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Assistant Regional Solicitor  
U.S. Department of the Interior  
Atlanta, Georgia



**Charles S. Scott**  
Scott, Scott, Scott & Scott  
Topeka, Kansas



**Hon. Harold R. Boulware**  
Judge, Family Court of the  
Fifth Judicial Circuit  
Columbia, South Carolina



**Oliver W. Hill**  
Hill, Tucker & Marsh  
Richmond, Virginia



**Louis L. Redding**  
Private Practice  
Wilmington, Delaware



**Professor Charles W. Quick**  
University of Illinois  
College of Law  
Champaign, Illinois



**Hon. Constance Baker Motley**  
Judge, U.S. District Court for the  
Southern District of New York  
New York, N.Y.

## Black Bar honors civil rights attorneys

The National Bar Association honored the NAACP and ten of the attorneys who took part in the *Brown v Board of Education* case twenty-five years ago at its national convention in Los Angeles last week. Unable to attend was U.S. Thurgood Marshall who was chief counsel for the NAACP for the *Brown* cases.

The convention -- the first time the attorneys had been together for many years -- provided an opportunity to remember the past, analyze the impact of *Brown* and assess the future of school desegregation.

### Kansas

The *Brown* decision involved five cases, but received its name from the *Brown* case because it reached the U.S. Supreme Court first. John and Charles Scott of Scott, Scott, Scott, and Scott, one of the few Black family law firms, represented 23 children and parents in Topeka, Kansas.

Kansas had a unique law that did not require segregation but allowed larger districts to segregate. The original plan for the suit was to prove that the schools provided for Blacks were inferior to those for whites, but Jack Greenberg and Robert Carter of the NAACP National Office, which sponsored the case, told them to challenge the separate but equal law and attempt to show that separate schools are inherently unequal.

In 1951, the federal court upheld the constitutionality of segregation but ruled that "segregation of white and colored children in the public schools has detrimental effect on colored children." The NAACP asked the U.S. Supreme Court to review the case and it was argued before the high court by Robert Carter.

Prior to 1950, all school cases were efforts to force compliance with the *Plessy v Ferguson* (separate but equal) ruling. At its 1950 National Convention the NAACP determined to push a case to the U.S. Supreme Court to pursue that end. However, Thurgood Marshall and Carter decided the effort should be an all out attack on segregation -- to determine that wherever segregation is found it is unequal. They believed that *Plessy* could be reversed and segregation laws found unconstitutional.

### Delaware

Louis L. Redding filed two cases in the state court of Delaware. A Black parent came to him to ask his help to arrange for her child to ride the white school bus to her school. She attended a Black school 1 1/4 miles away and the bus passed her home and the school. When the superintendent and the state superintendent refused to allow her to ride, Redding decided "the best way to get the kid on the bus was to get the kid in the school where the bus was going."

The second case dealt with Black students in Claymont who had no school so had to go to school in Wilmington. He argued that this was a violation of the 14th Amendment.

Judge Colling L. Seitz said he could not override the Supreme Court separate but equal decision, but ordered that the Black students be admitted to white schools because their own schools were inferior. This was the first order to admit Black students to a white school that was put into effect. The State Board of Education appealed to the State Supreme Court and lost and Black children entered the previously all-white schools without incident. The State appealed to the U.S. Supreme Court.

### Virginia

In 1950, Barbara Johns, a senior at Prince Edward School in Virginia led her class to boycott for improved conditions in their school -- a tarpaper shack. The class asked Oliver W. Hill to represent them in a suit against the school district. "I went to

talk with them and found they were so sincere and so well organized that I couldn't turn them down."

This case, for the first time, included expert witnesses in the fields of psychology, psychiatry, sociology, anthropology and education to testify as to the harmful effects of segregation.

Blacks lived segregated lives, had no rights and were in constant fear, but "Negroes always resented segregation and did what they could to elevate their situation."

The court determined that the Black schools were vastly inferior, but upheld the constitutionality of segregation and ordered that white and Black schools be equalized. In the appeal lawyers argued that equal educational opportunities involved more than equal physical facilities and curricula.

### South Carolina

Harold R. Boulware was attorney for the first of the *Brown* cases tried. The law of South Carolina said "no child of either race shall ever be permitted to attend a school provided for children of the other race." Black parents of Clarendon County, after making several appeals to the school board, filed suit in 1950 asking for equal facilities. The complaint was later changed to ask for abolishment of segregation, but the court ordered the state to provide equal facilities. An appeal was filed with the U.S. Supreme Court asking it to hand down a ruling as to whether racial separation in elementary and high schools is a constitutionally possible pattern.

### Washington, D.C.

Charles Houston, special counsel to the NAACP and former Dean of the Howard Law School, filed *Bolling v Sharpe* in Washington, D.C. asking enforcement of *Plessy*. When he became ill, Dr. James M. Nabrit was called to take over the case and he amended it to challenge segregation. The case alleged that the refusal of the Washington, D.C. school board to allow Black children to attend a white school on the basis of race violated the 5th Amendment. The case was dismissed by the District Court (which also appointed the school board) and while it was pending appeal the U.S. Supreme Court indicated that it would hear the case with the other four.

### Dr. Herbert Reid, Sr.

"What we were trying to do was to attack a very, very vicious system of segregated education. Busing is an effective tool to bring about the implementation of integration. It is important to remember that busing was not discovered for integration. We got on the bus a long time ago."

### Charles Scott

"The courts have consistently upheld desegregation and busing in most cases. When it comes to enforcement by government agencies, that is a problem."

### Oliver W. Hill:

"This argument that it is an insult to say Negro children have to be closely identified with white children to receive an education is bunk. We know you don't have to go to school with white children to get an education. But, the only way poor whites, Chicanos, Negroes and any other minority will ever have the same facilities as they provide for the more affluent children is to be in school with them. They are going to provide for their children and the only way you are going to get equal facilities on a consistent basis is to be there so when they provide an education for their children you are close enough to get it to. Otherwise you are going to get an inferior education for the poorer elements of society."

"A sign in a busing parade in



**Dr. James M. Nabrit, Jr.**  
President Emeritus  
Howard University  
Washington, D.C.

Richmond said, "It's not the bus, it's the niggers". Still the primary objection is inherent racism in this country that manifests itself in anti-busing. IF they would decide they are going to provide a good education for children and put their minds and hearts to it, we wouldn't have the public objection to busing."

### John Scott:

"If we could have, and we will, integrated schools and raised children in a climate where all people are equal, then in time we would do away with segregation in this country and in the world."

"It is a continuing problem. At every turn of the road there may be a block and we have to put that block aside. That is what we intend to do, not only legally, but with every asset and with every ability that we have."

### Dr. James M. Nabrit, Jr.

"To understand the current controversy over busing, we have to understand how this developed. We had a situation that consisted of segregation in every aspect of life. That segregation was legal-- based on *Plessy v Ferguson* -- which said that as long as whatever was done was done separately but equally, it was constitutional. Under this law our whole lives were separate. It didn't make any difference how many facilities we got. If they were unequal, we went into court; we proved that they were unequal. They made them equal and as soon as that was over they made them unequal again. It was a continuous process over which we had no control."

"The only way we got control of it was to take another theory, and that was that segregation per se was unconstitutional. No matter whether the facilities were equal, and no matter if facilities for Blacks were better. If it was segregation of people because of race, then it was unconstitutional."

"That was the premis upon which we argued the *Brown* cases, because in those cases they had separate but equal. They really preferred to argue the separate but equal doctrine."

"Now these things have come up -- *Bakke* and *Weber* -- but none of the cases say that the doctrine that segregation per se is unconstitutional is wrong. What they say is that the remedies are unconstitutional because now you're discriminating against whites and you've already said discrimination is unconstitutional. They didn't understand that when you find a wrong has been done you also have a right to rectify and that affirmative action programs are rectification."

"I am very much upset by the way this has developed, but so far we haven't had a single case that says segregation is constitutional. When the *Cleveland* case was won in the Supreme Court, Mottle rushed to Congress to try to get a Constitutional Amendment to stop busing. This shows you that there are people who will use the Constitution for everything that suits them, but the Constitution becomes a malleable object when there is something they don't want."

Regarding the resistance of school districts to the *Brown* decision: "There are some damn racist people in this country that don't give a damn about the Constitution."



**Jack Greenberg**  
Director - Counsel  
NAACP Legal Defense Fund  
New York, NY

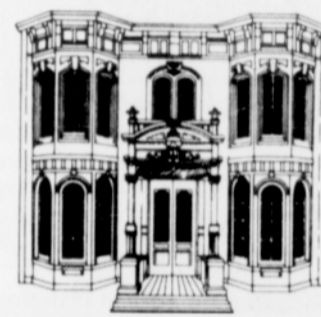


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The best time to call us, or any attorney, is before you are embroiled in a legal problem. This is called preventative law and it makes a lot of sense.

Regardless, when you call us we will arrange for an initial consultation at your convenience. Cost: \$20. We probably can't solve anything in this meeting, but it is a chance for you to explain your particular problem and for us to give you some idea of what it'll take to reach a solution. If you want us to proceed, we'll give you an estimate of the fees you should plan on. In writing.

