware, William Hastie, p. 158.

11 Interview, Dickerson, 24 August 1984.

12 Ibid.

13 Ware, William Hastie, p. 158.
14 Interview, Dickerson, 24 August 1984; Interview, Dudley, 17 July 1986.

15 Ware, William Hastie, p. 157.

16 Interview, Dudley, 17 July 1986.

17 Questionnaire sent to one hundred civil rights attorneys who practiced between 1930 and 1960.

18 Interview with Robert Duncan, Columbus, Ohio, 31 November 1986.

19 Hine, Black Victory, p. 129.


21 Interview, Dickerson, 24 August 1984.

22 Interview, Dudley, 17 July 1986.

23 Ibid.

24 Interview with Conrad Lynn, National Lawyer's Guild, Columbus, Ohio, 12 April 1986.

25 Ibid.

26 Ibid.


28 Hine, Black Victory, pp. 190-91.

29 Interview, Dudley, 17 July 1986.

30 Ibid.


Segal, Blacks in the Law, pp. 186-87.

Ibid., p. 187.

Davis v. County School Board of Prince Edward County, 103 F. Supp. 337 (1952).

Kluger, Simple Justice, p. 478.

Segal, Blacks in the Law, p. 122.

Ibid., p. 121.


Hine, Black Victory, p. 176.

Ibid., p. 127.

Ibid., p. 128.

Ibid., p. 129.


Ibid.


54 Ibid., p. 261.
Charles Houston and Thurgood Marshall not only required lawyers of the civil rights movement to work within a specific legal framework for social change, but they also encouraged the intelligentsia, community organizers, and influential laypersons to labor within a certain structure. The network in the north eventually formed a political and social body that fought aggressively against segregation. It contained teachers, ministers, business persons, and college professors, but was led by civil rights lawyers.

Just as racism continued to flourish in the south, segregation continued in the north. In cities such as Chicago, New York, and Cleveland, blacks were systematically excluded from economic, political, and social power. In the 1930s, Afro-Americans who resided in the north faced segregation similar to that experienced by blacks in the south. In every major city in Ohio, a state that boasted of its abolitionist heritage, for example, blacks were treated as second-class citizens. In Columbus, the state's capital, blacks were prevented from purchasing homes outside
of the east end district of the city. In addition, residential segregation prevented them from sending their children to white secondary schools. By 1930, according to Barbee Durham, a civil rights activist during the era, blacks were ignored by the city's white power structure.¹ In Dayton, Ohio, a city that prided itself in being the home of black poet Paul Laurence Dunbar, white policemen brutalized Afro-American citizens all too frequently. In the early 1930s, Jake Powell, a star outfielder with the New York Yankees, stated that he spent the off-season as a part-time police Officer in the Gem City. When asked by a Chicago radio announcer how he stayed in shape during the winter, Powell replied that he "utilized his blackjack as a bat to beat the brains out of Niggers on the west side of Dayton."² In Cleveland, a city that contained a large African-American population, blacks were victims of police terrorism and segregation at public places like Euclid Beach Park. City councilman and civil rights activist Charles Carr spent the majority of his time in the 1940s enacting policies that would destroy segregation in that city. A target by racists because of his civil rights position, his home was destroyed by fire bombs.³ Such attitudes were entrenched in the minds of many whites in the north. However, the most prominent problem that blacks experienced in the north was discrimination in education.
African-Americans realized that segregation in education was the first step toward complete degradation of blacks. For this reason, blacks centered their response to racism in the fight against school segregation. The fight against segregation was at times confusing and contradictory. The bizarre nature of racism in the north kept African-Americans guessing. For example, after the Civil War black children in many northern communities attended school with whites, but by the middle of the progressive era Afro-Americans were being restricted to segregated educational facilities. In Dayton, Ohio, for instance, poet Paul Laurence Dubar graduated from all-white Central High School in 1884. In subsequent years, however, blacks were forced to attend the Jim Crow Roosevelt High School.4

A close look at the evolution of school policy in Columbus, Ohio reveals well the types of problems blacks faced across the country. Between 1870 and 1880, the majority of the Columbus black population lived on the east side along Long Street. Although there were clusters of Afro-Americans in other areas, the Long street section had over 94 percent of the city's black residents. As more African-Americans migrated to Columbus, black community leaders complained of the distance that African-American children had to walk to reach the Jim Crow school. At the same time, the white population was also growing. The city
had to build additional schools if it was to continue the dual educational system.\(^5\)

On the surface it looked as if integration would occur in Columbus because the residents would not pay the tax burden needed to underwrite segregated education. However, the city council voted to build an additional black school, while closing the older, dilapidated Jim Crow school. Nonetheless, it was still unlikely that a new school could be built in time for the upcoming 1882-1883 school year. In June 1882, black parents in the school system again demanded a new institution for their children, but the school board this time refused. The board, however, stated that since blacks only comprised 6 percent of the city's total population, they were welcome to send their children to white schools. For a short tenure the mixing of races in educational facilities occurred without any incident. However, by the turn of the century, whites started to resist integration in the capital city.\(^6\)

In 1907, William Oxley Thompson, President of The Ohio State University, proposed a segregation plan for the Columbus School Board. The Thompson report seemed to be an answer to the problem of integration for the white residents of Columbus. Thompson's report called for the building of separate schools, segregation within integrated institutions, or the reassignment of blacks in predominantly white schools to institutions with a black enrollment.
Although Thompson's ideas were quite popular with white Columbus, the school board feared court action from the black community and defeated the plans. Continuing to look for remedies, the school board finally experimented with gerrymandering school districts.  

In 1907 and 1908, land was acquired in Columbus for the construction of a large, black junior high school in the East Long Street area. At the time the area was adequately served by an integrated school. However, in 1909, boundaries were redrawn so that as many black students as possible would attend the new school. In 1911, when Champion Avenue Junior High School opened, all four black teachers who had taught in the Columbus public schools were reassigned to it, along with the newly hired six African-American teachers and principal. Although there were many blacks who lived outside the gerrymandered boundaries, the red-lining marked a significant change from the patterns of mixed schooling in the 1880s. By the 1940s, the Columbus school system was completely segregated, thus effectively removing blacks from the social, economic, and educational life of the city.

Such forms of racism confronted northern blacks throughout the first half of the twentieth century. Segregation in education was followed by prejudice in housing, employment, and the utilization of public facilities. Although groups formed to fight segregation, such as the
Niagara Movement in 1906, the National Association for the Advancement of Colored People in 1909, and the National Urban League in 1911, the fight against northern bigotry did not see any significant progress until the 1930s.

During the 1930s, southern blacks pursuing graduate and professional education started a steady march toward major white institutions such as the University of Michigan, University of Chicago, Columbia University, and The Ohio State University. Carrying with them a penchant for social justice and a quest for academic knowledge, they entered northern universities determined to challenge southern racism. However, they did not realize that their sojourn would begin a modern civil rights crusade against discrimination. Most blacks who left the south to study in the north thought that discrimination was not pervasive about the Mason-Dixon Line. Their initial march to the north was compelled by the policies of Dixie governments on the education of African-Americans.

From 1930 to 1954, African-Americans wishing to pursue post-secondary education had two choices: (1) they could attend an inferior Jim Crow institute in the south, or (2) they could accept state support to be a student at one of the few integrated universities in the north and midwest. Blacks seeking graduate or professional training were forced into the same choice: either enroll at Howard University or at one of the public or private liberal
institutes above the Mason-Dixon Line. Although black Americans had two choices in theory, the majority of those wishing to advance their education enrolled in institutes such as Cornell, Columbia, Harvard, University of Chicago, and The Ohio State University. Although southern states provided tuition awards for blacks taking this course of action, many Afro-Americans detested the out-of-state tuition plan. In retrospect, however, the tuition plan was a blessing in disguise to the future of blacks and civil rights.⁹

Oftentimes the blacks who earned scholarships from southern states to attend northern schools were the most vocal, radical, and brightest of southern students. Alienated from the practices of the south, black students who traveled north went there to acquire knowledge that would assist them in eliminating segregation below the Mason-Dixon Line. Many of these migrating students eventually became civil rights advocates in various fields of endeavor. For example, Helen Edmonds, the first black to earn a Ph.D. in History from The Ohio State University, was forced by southern law and tradition to travel to Ohio for advanced training. A brilliant student in European and American history, Edmonds understood that it was her pigmentation that prevented her from enrolling in one of the graduate programs in her native North Carolina. Edmonds demonstrated her defiance of racism as a student in Columbus, Ohio, where
she found that blacks were also treated like second-class citizens. The university's segregated facilities, namely student housing, reminded Edmonds that racism was entrenched in every institution in the nation.

African-Americans attending The Ohio State University (OSU) in the 1930s did not have the same opportunity as white students to live in the university's dormitories. Black students had to find living accommodations in the black districts of the city. Helen Edmonds, for example, lived in a boarding home on the far east side of Columbus. Even Jesse Owens, perhaps the university's most famous student, confronted housing discrimination. When the Cleveland native was offered a track scholarship to the university, he refused to accept the grant until OSU promised that he would not be denied a dorm space on account of his race. However, the Owens story must be kept in proper perspective, for the granting of housing to a black student in the 1930s did not create a precedent for the eradication of race prejudice. It merely conformed to the physical ability of a world-class athlete.

While black university students were preparing to conduct the struggle against American apartheid, they were also being acculturated into what Barbara and John Ehrenreich title the professional/managerial class (PMC). The Ehrenreichs argue that the PMC is composed of salaried, educated individuals who do not own the major means of
production, but whose function is the reproduction of capitalist class relations. The black PMC, similar to the white PMC, was concerned with regulating the activities of the underclass for both personal goals and the working of the general economic system. Although the black PMC would not agree that it inadvertently aided the political and economic position of the wealthy, it did so. However, the black PMC sincerely thought that it aided the advancement of the poorer class. As the network started to graduate from schools such as OSU, the members' activities displayed the underlying assumptions of the PMC. While overtly it worked to eradicate segregation, it subconsciously catered to capitalist class alignments and values. For example, many members of the black PMC joined and supported the NAACP. They joined religious organizations and social groups like the African Methodist Episcopal (AME) Church and the Links. While the AMEs locked the underclass out of policy decisions, the Links totally barred membership on issues such as family background and income.

The scant number of black students at OSU in the 1920s and 1930s comprised a visible and active minority on campus. Individuals such as Leon Ramson, who graduated from The Ohio State University College of Law in 1927, held various positions in the civil rights movement in Columbus. Ramson's adult activity grew out of his days at OSU. As a student, he served on the school's student government
council where he constantly reminded his white peers of the discrimination that African-American students experienced.

Black students like Ramson, who attended northern institutions for professional and graduate school training, went on to create a network of young civil rights activists. Throughout the 1930s and late 1940s, a number of civil rights organizations emerged from this new breed of civil rights activism. These organizations represented elite social activists who used aggressive tactics to fight racism. For instance, the Vanguard League that formed in Columbus, Ohio in 1941 was made up of Ohio State University students and graduates who utilized boycotts and legal cases to confront racism in Columbus. The Congress of Racial Equality (CORE), founded in 1942 at the University of Chicago, evolved from a student rights organization to a civil rights activist group that specialized in freedom bus rides through hostile racial areas throughout the nation. These groups, which were basically created and controlled by students, developed a network that gradually ignited the consciousness of the general black community to combat the evil of racism in society.

The development of organizations such as the NAACP and the National Urban League reflected the determination to destroy legal discrimination. These civil rights groups, which were founded in the north by college students in the 1930s and 1940s, focused their programs on issues that
mainly confronted blacks in the north. Their objective was to first eliminate Jim Crow in the north, then later in the south. Unfortunately, however, many of the strategies used to confront northern racism really illustrated class views against uneducated and poor blacks. Seeking an egalitarian society, they urged blacks to act in a manner that would be palatable to whites. Many college groups argued that this would influence whites to join the civil rights groups that sought to eliminate racism and discrimination. This interesting idea caused many southern blacks to believe that white northerners believed in the right of blacks to be considered equal citizens.

Believing that northern whites worked alongside activists such as W. E. B. DuBois and Walter White, national secretary of the NAACP, southern blacks held a mythical view that the land above the Mason-Dixon Line was paradise. Southern blacks actually thought that the problems of the race would not hamper them in areas such as New York City, Chicago, and Cleveland. Thus, by the mid-1930s, the north had become a haven for millions of blacks fleeing the hatred of southern whites. Unfortunately, Afro-Americans who migrated to the urban centers of the north and midwest did not find the paradise that they had expected. On the contrary, they confronted housing, educational, and employment discrimination, along with violence from white Americans and European immigrants. Moreover, established
northern blacks separated themselves from the new arrivals from the south. The tension that northern African-Americans felt toward the new arrivals was based on the belief that southern blacks were unsophisticated, backward, and ignorant peasants. Groups such as the Urban League purchased advertisements in black newspapers such as The Chicago Defender and The Pittsburgh Courier that told black southerners not to speak loudly on the streetcars, not to dress untidily when going downtown, and not to drink in public. Although the northern black community was at times cruel toward the lower classes from the south, its quest for social justice outshadowed its class views.11

African-Americans who enrolled in universities such as OSU created societies that discussed the plight of the race. Holding lectures and seminars, they debated the race question and forged an analysis of a hypocritical country that fought for Jewish rights in Europe but practiced apartheid against citizens of African heritage. By analyzing the plight of Jews in Germany and the solidarity they demonstrated to influence nations to assist them in their fight for survival, Afro-Americans developed a nationalist perspective that was geared to influence the United States to change its segregatory laws. After graduation, a number of these young activists like Helen Edmonds, Barbee Durham, and Leon Ramson who also was a Vanguard League member and later became a prominent professor at Howard's law school
as well as a lawyer for the LDEF and the NAACP, joined forces with the top leaders of the movement after graduation. Many were recruited to attend conferences to learn and discuss the objectives of the civil rights litigation movement.

Between 1930 and 1940 the NAACP, under the leadership of Walter White, Thurgood Marshall, and Charles Houston, conducted mass meetings in St. Louis, Philadelphia, New York City, the District of Columbia, and Chicago. During the ten-year period, over twenty meetings were conducted. The annual conventions of the NAACP attracted almost every major scholar, advocate, and civil rights proponent in the nation.

The conferences of the NAACP were reminiscent of the Niagara Movement and the founding of the NAACP during the first ten years of the twentieth century. The disenfranchisement of blacks, lynchings, and riots that concerned the founders of the NAACP in 1909 were still at the forefront of NAACP conventions in the 1930s. The meetings provided a forum where individuals could meet to discuss the issues that confronted the race. As Earl B. Dickerson, the famed civil rights lawyer from Chicago, stated, "The annual meetings of the Association brought individuals together who contained an undying desire to see Negroes free from political and social persecution."
During the 1930s and 1940s, several other organizations were also active in the civil rights struggle. Perhaps the most progressive group that labored outside of the NAACP fold was A. Philip Randolph's March on Washington Movement. During 1942 Randolph, labor organizer and socialist advocate, organized an army of 100,000 black people to march on Washington to protest employment discrimination at defense plants. Randolph had hoped to embarrass the Roosevelt Administration by demonstrating its hypocrisy in allowing discrimination in the United States while sending troops, white and black, to Europe to fight against Hitler's quest to exterminate the Jews. With the assistance of liberal white politicians and Eleanor Roosevelt, Randolph successfully pressured President Roosevelt to issue Presidential Order 8802 integrating the defense plants. Most civil rights advocates praised the success of socialist Randolph, but there were a few extremists who condemned the presidential order as being a moderate reform for a small segment of the black population. The Communist Party activist and civil rights lawyer, Conrad Lynn, an original member of the March on Washington Movement, became one of the dissenters of Randolph and Roosevelt's proclamation. Lynn argued that the March on Washington Movement was created not only to address the policies of discrimination in industrial factories, but also to oppose the United States' involvement in the European war, its policies of
segregation, and the government's refusal to pass an anti-lynching law. Claiming that the movement had been destroyed, Lynn took measures to resurrect the initiative.¹⁵

Meeting with Bayard Rustin and Benjamin McLaurin in New York City, Lynn decided that the march should continue as an unconditional event. Although the new march would be similar to the original movement, it had a slightly different mold to it. Instead of the marchers parading down a brief section of Pennsylvania Avenue, they would instead hike from Harlem, New York to the District of Columbia, a sojourn of over two hundred miles. In September 1942, eleven individuals met with Lynn at a Harlem YMCA to begin their walk for justice. To symbolize the American traditions of justice and struggle, the marchers trekked along the Lincoln Highway to the nation's capital.¹⁶

The march, perhaps the first intrastate freedom walk in the history of the civil rights movement, encountered violence comparable to the violence displayed toward the Martin Luther King marchers of the 1950s and 1960s. However, unlike King's movement, blacks reacted aggressively toward the threat of white violence. In Wilmington, Delaware, the remaining five freedom walkers (six had dropped out) confronted white hoodlums and bigots. While the freedom activists tracked through the city, a gathering of whites hooted and hissed at the activists. However, when it appeared that the whites were ready to attack the small
band, a husky black laborer placed his body between the freedom marchers and the whites. The crowd, confronted by a strong body holding a long, shining pick, disassembled rather than face the onslaught of one brave black man. Remembering the event, Lynn stated that the worker's courage demonstrated the strength and belief of African-Americans to confront laws and terrorists who sought to destroy the self-determination of the African-American community. In addition, Lynn maintained that the actions of the worker gave him the "thrill of his life" and the courage to carry on the struggle for justice. Although Lynn's group was not directly tied to the network, it illustrated that some attorneys thought that the network moved too slowly in confronting issues of segregation and integration. Holding such views, individuals like Lynn, who was a part of the civil rights litigation movement, developed extremist views to assist in the destruction of inequality in the United States.

While nonlegal activists organized to fight discrimination, northern attorneys developed civil rights litigation. The advocates who labored with the Association outside the south focused on a different type of segregatory policy from that of their associates below the Mason-Dixon Line. Instead of confronting a blatant form of racism, they had to assault a covert form of segregation. The forms of discrimination in the north illustrate how northern whites
could repudiate the activities of southern governments while continuing the practice of Jim Crow and racism. However, unlike the lawyers in the south and the litigation they conducted, the attorneys of the north who handled local civil rights complaints did not gain popularity. Nonetheless, they labored with the same zeal as the NAACP attorneys in the south.

One of the most progressive and brilliant of northern attorneys was Nate Jones of Dayton, Ohio. Jones, a native of Youngstown, Ohio, grew up in a period when blacks were fighting for integration in the south. However, he lived in a northern community that was completely segregated. Jones, born in 1926, recalled that during his teenage years blacks were forbidden by city law to attend white downtown movie theaters, integrate swimming pools, the YMCA, and many Christian churches. Segregation in Youngstown caused Jones to develop an aggressive attitude toward racism. At the age of twelve, Jones joined the local NAACP youth council and participated in pickets against segregated facilities in his hometown.

After he graduated from high school in 1943, Jones entered the Army Air Corps. Stationed in Dayton, Ohio at Wright-Patterson Air Force Base, he experienced a greater degree of segregation there than he ever encountered in Youngstown. Jones maintained that "compared to Youngstown, Dayton had a most pronounced color line." Jones lived
in a Jim Crow barracks, and all of the restaurants, theaters, and parks had Jim Crow ordinances. Thinking that he would fare better in another base, Jones transferred to Shepherd Field in Wichita Falls, Texas. Unfortunately, he found that racism also existed there. Fed up with such bigotry, Jones made his first contact with the national NAACP headquarters. In letters to Thurgood Marshall, Jones complained of the treatment of blacks in the armed services, including the numerous unjust courts-martial of black troops.  

When World War II ended, Jones enrolled in the law program at Youngstown College. While there, he ran the Buckeye Review, a newsletter that Maynard Dickerson, another black attorney in Youngstown, developed. As a student Jones was quite vocal in his denunciation of the segregatory policies of the college. During his freshman year he complained of the Jim Crow treatment that blacks received in the school's cafeteria. Later during the year, he reprimanded the college for issuing a separate activity program book to black students. This book omitted school activities that were announced to white students. Jones confronted the president of the college as well as the business office over the school's racist policies. However, the only response that he received was a statement by the president that discrimination was a "college policy." Jones found that the administration was geared to making Youngstown
College a northern "Old Miss." He learned that blacks taking physical education were denied the use of a nearby white YMCA. They were bused across town to complete their physical education requirement at a black YMCA. Jones challenged the policy successfully.  

Like a number of small towns in the midwest, Youngstown denied blacks access to the community's recreational facilities. A case that illustrated this point explicitly centered on the issue of public swimming pools. Already known as a "troublemaker," Jones led a group of blacks to one of the pools in the summer of 1948 in an attempt to desegregate the facility. White bigots violently attacked the peaceful demonstrators, while Youngstown's police force stood by watching the melee. Jones swore out an unsuccessful complaint against the police department through the state attorney general's office.

Within a couple of years after graduating from law school, Jones joined the national office of the NAACP as an assistant counsel. When the Youngstown press asked him why he gave up a successful private practice to join a civil rights organization that some argued had archaic views, he answered:

The NAACP is uniquely equipped to make the American system work for all its people. I intend to make the system of justice in this country redress the legitimate and long-standing grievances of its black citizens.

Across the state from Youngstown lived an equally bright
and assertive attorney named Leon Ramson. Ramson was a native of Columbus and in 1927 became the first black to graduate at the top of an Ohio State University Law School class. After graduation, he joined Charles Houston as a professor at Howard's law school, and later became dean of the law program. He also followed Houston into the LDEF. As a member of the Association's LDEF, he served primarily as a researcher. However, on various occasions he demonstrated his brilliance as a trial lawyer. He assisted Houston in devising the argument for the Crawford case. However, it was Chambers v. Florida that allowed Ramson to demonstrate his expertise before the U.S. Supreme Court.23

The Chambers proceedings tested the method that Florida police utilized to extract confessions from blacks who had been arrested. Ramson argued that forcing African-Americans to recall events during a period when the prisoner was fatigued and mentally distressed was no different than pointing a gun at the prisoner and telling him to confess or be shot. The Supreme Court agreed that the prisoners who were forced into such confessions were the disenfranchised underclass. The Court stated that it was wrong for the state police to hold four accused black men for murder for five days without giving them the right to consult an attorney.

One of the most gifted consultants to Thurgood Marshall in the LDEF was another midwesterner, William Ming
of Chicago. In 1933, Ming graduated from the University of Chicago. After graduation, he practiced with Earl B. Dickerson and later took a position as an instructor at Howard University College of Law. In 1947, Ming became the first full-time black law professor at the University of Chicago. An excellent professor, Ming showed his brilliance and legal sophistication in writing briefs and in analyzing constitutional issues for the Association. His major effort was in *Brown v. Board of Education* (1954). During *Brown*, Ming counseled Thurgood Marshall on the broad interpretation of the Civil Rights Act of 1866 and the Fourteenth Amendment. He maintained that it would be a mistake for Marshall to base the *Brown* argument on the framers' intent of the amendment. He suggested that, instead, the argument should be based on the overall spirit of humanitarianism, social idealism, and racial egalitarianism that shaped the abolitionist movement and the objectives of the radical Republicans who constructed the amendment. While Ming greatly assisted the network, there were others who also joined the crusade.

In California, the Association attracted an astute attorney to handle civil rights litigation. Loren Miller became known as California's most prominent black lawyer due to his efforts in ending housing discrimination and his twenty-year service in civil rights litigation. Miller was well-versed in constitutional law. Because of this skill,
the Association utilized his expertise as a researcher. On delicate issues, Marshall would often call on him to study and submit a paper. A testament of his skill was the publishing of his monograph *The Petitioners: The Story of the Supreme Court of the United States and the Negro* (1966).

The attorneys in the north displayed the same type of diligence and determination that southern lawyers had in fighting against discrimination. In Columbus, Ohio, for example, there was D. J. Murray, a blind attorney who graduated from The Ohio State University Law School in 1922. He was an outstanding domestic and civil rights attorney in the Columbus and Wilberforce areas.24 In Detroit, the Association enlisted the services of Willis M. Graves, a Howard Law School graduate of 1922. Graves, along with Francis Dent, an Amherst College and Howard Law School graduate, argued *Site v. McGhee*. The case, which was argued with *Shelly v. Kramer*, focused on the legality of restrictive covenants.25

Not only did the lawyers in surrounding areas join the movement, but also nonlegal scholars from educational institutions throughout the nation. These individuals became quite important to the general program of the Association. While provincial groups found it important to attend the functions of the Association, increasingly scholars interested in the plight of blacks participated also in the annual sessions. Traveling from almost every black
university and major institution in the United States, the Afro-American intelligentsia presented papers at the meet­
ings on the sociology, history, and politics of the American apartheid system. As illustrated in The Journal of Negro Education, scholars such as John Hope Franklin, Kenneth Clark, and Alfred Kelly were hired by the Association to write papers on issues of the history and impact of segrega­
tion. Oftentimes they were brought to Washington or New York City to teach and debate the attorneys on these issues. As Kelly noted, they were recruited to prepare the lawyers for the main event. These lively debates occurred between the 1930s and 1960s on issues of school desegregation and racism. These scholars were not only significant in rallying national support for civil rights, but also in the development of local activism. The scholars were more than polemicists of the movement. They actually had become visible and aggressive leaders of local branches of civil rights organizations and held offices such as executive secretary, president, and treasurer.

The scholars who joined the struggle not only assisted in the creation of strong and viable local associ­
atations, but they also became instrumental in providing valuable information to the trial lawyers. Charles Thomp­
son, editor of The Journal of Negro Education, and Alfred Kelly, professor of history at Wayne State University in Detroit and co-author of The American Constitution: Its
Origin and Development, expressed the pros and cons of the attorneys' strategy in the litigation movement of segregation. Kelly researched the historical conflicts of segregation and their relationship to constitutional development. For instance, they advised attorneys that the framers of the constitution did not intend for blacks to become a viable part of the political and social network of the general American community. The historians suggested to the advocates that they include their findings in the argumentation of certain desegregation cases. This insightful analysis assisted the attorneys in devising arguments that were not only legally solid, but also from a historical perspective. This trend continued until the conclusion of the 1954 Brown v. Board of Education of Topeka, Kansas.

Perhaps the greatest example of the role of academia occurred in 1942 with Kenneth Clark's experiments with black and white dolls. Clark instructed a group of elementary-age black children to play with the prettiest dolls in the room. The examination playroom was lined with an equal number of white and black dolls. After a prolonged period of observation, he noticed that the children sought the amusement of the white dolls with greater frequency than the black dolls. During a question-and-answer session, Clark asked the children: (1) which of the dolls represented good and bad? (2) which of the dolls resembled themselves? and (3) which of the dolls was generally a better
toy and why? Overwhelmingly, the students listed the white dolls as being "prettier, better, and nicer." The black children saw the black dolls as being inferior and looking like themselves in complexion. Clark's experiment influenced the Warren Court to rule that segregation created a badge of inferiority among African-Americans. Clark's doll test illustrated to lawyers, as well as to academicians, that segregation created a badge of inferiority. Individuals such as W. E. B. DuBois, who once argued for separation, were silenced by the overwhelming proof that an equal/separate system was a myth in twentieth-century America. Blacks, having intellectual proof of what they had always known—that segregation was not equal—worked diligently with the network in a host of various organizations to change the laws and traditions of segregation.

The legal scholars who attended the annual NAACP meetings to discuss the status of the race were progressive individuals who oftentimes represented significant grassroots organizations. Their participation demonstrated that various sectors besides attorneys were interested in the NAACP's and LDEF's struggle against segregation. The show of solidarity of local groups to the network represented a major pillar in keeping the fight for justice alive and strong. As Mark V. Tushner noted in his monograph on the NAACP's legal strategy, community and local association
support was completely necessary in the successful elimination of the Plessy ideology.  

The community and local support, which Mark V. Tushner described in The NAACP's Legal Strategy against Segregated Education, 1925-1950, was all-important to the struggle to exert pressure on the judicial and legislative systems to change their views on segregation. As a case in point, when The Vanguard League of Columbus, Ohio sought to terminate the segregatory laws of that city they utilized the threat of nonviolent direct action. This type of activism forced reactionary power brokers in city and state government to critique the city's policies on discrimination. The Vanguards assured the city government that if drastic measures were not taken in a reasonable amount of time, blacks would disrupt the economic stability of the city through a boycott. In addition, the Vanguards, although committed to nonviolence, did not guarantee that certain members in the African-American community would not utilize violence in the quest for justice. Considering such ideas, judges, politicians, and businessmen gave the attorneys of the civil rights movement a greater audience in voicing the demands and needs of the African-American community. In essence, the support of the local branches and the communities gave the Houston school of lawyers the legal victories. Thus, the significance of organizations such as the Vanguards is that they represented a viable
segment of the black community that ultimately assisted in the development of a strong and viable national association for civil rights litigation.
Notes

1 Interview with Barbee Durham, Columbus, Ohio, August 1987.
2 Interview with Luther White, Dayton, Ohio, 19 September 1987.
3 Interview with Catheleen Carr, Cleveland, Ohio, 5 August 1987.
6 Ibid., pp. 197, 266.
7 Ibid., p. 232.
8 Interview with Helen Edmonds, Columbus, Ohio, 17 July 1985.
10 Helen Edmonds became the first woman to second the nomination of a presidential candidate of a major party--Republican. Interestingly, the candidate who received her endorsement was the very conservative Dwight Eisenhower.
13 Interview with Conrad Lynn, Columbus, Ohio, March 1986.
14 Ibid.
15 Ibid.
16. Ibid.
17. Dimond, Beyond Busing, p. 23.
18. Ibid., p. 22.
19. Ibid.
20. Ibid.
21. Ibid., p. 25.
22. Segal, Blacks in the Law, p. 145.
27. Ibid., pp. 318-19.
CHAPTER VII
CONCLUSION: INTEGRATION AND SOCIAL ACCEPTANCE

For almost thirty years the National Association for the Advancement of Colored People and the Legal Defense and Educational Fund worked cooperatively to dislodge the legal barriers of segregation. Under the leadership of Walter White, Charles Houston, and Thurgood Marshall, the *Plessy v. Ferguson* (1896) decision that restricted the activities of black Americans as full citizens was supplanted in the landmark case of *Brown v. Board of Education of Topeka, Kansas* (1954, 1955).¹

The *Brown* victory cumulated a long struggle to end discrimination and segregation. If it were not for the upgrading of Howard's law school and the entrance of young and aggressive attorneys into the civil rights arena, black legal organizations like the National Bar Association, and local ones such as the Harlan Law Club of Cleveland, Ohio, civil rights advocates would not have had a network that allowed them to focus their activities. Not only did attorneys benefit from Howard's efforts to stimulate a civil rights movement, but so did scholars from a host of...
disciplines. Using The Journal of Negro Education, academicians wrote articles that debated desegregating public schools or making Jim Crow schools equal in standards with white public educational institutions. Thus, the Journal served as a platform for academicians from law, history, and political science to discuss strategies and research of the civil rights litigation movement. In addition, the movement gave birth to the consciousness of the underclass to organize to destroy Jim Crow. The masses assisted the lawyers and the NAACP and the LDEF with money and physical bodies. However, while these elements served to strengthen the civil rights movement, the most important ingredient was the birth and network of young, radical barristers.

The southern blacks who earned their professional degrees from Howard University School of Law and became members of the black professional-managerial class were competent legal strategists and trial attorneys. Although they did not win all of the cases they brought before the Court, southern white attorneys and judges came to respect the way civil rights attorneys argued cases. Because of this respect, the attorneys became prominent spokespersons for the African-American community. Unlike black attorneys prior to the 1930s, civil rights advocates for the NAACP and LDEF proved to the black and the white communities that they were diligent and competent professionals. Unfortunately, during the course of the movement, the attorneys
who entered the legal arena as advocates of the black underclass gradually became victims of class affiliation. Changing concepts among the civil rights advocates caused the barristers to become unconscious exploiters of the black underclass. They soon became members of a small black class that was interested in legal reforms from which they would benefit. They came to view the struggle against Jim Crow as a concept that "only" restricted the civil rights of the black elite, and not of the underclass.²

Even though the attorneys took on a class perspective in the quest for civil rights, the fight still had a far-reaching effect among the underclass. As Earl B. Dickerson stated, "The majority of us [Afro-American attorneys] were determined to destroy the evil of segregation while leading the Negro race to a better standard of livelihood."³ Not only were many lawyers dedicated to being vanguards of the race, they also were ready to be mentors if needed. Edward Dudley, assistant counsel to Thurgood Marshall, remembered that risk of injury did not affect their fight for equality. At a time when blacks were beaten and lynched regularly in the deep south, Dudley and many of his associated attorneys traveled through the south developing and arguing civil rights litigation.⁴ In the midwest, the activities of the litigation movement also focused on the issue of civil rights; however, unlike the
south, the midwest concealed racial segregation in a de facto concept.

In the 1930s, Cleveland, Ohio, like other midwestern metropolitan areas, suffered from an insidious form of racism that restricted the free movement of African-Americans. Instead of attacking existing laws, the attorneys critiqued various methods that whites utilized to extend segregation in the north and midwest. In Chicago, Earl B. Dickerson, for instance, did not argue that restrictive covenants that prevented blacks from purchasing homes in the Hyde Park district were illegal. Rather, he argued that the contract was invalid since less than the required number of individuals needed to sign the document actually did so.⁵

While the lawyers argued and eventually succeeded in eliminating Jim Crow schools in the United States, racism nonetheless still confronts and haunts African-Americans in the 1980s. In 1877, a debate over separate and integrated schools developed in the black community in Dayton, Ohio. Alfred Jackson, a barber and community leader in black Dayton argued vehemently that integration was not needed. He was "sure [black] children cannot learn any more at the white schools. Our [black] teachers are as good . . . as any [white teacher] in the white schools as far as the ability of imparting knowledge is considered."⁶ In 1987, in Chicago, Louis Farrakhan remarked to a cheering
audience of ten thousand that "educators realize, now, that just because black children sit with white children in the classroom, and just because we allow white teachers to instruct our babies in public schools, it does not mean we are better educated today." Continuing, Farrahkan maintained "that there are more black high school graduates today, in 1987, who cannot read than ever before in our history." Not only are polemicists presenting negative views of the aftermath of the Brown decision, but so are black educators. Joan Davis Ratterary of the Institute for Independent Education in Washington, D.C. stated that integrated schools, especially the ones in urban America, are failing to educate blacks to be productive and successful citizens. Blacks, she maintained, are once again developing private schools. These institutes are designed to elevate black youngsters as self-help or separate schools did in the past.

Black parents throughout the United States are disillusioned with the poor quality of the public school system. When blacks were eventually allowed to desegregate the schools, most expected their children to receive a quality education, but according to many concerned parents this did not take place. While some African-American families are supporting privately owned black schools, others have opted to send their children to traditional private schools like the Catholic education system. While
giving up on public integrated schools, they are willing to try a diverse classroom in a different setting. However, the major issue is not just receiving a quality education, but also social standing and class elevation. During the civil rights litigation era, many members of the black professional/managerial class aspired for integration for social and professional advancement. They believed that if their children could attend school with children of white professionals, they would benefit professionally from such contact.

Unlike the black self-help institutes which are designed to educate children of the black underclass, private schools like the Catholic institutes attract black students from the RPMC. Most of the black families who contribute over 15 percent of the total enrollment of private schools in the United States make an average salary of $30,000 yearly (1987). Their investment in elite secondary schools is another effort to assure the success and social advancement of their children and families.

There are still others in the black community who refuse to send their children to white schools because of principle. Reflecting on years of segregation, some blacks, mainly in the north, scorn attempts by white school districts to recruit African-American students in the 1980s. Blacks who hold this view argue that white districts only want them in order to qualify for federal financial support.
Thereby, their concern is not for African-Americans, but for selfish concerns of white school board officers. In Jamaica Square, New York, blacks rebuffed the activities of the Sewanhaha School District to persuade parents to enroll their children in the white school system. Denise Walker, a black parent, argued that she would "do anything not to send [her] youngster to Floral Park [a school in the district]," opting rather to send the child to a private school.\(^{11}\)

Parents like Denise Walker remembered the anger and hurt they felt as youths, having to walk past their neighborhood school, Floral Park High, to reach Sewanhaha High where blacks attended. Walker also reflected on the way whites would oftentimes chase them through the Floral Park community while going to and from school. Experiencing the brunt of racism and discrimination in an allegedly liberal, northern area, many blacks living in places like Jamaica Square refuse to voluntarily desegregate white schools. As Mary McCrae, civil league president, stated, "They don't want us. You don't tell me but one time you don't want me."\(^{12}\)

Following the victories of Brown I and II, most blacks in the United States thought that segregation had finally been destroyed. Although some realized that certain problems would interrupt the flow of integration, none would
have predicted the reaction of blacks to the continual problems of racism and classism in our nation's schools in the 1980s.
Notes


7 Ibid.; Louis Farrakhan, "Final Call Lecture Series" (Chicago: Final Call Incorporated, 1987).


9 Ibid.

10 Ibid.


12 Ibid.

13 Ibid.
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