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## All Deliberate Speed: Brown's Past and Brown's Future

Charles J. Ogletree Jr.  
*Harvard Law School*

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## ALL DELIBERATE SPEED?: *BROWN'S PAST AND BROWN'S FUTURE*

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*Charles J. Ogletree, Jr.\**

As I look at this audience,\*\* it occurs to me that what happened 50 years ago in *Brown v. Board of Education*<sup>1</sup> happened before most of you were born. It is important, therefore, to give context and to explain how less than 50 years ago black people could not eat in a restaurant, could not sleep at a hotel, and could not vote – prospects that, while taken for granted now, seemed impossible then. Today, talk of “colored only” and “whites only” sections does not seem to make sense. As people like myself get older and as newer generations of African Americans grow up more and more distanced from the events of and around the *Brown* litigation, it is important to have intra-generational conversations about those events.

Recognizing this inter-generational divide, I want to try to talk to you about where we have all come from, about *Brown* and those who fought so that you could have the opportunities you have today. There is so much that those who have benefited from the decision take for granted or do not know. People do not realize how unthinkable *Brown* was before an ambitious group of African-American lawyers started their struggle for educational equality. They do not understand the ferocity with which *Brown* was met in parts of the country. Here in West Virginia, desegregation proceeded somewhat peacefully after court order,<sup>2</sup> but the resistance in the Deep South was mighty, and often violent. More specifically, people do not realize that there were two *Brown* cases, or that

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\* Jesse Climenko Professor of Law, Harvard Law School, and Director of the Charles Hamilton Houston Institute for Research and Justice at Harvard Law School. I thank Russell Capone for excellent research assistance.

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<sup>1</sup> 347 U.S. 483 (1954).

<sup>2</sup> See Kevin D. Brown, *Reexamination of the Benefit of Publicly Funded Private Education for African-American Students in a Post-Desegregation Era*, 36 IND. L. REV. 477, 491-92 (2003).

the lawyers actually filed suit in many different jurisdictions. More generally, they don't understand the significance of the heroic effort mounted to create the foundation for that great case.

Perhaps most importantly, they have forgotten or have never learned about arguably the greatest lawyer of our nation's short history. His name is nowhere mentioned in the *Brown* case, and it cannot be found on any of the briefs filed, but he was nonetheless the person who blazed the trail that led to *Brown*: Charles Hamilton Houston. Houston was an African-American who was born in Washington, D.C., attended Amherst College, and went to Harvard Law School in late 1919 at a time when, as an African-American, he could not sleep in the dorms and could not eat in the cafeteria. He faced an entirely separate and unequal system, sanctioned as constitutional by the Supreme Court in *Plessy v. Ferguson*,<sup>3</sup> but he nonetheless was able to attend class at Harvard. He was also able to become the best student – not the best black student or the best male student, but the best student at Harvard Law School. He was the first African-American selected to be a member of the *Harvard Law Review*, was admired by the Harvard faculty, and would proceed to procure an S.J.D., the highest degree one can get in the law.<sup>4</sup>

Despite these accomplishments, upon graduation Houston could not secure a job in a major law firm because of his race. He did not, however, get mad; he got even. After Harvard, Houston returned to his birthplace and taught at Howard Law School, where he also became the Vice Dean. He would proceed upon a process we might call the “Harvardization” of Howard. He believed very clearly that in order to succeed as a lawyer in the 20<sup>th</sup> century in America, a black lawyer had to be twice as good as a white lawyer.<sup>5</sup> As he remarked, “A lawyer's either a social engineer or he's a parasite on society.”<sup>6</sup> He believed that if you focus your talents on pursuing wealth and advancement for yourself rather than attempting to strengthen your community, then you are a disease in that community. He put that attitude into practice by changing Howard in dramatic ways. His father, William Houston, had gone to Howard's night law school. Charles Hamilton Houston, however, thought night school was not producing the right type of lawyer – and so he closed it. He reduced Howard's enrollment of African-American lawyers by two-thirds because he thought they weren't good enough. He was criticized around Washington and the community for destroying what had become known as an institution that created opportunities for many African-Americans. But his purpose was more noble – he was

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<sup>3</sup> 163 U.S. 537 (1896).

<sup>4</sup> See generally GENNA RAE MCNEIL, *GROUNDWORK: CHARLES HAMILTON HOUSTON AND THE STRUGGLE FOR CIVIL RIGHTS* 24-34 (1983).

<sup>5</sup> See *id.* at 82-83.

<sup>6</sup> *Id.* at 84.

preparing for an important fight in the courts, and he felt that fight would require the best and brightest of black lawyers.

His law students included Thurgood Marshall, from segregated Baltimore, Maryland, and Oliver Hill from Richmond, Virginia, another segregated community, both of whom would argue the *Brown* case in the 1950s. They became two of the lawyers who argued the *Brown* case in the 1950's. In fact, every single lawyer in that courtroom who argued *Brown* in the 1950's had been trained by, influenced by or nurtured by Houston.

These lawyers were so brilliant, and many of them were from Howard Law School. But they were at Howard not because it was the only school that they wanted to attend; rather, it was the only school they were allowed to attend. These African-American lawyers were not allowed to go to the University of Virginia, the University of Maryland, or the University of Alabama. They were not allowed to go to places near where they were born and raised because of the pervasive impact of racism of the 20th century. And these lawyers became focused on legal challenges to the very system that kept them out, focusing on an incremental litigation strategy that ultimately led to the *Brown* challenge. That challenge, in fact, constituted five separate suits – the lawyers decided in challenging elementary school segregation to file not just one case but multiple cases.

They filed a case in Clarendon County, South Carolina because of the pervasive racism in the public education system. They also filed one in Topeka, Kansas, and one in Richmond, Virginia because of the history of segregation in public education in those places. And they filed cases in Wilmington, Delaware and in Washington, D.C. They were not going to let the issue of elementary school segregation escape review, and were going to file cases wherever they saw open doors, to ensure the Supreme Court eventually confronted the issue. The strategy succeeded, as the Court ended up granting cert in all five cases.<sup>7</sup>

In spite of the lawyers' hard work, the *Brown* decision came down the way it did almost by accident. The Chief Justice of the Supreme Court in 1953 was Fred Vincent, from the state of Kentucky. Justice Vincent was skeptical about whether or not it was time to eliminate the separate but equal doctrine of *Plessy v. Ferguson*, as were other members of the Court.<sup>8</sup> And so regardless of what tracks the *Brown* lawyers took, as of the time of litigation they still were not sure if they had five votes to get rid of *Plessy*.

But on September 8, 1953, unexpectedly, Vincent died, and President Eisenhower had to come up with a replacement. In the midst of Vincent's death could be felt the palpability of the *Brown* issue. As if to demonstrate just how

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<sup>7</sup> Besides *Brown*, the four companion cases were: *Briggs v. Elliott*, *Davis v. County School Bd. of Prince Edward County, Virginia*, *Gebhart v. Belton*. See *Brown v. Bd. of Educ.*, 347 U.S. 483 n.1 (1954). The other case was *Bolling v. Sharpe*, 347 U.S. 497 (1954).

<sup>8</sup> See MICHAEL J. KLARMAN, FROM JIM CROW TO CIVIL RIGHTS 292-312 (2004) (describing the Justices' dilemmas in deciding how to rule in *Brown*).

important some of the Justices saw the case, Justice Felix Frankfurter took the occasion of Vincent's death to remark that "this is the first indication I have ever had that there is a God."<sup>9</sup>

A further indication would come with Eisenhower's placement, Chief Justice Earl Moran Warren, whose Court would be recalled not just for *Brown* but for *Miranda v. Arizona*,<sup>10</sup> requiring police officers to advise suspects of their rights before interrogations, *Gideon v. Wainwright*,<sup>11</sup> affirming indigents' right to counsel, and *Mapp v. Ohio*,<sup>12</sup> creating the exclusionary rule for evidence obtained in violation of the Fourth Amendment.

Eisenhower would marshal his Court to hold unanimously that the *Plessy* doctrine of "separate but equal" could reign no longer.<sup>13</sup> But *Brown* was not so simple, in that the case produced two distinct decisions. The one whose 50 year anniversary we celebrated on May 17 of last year erased *Plessy*. But that decision did not purport to end racial segregation. Indeed, the Court waited for another year to address the issue of remedy. It wasn't until May 31, 1955, a full year after *Brown I* came down, that *Brown II* was decided, the Supreme Court holding that lower courts should engage in the business of desegregating schools "with all deliberate speed."<sup>14</sup>

As Thurgood Marshall, the *Brown* plaintiffs' lead litigator, would quickly discover, "all deliberate speed" meant "slow." This, as is obvious today, became the unfortunate consequence of *Brown*: well-intentioned, well-designed, but with a sense of moral equivocation at a crucial moment, a political backing off so as to leave the solution to the very states that had created the problem. This message of slowness was heeded across the country.

Virginia exemplifies the trend; it allowed some public schools to close rather than comply with desegregation orders after *Brown*.<sup>15</sup> This had a ripple affect on places like Arkansas, where Governor Orvil Faubus stood in a classroom door at Central High School and declared he would not allow black students to attend the school.<sup>16</sup> Governor Maddox did the same thing in Mississippi, and Governor George Wallace did it in Alabama.<sup>17</sup> The impact went na-

<sup>9</sup> MORTON J. HORWITZ, *THE WARREN COURT AND THE PURSUIT OF JUSTICE* (1998).

<sup>10</sup> 384 U.S. 436 (1966).

<sup>11</sup> 372 U.S. 335 (1963).

<sup>12</sup> 367 U.S. 643 (1961).

<sup>13</sup> *Brown v. Bd. of Educ.*, 347 U.S. 483, 495 (1954).

<sup>14</sup> *Brown v. Bd. of Educ.*, 349 U.S. 294, 301 (1955).

<sup>15</sup> Davidson M. Douglas, *The Rhetoric of Moderation: Desegregating the South During the Decade after Brown*, 89 NW. U. L. REV. 92, 113-14 (1994); Eric Schnapper, *Perpetuation of Past Discrimination* (Part One), 96 HARV. L. REV. 828, 829 n.9 (1983).

<sup>16</sup> See *Cooper v. Aaron*, 358 U.S. 1, 9-11 (1958).

<sup>17</sup> See JAMES T. PATTERSON, *BROWN V. BOARD OF EDUCATION: CIVIL RIGHTS MILESTONE AND*

tional, with southern members of Congress composing the "Southern Manifesto" and promising to resist integration by all lawful means<sup>18</sup> – public officials elected to represent entire states were promising to disenfranchise substantial numbers of African-American constituents. President Eisenhower was also concerned, saying he sympathized with the feelings of parents who did not want their white girls sitting alongside "some big overgrown Negro."<sup>19</sup>

This resistance only perpetuated the problem that *Brown* was designed to eliminate. The first consequence of *Brown* was that when the Supreme Court said we must desegregate public schools, white families left town -- white flight was massive, and it was not just a southern problem. It was not a regional problem; it was a national phenomena. No matter where you were, there was resistance to meaningful integrated education of African-American and white children.<sup>20</sup> One of the benefits of *Brown*, though, was that eliminating segregation created opportunities for African-American mobility in ways that had never been before. As a result, we saw substantial amounts of black middle class flight from those same urban communities. Now, instead of shopping at the John Henry community store, blacks could go to Safeway or some other large establishment. You could shop at J.C.Penney's instead of the neighborhood store, and that had an enormous impact on those urban businesses.

This is not to say that African-American business communities were not thriving before *Brown* and in spite of Jim Crow segregation. In fact, there is an entire history of successful *segregated* black communities that has gotten lost in the post-*Brown* era – a history of black success that rivals the less overwhelming success of integration. There were black communities with their own newspapers, communities with their own hotels, communities with their own theaters, and communities with all sorts of prosperity despite segregation. Such success makes the question whether banning separate but equal doctrine and moving to integration a serious one. To illustrate, I'll speak about a wonderful community known as the Black Wall Street.

Greenwood, Oklahoma was a wonderful community. The GAP Band -- the GAP stands for Greenwood, Archer and Pine -- was a 30 block area outside Tulsa, Oklahoma where there existed a segregated community for African-Americans in the early 20<sup>th</sup> century. And this community was called the Black Wall Street because -- think about this, in the 1910's and 1920's -- Greenwood had black theaters, black hotels, black churches, black newspapers, black doctors, and black lawyers. There was a whole professional class, a thriving community where a dollar would circulate 35 times before it left, which meant there

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ITS TROUBLED LEGACY 94 (2001).

<sup>18</sup> See *id.* at 98.

<sup>19</sup> *Id.* at 81.

<sup>20</sup> For general descriptions of massive resistance, see PATTERSON, *supra* note 18; J.W. PELTASON, FIFTY-EIGHT LONELY MEN: SOUTHERN FEDERAL JUDGES AND SCHOOL DESEGREGATION (1971).

was a deep investment in the community.<sup>21</sup> This community was an example of what separate but equal was *supposed* to mean – a community that became equal because it was completely dedicated to its own goals.

But on May 31, 1921 – which is ironically the same day *Brown II* would be decided 33 years later – all of that changed in Greenwood. A shoe shiner by the name of Dick Rowen, 19 years old, could not use the bathroom on the ground floor where he shined his shoes because he was colored. He had to go upstairs to the “colored only” bathroom. As he stepped on the elevator, he stepped on the foot of the elevator operator, a white woman by the name of Sarah Page. She slapped him, and he ran out. By the afternoon, the story circulating was “Black Man Assaults White Woman,” and by the evening it was “Black Man Raped White Woman.” None of that was true, but it didn’t matter.<sup>22</sup>

A mob of drunken white men had Rowen arrested, and went down to the jail to have him lynched. To their credit, a group of African-American men came to try to prevent that from happening. Shots were fired, causing the blacks to retreat back to Greenwood. The sheriff then deputized the white men and gave them guns, which they took and drove into Greenwood. There, they burnt the hotels and burnt the theaters and burnt the businesses.<sup>23</sup> One particular business that they burnt was the law office of Buck Colbert Franklin. He happened to be an African-American lawyer who had just moved to Tulsa, Oklahoma, and he had a son who was six years old. That son became a genius and a great legal historian. His name is Dr. John Hope Franklin.

Dr. Franklin and the other victims of the 1921 Tulsa Race Riot were never able to get any relief from what happened. They complained, they went to court, they were blamed for the riot, they were denied the results, and for decades after that no one – black or white – ever talked about it. It almost was if it was wiped off the Oklahoma history books.

The good news is that in 2001, the Tulsa Race Riot Commission composed a report and determined that, in fact, whites were responsible, blacks were the victims, and noted that reparations should be made.<sup>24</sup> The state never gave reparations, but myself and other lawyers filed a lawsuit on behalf of the still-living Greenwood citizens two years ago, and we’re fighting that issue now. The youngest person that we represent now is 89 years old; the oldest is 105. So these are people who are actually alive who can witness, who can describe, who

<sup>21</sup> See ALFRED L. BROPHY, *RECONSTRUCTING THE DREAMLAND: THE TULSA RIOT OF 1921: RACE, REPARATIONS, AND RECONCILIATION* (2002); SCOTT ELLSWORTH, *DEATH IN A PROMISED LAND: THE TULSA RACE RIOT OF 1921* (1982).

<sup>22</sup> See ELLSWORTH, *supra* note 22, at 46-50.

<sup>23</sup> See *id.* at 156; Alfred L. Brophy, *Assessing State and City Culpability: The Riot and the Law*, in *TULSA RACE RIOT: A REPORT BY THE OKLAHOMA COMMISSION TO STUDY THE TULSA RACE RIOT OF 1921* 153-55 (2001), available at <http://www.ok-history.mus.ok.us/trrc/freport/pdf>.

<sup>24</sup> See *id.*

can relate to the devastation of their businesses, of their homes and the lives of hundreds of people who have never been found.

This reminds of what we've lost and what we have to learn. There is a history of successful blacks that has been lost in the post-*Brown* renaissance. If you took a survey of a million children in the United States, I would bet that none of them would ever mention great heroes like Charles Hamilton Houston. Very few would even come up with Thurgood Marshall. A few might say Dr. King, but the idea of these lawyers and what they did has been lost in the course of history. And no one would speak about Oklahoma's Black Wall Street.

Those lawyers attempted to create an America where the success of Greenwood could be repeated on a national and integrated basis. They were successful in case after case, from education to public transportation to housing to every other area of equality. But as they look on us today, they have to be frowning to see where American is in the 21<sup>st</sup> century, and what has happened to all the things that they accomplished. There has been no integrated rebirth of Greenwood.

Rather, today, I sadly have to report, that our public schools in many areas are more segregated than they were before *Brown*. They would find with dismay that in the 21<sup>st</sup> century African-American children and Hispanic children are dropping out of public school at 30, 40 and 50 percent rates in many urban areas. They would be amazed to see that fifty years after *Brown* we have two million people in our criminal justice system who are in prison or jails around the country in state and federal prison. Fifty percent are African-Americans and most of them are males, and you see more African-American males in jails and prisons than you see in colleges.<sup>25</sup>

They would be dismayed to see the reaction of the public to the whole effort to integrate America's society, and the problems that we have had despite enormous progress in our laws. They would be a little disappointed to find out that here we are in the 21<sup>st</sup> century, still fighting the same battles that they thought they won more than 50 years ago. If the promise of *Brown* was to ensure academic achievement for blacks on par with that for whites, it has gone largely unfulfilled. Justice O'Connor recently predicted that the achievement gap would be largely done away with within 25 years;<sup>26</sup> but at the going rate, much, much work will need to be done to fulfill her renewal of the *Brown* promise.

The statistics are jarring. A recent study performed by the Civil Rights Project at Harvard, for example, notes an alarming trend among high school students in California. That state is often seen as a paragon in terms of high

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<sup>25</sup> See Pierre Thomas, *Study Suggests Black Male Prison Rate Impinges on Political Process*, WASH. POST, Jan. 30, 1997, at A3 (citing a report that the incarceration rate of blacks is nearly eight times that of whites).

<sup>26</sup> See *Grutter v. Bollinger*, 537 U.S. 306, 343 (2003) (suggesting there will be no need for racial preferences in academia twenty-five years from the reporting of the decision).

school graduation rates. According to the study, the state in 2002 graduated approximately 71 percent of high school seniors.<sup>27</sup> The number of African-American students that graduated was 50.2 percent; for Latinos, 54 percent – with numbers evidently worse in racially and socio-economically segregated neighborhoods.<sup>28</sup> Those statistics mirrored the national average, where each year the graduation rate for blacks hovers around 50 percent.<sup>29</sup> In 2002, of schools that are predominantly attended by minorities, nearly one-third graduated *less than half* of their seniors.<sup>30</sup> Minority schools have lower average test scores, poorer quality teachers and high teacher turnover, less advanced courses, limited resources, and lower parental involvement, among other fundamental ills. There are many potential explanations for the stubborn inelasticity for these woes and the concomitant achievement gap, with poverty, white flight and the continuance of de facto segregation, and a lack of ingenuity in education reform among the prime causal factors.

In my book, *All Deliberate Speed*, I write about various alternative educational systems started by black community leaders in various parts of the country<sup>31</sup> – institutions that focus on the particular needs of urban minority students and that cultivate those students' talents and instill in them a sense of self-confidence. Such sensitivity and innovation, along with a dedication to eradicating the gap, must be taken nationwide, in order for the *Brown* lawyers' dream to become a reality.

Another reason for the slowness in narrowing the gap is the composition of the Supreme Court, and its insistence through the years on the “all deliberate speed” mentality, in cases such as *Milliken v. Bradley*<sup>32</sup> and *Board of Education of Oklahoma City v. Dowell*.<sup>33</sup> Here, on the Court, is where we should be particularly worried, as a second-term President Bush will have at least one and up to four vacancies to fill. If you don't think that any given spot can have too much influence, consider the appointment of Chief Justice Rehnquist by Presi-

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<sup>27</sup> Harvard University Civil Rights Project, *Confronting the Graduation Rate in California* (2005), available at: <http://www.civilrightsproject.harvard.edu/research/dropouts/dropouts05.pdf>

<sup>28</sup> See *id.*

<sup>29</sup> See DROPOUTS IN AMERICA: CONFRONTING THE GRADUATION RATE CRISIS 1 (Gary Orfield ed. 2004).

<sup>30</sup> See Gary Orfield and Chungmei Lee, *Why Segregation Matters: Poverty and Educational Equality* 6 (2005), available at: [http://www.civilrightsproject.harvard.edu/research/deseg/Why\\_Segreg\\_Matters/pdf](http://www.civilrightsproject.harvard.edu/research/deseg/Why_Segreg_Matters/pdf).

<sup>31</sup> See CHARLES J. OGLETREE, JR., *ALL DELIBERATE SPEED: REFLECTIONS ON THE FIRST HALF CENTURY OF BROWN V. BOARD OF EDUCATION* 264-73 (2004).

<sup>32</sup> 418 U.S. 717 (1974) (preventing federal courts from using multidistrict remedies to cure intradistrict segregation woes).

<sup>33</sup> 498 U.S. 237 (1991) (upholding termination of desegregation order because of attempted compliance despite evidence of continuing widespread segregation).

dent Nixon over 30 years ago! While we cannot expect the current President to appoint a slew of progressives to the high bench, we must be vigilant in the ensuing confirmation processes to ensure appointees who at the very least intend to respect and honor the promise of *Brown* and of Justice O'Connor's 25 year benchmark.

What we probably should not expect is, for example, another Thurgood Marshall, the man whom the last President Bush replaced with Clarence Thomas. But I want to end on focusing on Marshall and on the good news about *Brown* -- which is how we can appreciate in a more keen way the importance of those lawyers -- Charles Houston, Constance Baker Motley, Jack Greenburg, Oliver Hill, Marshall and so many other lawyers who won these cases. As the first African-American appointed in 1967 to the Supreme Court, Thurgood Marshall promised to serve for a lifetime. But he ended up being very sick in 1972, early in his Supreme Court service. He was at a hospital in Washington, D.C. when the President went to see how he was doing. Marshall could not speak at all because of his health, but he took out a piece of paper and wrote a note to President Nixon. That note had just two words on it -- they were, "not yet."<sup>34</sup> He was clearly saying, "Mr. President, I'm not going to give up this post and don't be looking to fill my position with someone else that you want to appoint to the Supreme Court." Indeed, he often boasted about that, that he said he was going to serve a lifetime with the Supreme Court and that he would never retire.

Well that didn't quite happen, because he ultimately retired in 1991. He left us with a sense of the remaining mission of *Brown* and why it's so important and why this next generation of lawyers, black and white, male and female, from the north and the south, have to take on this battle. I recognized this myself as I went through college.

Indeed, when I graduated from Stanford in 1975, my wife and I, who also graduated from Stanford, were driving from California to Cambridge, where I would start law school. I made a mistake that I am sure no other gentleman has made -- as we were about to head in the car to drive back my wife had a simple question that I thought didn't make any sense: "Charles, before we head out there 3,000 miles, why don't we get a map?" And my response was, "A map? Why do we need a map? We go out, make a left and go 3,000 miles east. It's that simple, right?" That's what I tried to do.

My problems would continue. "Charles, why don't we get something to eat? It's getting late." And I said, "Well, no, we're just 100 miles from the next border. Let's just get to the next state." And then we would get to the next state and it would be 11 o'clock, "Charles, why don't we get a place to sleep?" "Well, we're only 40 miles from the next major city, let's get there." We would get there at midnight, the next major city, and of course every hotel and motel on that expressway would say "No Vacancies." I would say, "Pam, see that's racism, that's discrimination." She said, "No, that's a stubborn male." "We

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<sup>34</sup> See OGLETREE, *supra* note 31, at 177.

should have stopped at eight o'clock." We had stopped speaking by the time we made it to the east coast.

She had called a couple times collect to California asking her family for a one way ticket back, but I was convinced I was going to prove that I was right. And so we rolled into Boston on Interstate 93. But of course I got lost again, and as I drove around I called the landlord to help him direct us to our apartment. He said, "Where are you?" I said, "I don't know." "If I knew I wouldn't be calling you." He said, "Well, describe where you are." I said, "Well, I see Patty's Restaurant." "I see Sculley's Supermarket." He said, "Get back in the car." He later told me that we had just driven, at night, in the fall of 1975, into south Boston in the middle of the Busing Crisis.

Here it was 21 years after *Brown*. After we thought these issues had been won, the battles fought. Here were white families and children saying that black families and children will not be allowed in the public school system, and it reminded me of the significance of *Brown* and that it was not just a southern problem. It is unfair to talk about West Virginia and Virginia and Mississippi and Alabama without talking about Michigan and Illinois and Massachusetts and California and so many other places that have been given a free ride and yet have played a significant role in perpetuating the same problems of separate but equal.

And now is the time, I suggest, that we take on Justice Marshall's challenge to address these issues in a meaningful way. His last words when he received the liberty award in 1992 were a reminder that we each have to take up this battle. He said,

I wish I could say that racism and prejudice were only distant memories . . . and that liberty and equality were just around the bend. I wish that I could say that America has come to appreciate diversity and to see and accept similarity. But as I look around, I see not a nation of unity but of division – Afro and white, indigenous and immigrant, rich and poor, educated and illiterate . . . there is a price to be paid for division and isolation . . . We cannot play ostrich. Democracy cannot flourish amid fear. Liberty cannot bloom amid hate. Justice cannot take root amid rage . . . We must go against the prevailing wind. We must dissent from the indifference. We must dissent from the apathy. We must dissent from the fear, the hatred and the mistrust. We must dissent from a government that has lefts its young without jobs, education, or hope. We must dissent from the poverty of vision and the absence of moral leadership. We must dissent because America can do better, because America has no choice but to do better . . . Take a chance, won't you? Knock down the

fences that divide. Tear apart the walls that imprison. Reach out; freedom lies just on the other side.<sup>35</sup>

As we gather here talking about *Brown* and reflecting on the past, we too have to be those social engineers looking into the 21<sup>st</sup> century, saying that we will knock down the fences that divide, that we will tear apart the walls that imprison, that we will not engage in all deliberate speed but rather dispatch to make sure that in the 21<sup>st</sup> century there is one nation, indivisible, with liberty and justice, not for the rich, not for the wealthy, not for the powerful, but liberty and justice for all. And if we do that we will have met the great hope of the *Brown* lawyers and have made America the place that it should be for all, equally under the law.

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<sup>35</sup> CARL T. ROWAN, *DREAM MAKERS, DREAM BREAKERS: THE WORLD OF JUSTICE THURGOOD MARSHALL* 453 (1993).

