

1 NEW YORK STATE BAR ASSOCIATION

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3 Remembering

4 BROWN v. BOARD OF EDUCATION

5 and Related Litigation:

6

7 A Tribute to the New York Attorneys

8 Who made Legal History

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10 Wednesday, May 25, 2005

11 6:30 p.m.

12 New York Hilton Hotel

13 Avenue of the Americas

14 New York, New York

15

16 Hosted by:

17 KENNETH G. STANDARD

18 President

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20 NEW YORK STATE BAR ASSOCIATION

21

22 And

23

24 MINORITY BAR ASSOCIATION PARTNERS

1                   Featured Speakers

2

3                   KENNETH G. STANDARD

4           President New York State Bar Association

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6                   ROBERT J. GREY, JR.

7           President American Bar Association

8

9                   HON. GEORGE BUNDY SMITH

10          Associate Judge NYS Court of Appeals

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12          Oral Histories and Reminiscences:

13

14                   JULIUS L. CHAMBERS, ESQ.

15                   EDWARD R. DUDLEY, JR., ESQ.

16                   PROFESSOR JACK GREENBERG

17                   JEFF L. GREENUP, ESQ.

18                   CONRAD K. HARPER, ESQ.

19                   HON. NATHANIEL R. JONES

20                   MRS. THURGOOD MARSHALL

21                   HON. CONSTANCE BAKER MOTLEY

22                   HON. LOUIS H. POLLAK

23                   HON. JAWN A. SANDIFER

24                   HON. JACK. B. WEINSTEIN

1  
2           MR. HARPER: Let me say  
3 briefly, we are all heirs of Charles  
4 Hamilton Houston. He was born in 1895  
5 in Washington D.C.; he died there 55  
6 years later, in 1950. He grew up in  
7 segregated Washington. Went to public  
8 school there. Went to Amherst College  
9 in which he graduated Phi Beta Kappa  
10 and valedictorian. He then was in  
11 France during the first World War, and  
12 onto Harvard Law School, where in his  
13 third year he was the first black ever  
14 elected to membership on the Harvard  
15 Law Review. After that he took a  
16 traveling fellowship and earned a  
17 doctorate at the University of Madrid.  
18 He returned to Washington and went to  
19 work with his father, who had a small  
20 law office there. And he is chiefly  
21 known to fame these days for two  
22 things that never relate in his  
23 reputation. The first has to do with  
24 Howard Law School, the second has to

1 do with the Constitution of the United  
2 States.

3           With respect to the Howard  
4 law school, in 1929 Houston was asked  
5 to become Vice Dean, that is to be the  
6 chief administrative officer of  
7 Howard. He served in that role for  
8 five years. But in those five years  
9 he made Howard Law School, which had  
10 been an unaccredited night school,  
11 into a fully accredited day law  
12 school. Many of the students he  
13 trained turned out to be field  
14 marshals of the coming civil rights  
15 revolution. Chief among them, of  
16 course, was Thurgood Marshall, who was  
17 in the class of 1933. After  
18 Marshall's graduation, he went to  
19 Baltimore to practice for a while and  
20 ultimately came to work with Houston.

21           Meanwhile, though, the  
22 trajectory of Houston's life was to  
23 enter that Constitutional plain I  
24 mentioned a few minutes ago. By the

1 1930s he already argued a few cases  
2 before the Supreme Court. He was  
3 asked in the fall of 1934 to be the  
4 first paid lawyer of the NAACP, and he  
5 agreed to do so. And at that same  
6 time, October 26, 1934 to be exact, he  
7 wrote a memorandum outlining what he  
8 thought needed to be done by way of a  
9 legal campaign. The NAACP had money,  
10 so it thought, in the Garland Fund, of  
11 \$100,000. At least that was the  
12 initial amount appropriated in the  
13 early 1930s, but thanks to the  
14 depression, that \$100,000 had shrunk  
15 to \$10,000. On that amount Charles  
16 Hamilton Houston overturned the beast  
17 of segregation in our country.

18 On July 1, 1935 he became  
19 the special counsel to NAACP. He only  
20 had that role for three years, and  
21 therefore, he was in the sense of a  
22 cooperating lawyer first of NAACP and  
23 then of Inc. Fund founded in 1940.  
24 But he was the chief architect of the

1 strategy that ultimately led to the  
2 overthrow of racial segregation by  
3 legal means in this country. And when  
4 we think about the cases he won, the  
5 Gaines case, Constable case, Hurd v.  
6 Hodge. And we know his influence on  
7 those who came after Thurgood  
8 Marshall. Of course paramount among  
9 them, we realize that in Houston we  
10 had the hero that the race needed and  
11 the country needed.

12 Thank you, Charles Houston  
13 JUDGE SMITH: Among the  
14 cases that was a forerunner to Brown  
15 was called Henderson v. United States.  
16 A person had taken a train ride, and  
17 he wanted to eat, like everybody else.  
18 And so they said, okay, you could eat,  
19 but since you are black, we are going  
20 to put a little curtain there, so you  
21 can't be seen by the white persons on  
22 the train. One of the persons  
23 involved in that case was John  
24 Sandifer. The case went to the United

1 States Supreme Court. That court said  
2 this was a violation of the Interstate  
3 Commerce Act.

4 Judge Sandifer, how did you  
5 become involved in that Henderson?

6 JUDGE SANDIFER: Well, Ralph  
7 Lawson was my colleague from  
8 Washington, D.C. Elmer Henderson was  
9 of a brother of ours, and Elmer  
10 Henderson was an employee of the  
11 United States Government at the time.  
12 But before I reach the facts in this  
13 case and the argument, I want to tell  
14 you a little about what the situation  
15 was with respect to the Southern  
16 Railroad at that time. You must  
17 remember, this is back in the '50s.  
18 And the major mode of transportation  
19 at that time, for blacks especially,  
20 was to ride on the railroads.

21 The Southern Railroad had a  
22 car that was directly behind the  
23 engine, and that was the Jim Crow car  
24 for blacks at that time. It was that

1 car that was hitched behind the  
2 engine. And blacks in the coaches had  
3 to have their sandwiches and whatever  
4 in the black coach, because they had  
5 no way of eating at that particular  
6 time.

7 Now Henderson, who was  
8 black, was riding in the pullman car,  
9 and he attempted to enter the dining  
10 room to have his meal. And he was  
11 denied; he was ordered to go behind a  
12 curtain. And he refused. So Belford  
13 Lawson and I brought this lawsuit  
14 before the United States Supreme Court  
15 at that time.

16 Now, the Henderson case came  
17 before the Supreme Court along with  
18 Sweatt and McLaurin. Those three  
19 cases we had hoped would achieve the  
20 results that Brown finally achieved.  
21 In the Sweatt case, Sweatt applied for  
22 admission to University of Texas, and  
23 was denied admission. McLaurin, who  
24 had been admitted to the University of

1 Oklahoma, was admitted to the  
2 university, but he was separated from  
3 his peers in the classroom.

4 In the Henderson case, we  
5 argued that Henderson had been denied  
6 his equal rights as a passenger. And  
7 the Court decided all three of these  
8 cases, and we expected and hoped that  
9 these three cases would have the  
10 result that we got from Brown. But  
11 that did not happen. We won all three  
12 of those cases, but the Court did not  
13 reach the question of separate but  
14 equal, which was a disappointment.  
15 But we think that these three cases  
16 did lay the foundation for the Brown  
17 decision.

18 Now, Kenneth, when you took  
19 the oath back at the time that you  
20 took the oath, you said this, and this  
21 is what I really wanted to focus your  
22 attention to at this time. That on  
23 the stand Brown was a milestone, but  
24 having attended for several years a

1 I've likened it to an ice breaker,  
2 making it impossible for progress to  
3 take place. So while Brown was a  
4 decision that was a prerequisite to  
5 having any integration in all sectors  
6 of society in the United States at  
7 that time, it made possible the kinds  
8 of changes that the political  
9 imperative of the Race Equality  
10 Directive had in Europe at that time.

11 So Brown was more than a  
12 school integration decision. It was a  
13 decision that broke up the whole  
14 rotten racist political system that  
15 governed this country from 1954 for  
16 several generations thereafter.

17

18 (Applause.)

19

20 JUDGE SMITH: Thank you.

21 Judge Motley, you were  
22 involved both in Brown and Board of  
23 Education and particularly involved  
24 with the case of James Meredith

1 entering the University of  
2 Mississippi. Would you tell us about  
3 both of those briefly please, your  
4 role in Brown and your role in the  
5 James Meredith case. I know that that  
6 can take an afternoon or an evening,  
7 but we have a short amount of time,  
8 so.

9 JUDGE MOTLEY: Well,  
10 unfortunately I'm at the stage where I  
11 have to write it down, otherwise I  
12 have memory problems. So I only have  
13 a couple of pages here. I'll read  
14 quickly through them.

15 I want to thank New York  
16 State Bar Association for paying  
17 tribute to Brown v. Board of  
18 Education, a great landmark in the  
19 jurisprudence of this country.

20 As many people recognize,  
21 Brown was a milestone that struggled  
22 with civil rights and equal  
23 opportunity. But it's also important  
24 to note that Brown was just one part

1 of a much larger strategy to end  
2 segregation. It was preceded by a  
3 number of cases that step by step set  
4 a context for Brown and for the  
5 Supreme Court to rule as it did on May  
6 17th, 1954.

7 In 1947 a black woman, who  
8 sought and was denied admission at the  
9 University of Oklahoma law school on  
10 the basis of her race brought a suit  
11 against the school. Oklahoma, like  
12 other southern states, had not set up  
13 a separate law school for blacks.  
14 Sipuel v. Board of Regents of the  
15 University of Oklahoma reached the  
16 Supreme Court in 1948. Just three  
17 days after hearing oral argument, the  
18 Supreme Court rendered its decision.  
19 Holding that, in conformity with the  
20 14th Amendment, the state must provide  
21 equal protection within its own  
22 borders, and that Miss Sipuel was  
23 entitled to a legal education provided  
24 by a state institution. The Court

1 further held that the state was  
2 required to provide such an education  
3 as soon as it could for applicants of  
4 any of the group. In *McLaurin v.*  
5 *Oklahoma State*, the Supreme Court held  
6 that once blacks were admitted to a  
7 previously all-white university, the  
8 school could not segregate black  
9 students in that institution by  
10 forcing them to sit in separate areas  
11 of the library or in the classrooms.

12 Sweatt v. Painter, a case  
13 brought against the University of  
14 Texas Law School, provided the first  
15 opportunity to compare a law school  
16 established by the state for whites  
17 with a supposedly similar facility for  
18 blacks. The University of Texas Law  
19 School had denied Sweatt entering, on  
20 the ground that he could attend a  
21 recently created law school, which at  
22 the time it opened had no full-time  
23 faculty and no library. In that case,  
24 the Supreme Court for the first time

1 ordered a white university to admit a  
2 black student. Although the Court  
3 refused to review Plessy v. Ferguson,  
4 a dark stain on the record, it  
5 nevertheless found that the two  
6 schools were not equal.

7 All of these cases and the  
8 victories it achieved set the stage  
9 for the ultimate success of Brown.  
10 Every case that we brought was  
11 pursuant to a predetermined strategy  
12 to end segregation. As we now all  
13 know, the stroke to end segregation  
14 did not end with Brown. It took many  
15 years and many more cases to enforce  
16 Brown and integrate previously  
17 segregated schools.

18 Today, class more than race  
19 is a determinate of the quality of  
20 education that children receive. That  
21 is the challenge for the next  
22 generation of lawyers to address. The  
23 rise of minorities in the legal  
24 profession, one of the 20th Century's

1 triumphs over ignorance and bias has  
2 made us ready as a nation to face this  
3 and many of the challenges in the 21st  
4 Century, and many other challenges.

5

6 (Applause.)

7

8 JUDGE SMITH: Thank you.

9 Next, I'm going to ask

10 Julius Chambers to speak about the  
11 Charlotte case and bussing in schools,  
12 as well as tell us something about his  
13 stewardship of the Inc. Fund.

14 MR. CHAMBERS: Thank you,  
15 Judge.

16 I, like others who preceded  
17 me, want to thank the bar and the  
18 conglomerate of the minority bars that  
19 have sponsored this event for  
20 tonight's event. I also want to thank  
21 the Legal Defense Fund for the work  
22 that it has done in order to help with  
23 the efforts in desegregation. I  
24 mention that because the

1 minute. Jeff Greenup grew up in  
2 Louisiana. One of the cases that he  
3 handled involved a youngster who  
4 reacted strongly when the N word was  
5 hurled at her at school. Can you tell  
6 us what happened in that case, Jeff  
7 Greenup.

8 MR. GREENUP: Thank you,  
9 Judge.

10 It is my distinct privilege  
11 and honor to be here amongst these  
12 legal giants. I've followed Justice  
13 Motley around for years. And every  
14 day I'd look up in my office and see  
15 her picture there, and reminisce about  
16 the many great moments I had when I  
17 listened to her. And of course, lots  
18 of times I get engaged in  
19 conversations, and it's all about the  
20 south. So someone asked me one day,  
21 what about the north? And I asked  
22 her, what do you mean? You know, up  
23 south north. Well, I've had some  
24 experiences that may give some

1 credence to that expression.

2 I was living in Westchester  
3 County, Hastings on the Hudson. I was  
4 there, of course, I had had a  
5 disagreement with the wife. She  
6 wanted to send our children to private  
7 school, and I took the position that,  
8 well, we were not going to be living  
9 in a private world, I would rather  
10 spend the money and buy a house where  
11 there are some good public schools.  
12 So we looked around, and we thought  
13 the public schools in  
14 Hastings-on-Hudson were good, and  
15 that's where we ended up with the  
16 kids. And of course, word got around  
17 that I was affiliated with NAACP, and  
18 there was some totally white public  
19 schools in parts of Westchester County  
20 where I lived.

21 Now, the particular instance  
22 that Judge Smith just mentioned, there  
23 was a young black female student who  
24 had just made her sixteenth birthday,

1 and she was trying to follow the  
2 teachings that her mother taught her.  
3 Of course, they were students of Dr.  
4 Martin Luther King: Don't fight back.  
5 Turn the other cheek. So one day she  
6 reached a breaking point when one of  
7 her classmates, who happened to be a  
8 white male, used the N word. And I  
9 don't think I'm permitted to use it in  
10 polite company like this, but he  
11 called her a nigger and spat on her.  
12 So she slapped him, and found herself  
13 suspended and being prosecuted for  
14 assault.

15 Now, in the midst of the  
16 trial, her aunt, who was her guardian,  
17 became concerned because the courtroom  
18 was full of people every day, but the  
19 only two people that looked like them  
20 in the courtroom was the aunt and her  
21 niece. So she went to the NAACP in  
22 White Plains, New York, and asked for  
23 some help. Somehow the word got to  
24 now Judge Jawn Sandifer, who for years

1 was the Chairperson of the State  
2 Redress Committee, and Jawn had a  
3 habit when a nasty situation came up  
4 of saying get me Jeff. So I found  
5 myself in the courtroom being shoved  
6 around by the judge, literally.  
7 Because we were in the midst of the  
8 trial, and here I was trying to  
9 intervene. So I called on the Defense  
10 Fund, and I got one of the lawyers  
11 there. And I don't know if he  
12 remembers it or not, but his name  
13 happened to be Harper, and I told him  
14 what a problem I was having. He said,  
15 well, go back in the courtroom and  
16 talk to the judge about the fact she's  
17 entitled to a lawyer of her own  
18 choosing, and make sure she says she  
19 chose you.

20 So I went back in the  
21 courtroom, and to make a long story  
22 short, the judge declared a mistrial,  
23 after he made the record about her  
24 having a constitutional right to a

1 lawyer of her own choice, and I took  
2 over the case. I was on trial for two  
3 weeks, and of course, eventually the  
4 charges were dismissed. She was  
5 acquitted. And that youngster and her  
6 aunt, she went back to school, finally  
7 she got transferred to another school,  
8 graduated and went to college in North  
9 Carolina and became a teacher. But I  
10 have on my wall a plaque, and the  
11 plaque reads: I don't remember the  
12 exact quote, that's my fee. So she  
13 said, we don't have any money, but  
14 Nanna and I just want to thank you for  
15 what you did for us. I said, well,  
16 thank the NAACP. She says, you have  
17 NAACP applications? I said well,  
18 aren't you already a member? She  
19 said, I'm not aware of it. Of course,  
20 I had learned something from an  
21 experienced Judge Robert Callahan,  
22 when he was a lawyer, and got in  
23 trouble when the question was raised  
24 whether or not his clients actually

1 retained him. So I said to Nanna and  
2 to the young lady, of course you're  
3 members of the NAACP. I signed an app  
4 before I got involved.

5

6 (Applause.)

7

8 NAACP had authorized me to call this  
9 an NAACP case. So whatever you do,  
10 don't forget you are members of the  
11 NAACP, and you are were a member when  
12 I tried this case. She is now a  
13 teacher somewhere in Florida, and she  
14 kept in touch with me for years, until  
15 her aunt passed. But that's just a  
16 sampling of what could happen up south  
17 north.

18

19 (Applause.)

20

21 JUDGE SMITH: Thank you.

22 I feel under the gun, but I  
23 have got to call on the person who  
24 taught me Constitutional Law, Judge