

THE *BROWN* STRATEGISTS

Introduction by CLINTON L. BURCH

IN 1934, the National Association for the Advancement of Colored People, with the assistance of a \$10,000 grant from the Garland Fund, undertook a systematic campaign of legal action and public education against unequal apportionment of public funds for education and discrimination in public transportation. The campaign was spearheaded by the legal staff of the NAACP (soon to become the nucleus of the NAACP Legal Defense Fund) under the skillful guidance of Mr. Charles H. Houston and his successor the now Mr. Justice Thurgood Marshall. This forty-year crusade on behalf of the millions of men and women who suffer from the insidious effects of racial discrimination in America has been highlighted by the passage of far-reaching civil rights legislation at both the federal and state level, and the handing down of numerous landmark Supreme Court decisions.

The research and prior published materials of many American educators and social scientists (as codified in the appendix to the appellants' brief in *Brown*) served as the foundation for the Court's bold new venture into the field of statistical sociology as a rationale for judicial decision-making in civil rights cases. In fact, a rather august list of authorities in the fields of sociology, anthropology, psychology and psychiatry affixed their signatures to the appendix to the appellants' brief, which presented many of the sociological theories ultimately embraced by the Court.

IN ADDITION, many amici curiae briefs were filed. The groups that cooperated in this mammoth effort included the Congress of Industrial Organizations, the American Jewish Congress, the American Civil Liberties Union, the American Federation of Teachers, the American Veteran's Committee and the Anti-Defamation League of B'nai B'rith.

In the end, however, the responsibility for carrying the litigation forward rested squarely upon the shoulders of the men and women who comprised the staff of the NAACP Legal Defense and Education Fund. It was their individual and collective skills as advocates, political and legal, and as litigators, that ultimately proved to be the cutting edge on which successful and lasting results were fashioned.

It is in recognition of the significance of their contributions that the Editorial Board of the *Black Law Journal* has chosen to dedicate this issue's "Profiles" section to the members of the Legal Defense and Education Fund who participated in the drafting of the appellate brief in the *Brown* case. Unfortunately, the unusually large number of contributors to that brief, coupled with our rather stringent space limitations, made painfully difficult our selection in this issue of only a few for special recognition from among the more than twenty contributors to the brief.

OUR SECTION begins with profiles on Messers, Arthur D. Shores, Harold Boulware, Louis Redding, Frank Reeves, and Oliver Hill. Members of the Fund who have received recognition in past issues of the JOURNAL include Mr. Justice Thurgood Marshall, Messer. Robert Carter (Judge S.D.N.Y.), Loren Miller, William Coleman, and Ms. Constance Baker Motley (Judge S.D.N.Y.). Other participants on the brief included Mr. Spotswood Robinson III (Judge, D.C. Cir.), Mr. Jack Greenberg (current head of the Defense Fund), and Messers. George Hayes, William Ming,

Jr., Charles S. Scott, George M. Johnson and A. T. Walden. Of Counsel were Messers. Charles Black, Elwood Chisolm, Charles Duncan, David Pinsky, John Scott and Jack Weinstein. Following is an in-depth look at the life of Mr. Charles H. Houston, patron-saint of Civil Rights litigation and the principal orchestrator of the legal assault on segregation in America.

We are proud of and thankful for the job done by these men and women and the strides they took toward total racial equality. We must, nonetheless, always be mindful of the fact that their roles were as social surgeons, removing from the face of America the ugly scars invariably left by racism and bigotry. Unfortunately, many of those scars have yet to be removed and still require further attention.



“For outstanding achievement, making possible a richer conception of democratic principles and for upholding those highest traditions considered as the ideal of the American way of life”: these were the words chosen by the National Newspaper Publishing Association to describe the many noteworthy contributions and achievements of the 1969 Russwurm Award recipient ARTHUR D. SHORES. Attorney Shores has done much in his thirty-seven year legal career to warrant praise both from within and without the legal profession.

Born in 1904, Attorney Shores spent his childhood in the city of Birmingham, Alabama. He received his college education at Talladega College in Talladega, Alabama, and upon graduation entered the University of Kansas to begin his legal studies.

His legal studies culminated with his admission to the Alabama Bar in 1937, the Supreme Court Bar in 1943 and membership in the Alabama and National Bar Associations. In 1956 he received an honorary Doctorate of Law from Daniel Payne College in Birmingham.

Early in his career, Attorney Shores taught at Dunbar High School in Bessemer, Alabama, and served as its principal for four years. He has continued his institutional involvement in the fight for educational equality by serving as the Secretary of the Alabama Teachers' Association and as the Vice-President of the National Teachers' Association. He also expressed his commitment to establishing quality education by participating in civil rights litigation. His perspective as an educator has given him sensitivity to and an understanding of the many invidious effects of racial discrimination on public education. These insights are reflected in the intensity and effectiveness of his involvement in the *Brown* litigation.

Mr. Shores' legal career has been studded with many significant courtroom triumphs, the effects of which are still being felt today. As co-Counsel in the NAACP Legal Defense and Educational Fund, he participated in cases that brought the equalization of teachers' salaries in Jefferson County, Alabama, and Columbia, South Carolina, as well as the voiding of racially discriminatory zoning laws in Birmingham and Huntsville, Alabama. He has participated in some capacity in most of the significant civil rights suits in the twenty years since *Brown*, including registration and voting cases.

As Chief Counsel for the Legal Defense Fund his record was even more impressive. He served in this capacity for the Reverend Dr. Martin Luther King, Jr. and the Southern Christian Leadership Conference during the crisis-ridden days of the Montgomery Boycott. Major cases in which Attorney Shores participated in the years following *Brown* included *Shuttlesworth v. Birmingham Board of Education of Jefferson County, Alabama*; *City of Birmingham v. Sen. Glen Taylor*; *N.A.A.C.P. v. Alabama*; *Malone v. Trustees of the University of Alabama*; and *Lucy v. Adams*.

Mr. Shores' civic contributions have been notable. In recent years he served as a member of the Birmingham Chamber of Commerce, trustee of his alma mater Talladega College (from

1949 to the present), member of the Board of Directors of the Lawyers Committee for Civil Rights Under Law (formed at the request of the President of the United States), and Chairman of the Board and President of the Birmingham Urban League. He also took time to donate his services to many church and church-related organizations including the YMCA, the Salvation Army, and the First Congregational Church of Birmingham.

As was mentioned earlier, Attorney Shores' efforts in the field of civil rights have not gone unrecognized. Throughout his career he has been the recipient of numerous awards and honors including the Cook County Illinois Bar Association's award for twenty-five years of outstanding service in the legal profession, and the Alpha Phi Alpha Fraternity's Medal of Honor for distinguished service in the field of civil rights. Although actively involved with the Legal Defense Fund, Attorney Shores manages to devote considerable portions of this time to a private practice and numerous civic commitments in Birmingham. He and his wife Theodora reside in Birmingham, Alabama, where he is currently President pro tem of the Birmingham City Council.

Mr. Shores takes exception with those who have in retrospect discounted the importance of the *Brown* decision as an instrument for bringing about racial equality. In his opinion, *Brown* had "the single most positive impact upon the quest for racial equality in the U.S. since the Emancipation Proclamation". He is also quick to point out that significantly greater advances in the area of civil rights have been made in the "intransigent" South than in the "liberal" North; a fact which is surely due in part to the commendable efforts of lawyers like Mr. Shores and his colleagues of the NAACP Legal and Educational Defense Fund.



For LOUIS L. REDDING, involvement in the civil rights/civil liberties movement has literally been a way of life. A graduate of Brown University, he spent two years teaching in the South before enrolling in Harvard Law School from which he was graduated in 1928. Since then, Mr. Redding has been engaged in the private practice of law in Wilmington, Delaware, with the exception of four years spent as an enforcement attorney with the Office of Price Administration in New York during World War II. His career has been highlighted by a series of landmark cases which have contributed significantly to the breakdown of racial discrimination.

Representing nineteen of the respondents in the Delaware case of *Gebhart v. Belton*, which was eventually consolidated with *Brown v. Board of Education of Topeka, Kansas*, Attorney Redding successfully argued before the Supreme Court the proposition that separate educational facilities are inherently unequal and therefore unconstitutional. Even after the victory in *Brown*, Mr. Redding's involvement with the desegregation of the public schools in Delaware continued. He participated in the second *Brown* decision in 1955 and worked fiercely to insure that its mandate was carried out. Thus he had to return to court numerous times in the years after 1954 to press for the full implementation of the *Brown* decision in Delaware.

In 1961 Mr. Redding again argued a crucial case in the history of the civil rights movement. In the case of *Burton v. Wilmington Parking Authority*, the Supreme Court accepted Mr. Redding's argument that state participation and involvement in discriminatory action could encompass activity beyond the normal range of non-commercial governmental activity. This case initiated a trend towards a broader application of the state action doctrine and a much stricter standard for defining purely private action which had a profound impact on breaking the back of state collusion in segregation schemes.

Twenty years later, he is still firmly convinced of the validity of integration. As one who has been actively involved with the progress of the civil rights movement, Redding feels that the liberation from the 'separate but equal' doctrine achieved through *Brown* was the spark that both encouraged and enabled the civil rights movement to advance in spheres other than education.

In 1972 Mr. Redding was named Man-of-the-Year by the Delaware Conference of the

National Conference of Christians and Jews. In 1973 he was awarded an LL.D (Honoris Causa), by Brown University, his alma mater. Such commitment in the struggle for racial equality has made Mr. Redding a symbol of the dedication of the Black legal activist as a force for meaningful change.



FRANK D. REEVES, who died in April 1973 and thus did not live to see the twentieth anniversary of the *Brown* decision, is to be remembered for his extraordinary contributions in the areas of government and education — particularly Black legal education.

Mr. Reeves was born in Montreal, Quebec, in 1916 but lived most of his life in the District of Columbia and became a naturalized American citizen in 1943. After receiving his LL.B. from Howard in 1939, he embarked on a career that included teaching, governmental and political activity, and private practice, as well as general legal service to the Black community. Before 1954, Mr. Reeves had already been an assistant to Thurgood Marshall (1940-42) and Walter White (1942) of the NAACP, an instructor at Howard (1942-43) and an examiner and trial attorney for the Fair Employment Practice Committee (1943-46). In 1946, he entered private practice.

Over the years he taught many subjects at the Howard University Law School including constitutional law, civil rights, insurance, legal analysis, practice skills, welfare law and others. He served on the faculty of the School of Law as lecturer and instructor (1945-60), acting associate director of the Civil and Human Rights Program (1965-68) and professor from 1965 until his death.

During the political phase of his career, Mr. Reeves was campaign assistant to Adlai Stevenson and W. Averall Harriman in the 1952 election, to Estes Kefauver in 1956, and to Hubert Humphrey and later John Kennedy in 1960. After President Kennedy's election, he served as Special Assistant to the President during the first six months of Kennedy's term. In 1965, during the Johnson Administration, Reeves became a consultant for the Equal Employment Opportunity Commission. In addition, he served on two Presidential Emergency Labor Boards and as a member of the Democratic Central Committee, a position which he held until the time of his death.

The NAACP always received his active support, particularly through his services as the Washington Representative for the NAACP Legal Defense and Educational Fund, Inc. (1946-61) and as a member of the National Legal Commission. His concern for the Black community was also shown in numerous positions such as secretary and member of the Board of Directors of the Neighborhood Legal Services program; general counsel, Youth Pride, Inc. (1968-70); Chairman of the Washington Legal Committee of the Poor People's Campaign; consultant for Washington's "Pilot Police District Project" (1969); and member of the steering committee of the National Conference of Black Lawyers (1969-70). His concern also embraced Africa, as evidenced by his membership on the Board of Directors of the International African Chamber of Commerce in 1971.

From 1969 until his death, Mr. Reeves was active as a Fellow and consultant of the Metropolitan Applied Research Center. In 1972, he was appointed by Mayor Walter Washington to be a member of the District of Columbia Board of Higher Education. The Black legal community was greatly shocked and saddened by the untimely death of this Black activist.



For HAROLD R. BOULWARE, the Supreme Court battle for *Brown* involved a quantum jump from the legal goals which had been central to most of his prior civil rights litigation victories. As chief counsel for the South Carolina NAACP, Attorney Boulware fought and won suits designed not to outlaw separate facilities, but to finally implement the *Plessy v. Ferguson* doctrine of 'separate but equal'. When Boulware began practicing law in Columbia, South Carolina in 1940, white children living three-quarters of a mile from their schools were riding buses to school while Black children, denied bus transportation, were walking to school distances as great as six miles. "Blacks were entitled to bus transportation as much as anyone else," says Boulware. "We decided, if they got busing we wanted it too. We argued 'separate

but equal', and won."

In the decade before *Brown*, Boulware won decisions that brought equalization of salaries for Black teachers in Columbia with those of whites, and condemned the system that had preserved the all-white Democratic Party primary in the state. In the early 1950's Boulware and his wife had three children attending segregated schools. By that time Boulware had the prime responsibility for the South Carolina portion of the NAACP's general attack on the 'separate but equal' doctrine. *Briggs v. Elliot* was brought in South Carolina to enjoin enforcement of provisions in the state constitution and statutory code which required segregation in public schools. A three-judge district court sustained the validity of the segregation laws, and on a second appeal the case was consolidated into the *Brown* litigation.

"It was vital that we win," says Boulware. "We were attacking the *Plessy* theory, which had never worked the way it was supposed to. Whenever there is segregation there are always inferior schools for Blacks. Until the 1950's, the Blacks got the hand-me-downs from the white schools. Now that the Black high school where I live has been integrated, it is a different looking school. They have good typewriters, a better library and even better basketballs."

The education system in the Columbia area has always had a special significance to Boulware and his family. His father, Robert W. Boulware, was dean of the private Harbison Institute in Irmo, and his mother, Mabel Boulware, taught music there. Attorney Boulware graduated from Harbison before going on to earn his A.B. in economics at Johnson C. Smith University and his LL.B. at Howard University Law School in 1938.

Before integration of the school system, Boulware's wife Margaret E. Richardson Boulware, taught seven grades in a school in which she was not only the principal, but also the bus driver and the cook. She later became head of the music department of all-Black Richlex High School.

The decision in *Brown* has not brought complete victory, says Boulware. "In the integrated schools you have lost some of the special attention and the interest the Black teachers had in the Black students and in the Black Community. Because of preferential treatment of white teachers, some of the Black teachers and principals lost their jobs. With the removal of these Black principals we lost much of the leadership in our community."

Today, Boulware is an Associate Judge of the Columbia Municipal Court, the second Black to be appointed a judge in South Carolina. He continues the law practice begun in 1940, and serves as general counsel to Victory Savings Bank, Allen University and several business organizations. A lifelong Democrat, Boulware has twice run unsuccessfully for the South Carolina legislature. He has held appointments as a special hearing officer for the Department of Justice to hear conscientious objector cases, and as a member of the State Appeal Board of the Selective Service System.

Mr. and Mrs. Boulware continue to live in Irmo, the Columbia suburb in which he was born and raised. He is a ruling elder of Northminster Presbyterian Church and has held high positions in Omega Psi Fraternity, the Elks, the Masons and the American Legion. As a member of the board of directors of the South Carolina Children's Bureau which oversees adoption policies in the state, Boulware continues to work on behalf of young people.



OLIVER W. HILL has been an active participant in securing basic rights for Black Americans since the mid-1930's. He has been involved in civil rights activities and landmark cases since his graduation from Howard University in 1931 and Howard Law School in 1933. The cases in which he has been instrumental contributed to equalizing education for Black school children, insuring and protecting the right of Black political participation and guaranteeing the rights of Blacks to use organizations like the NAACP to assert their constitutional claims.

For many years Mr. Hill was a member of the widely known Richmond, Virginia law firm of Hill, Martin & Robinson. He has won various awards and citations throughout his career, among which have been the National Bar Association Lawyer of the

Year Award; the Howard University Alumni Award; the Virginia State Conference of the NAACP Award; and the Omega Psi Phi Fraternity Omega Man of the Year Award.

Mr. Hill served on the Richmond City Council and was a member of the Richmond City Democratic Committee. Reflecting a particular interest in securing equal housing for Blacks, he served as the Assistant to the Commissioner for Intergroup Relations of the Federal Housing Administration. In 1968-69 he was appointed to serve on a distinguished eleven-man commission to amend the Virginia Constitution.

Looking back on the twenty years since the *Brown* decision, this distinguished attorney feels that the Supreme Court committed a grievous error in pursuing its "all deliberate speed" doctrine rather than requiring the immediate end to school segregation. Mr. Hill also feels very strongly that President Eisenhower's failures to give the decision the full and immediate support of his administration and to challenge the Southern Manifesto substantially hindered the implementation of the *Brown* decision.

The Kennedy Administration, according to Attorney Hill, "was like a breath of cool, fresh air blowing through a hot, musty room" for civil rights matters generally, but failed to be as decisive as it had promised to be prior to the 1960 election. The continuation of segregation in housing, he points out, only contributed to white flight and the resegregation of schools that were in the process of desegregating.

Mr. Hill feels that the reaction of the Nixon Administration to busing and the spurious de facto segregation doctrine put a damper on any real progress that began in school and housing desegregation. It is Mr. Hill's perception that the fight to integrate must continue in spite of this, and that at the same time we must "raise our sights and assert the doctrines of a larger community that cross national and cultural lines. This is the path of the future".

In commenting on the case of *DeFunis v. Odegaard* which was recently argued before the Supreme Court, Mr. Hill said that DeFunis' argument was spurious and that if Black people are going to catch up in the area of education, some other people will have to be at a disadvantage initially. Mr. Hill is also of the opinion that preferential treatment is a temporary but necessary situation if Blacks are ever to move into the mainstream of American life.

From 1966 to the present, this attorney has been senior partner in the firm of Hill, Tucker and Marsh and has continued his extensive work in the civil rights field. In particular, his firm is involved in the school cases in the Richmond area. He is married to the former Beresenia Walker and has one son, Oliver W. Hill, Jr.

WHO BUT THE LORD

I looked and I saw
That man they call the Law.
He was coming
Down the street at me!
I had visions in my head
Of being laid out cold and dead,
Or else murdered
By the third degree.

I said, O, Lord, if you can,
Save me from that man
Don't let him make a pulp out of me!
But the Lord he was not quick.
The Law raised up his stick
And beat the living hell
Out of me!

Now I do not understand
Why God don't protect a man
From police brutality.
Being poor and black,
I've no weapon to strike back
So who but the Lord
Can protect me?

We'll see.

Langston Hughes

