RECEIVED
OCT 4 1950
OFFICE OF
THE GOVERNOR

Ted Kessin
~~Wilmington~~, Del.

Oct 3 1950

The Hon. Governer Carvel
Dover Delaware

Dear Governer: I am writing you in regards to the problem of transportation. for my Daughter age 6. to. and from school. My Home is on the Limestone Rd. near Valley over two miles from the school. A School Bus passes by my Door picking up Children. but so far I have been unable. To get the Driver to pick up mine

The Bus Driver told me to get in touch with Mr. Isenberg of Dover. Who. Was in charge of the Buses. I wrote him on Sept 19. but haven't heard from him to Date. We are Citizen and Taxpayer. of the state of Delaware an would appreciate. Anything that Can be Done. to adjust this matter. Will you please give this problem your personal attention.

Very Truely yours.

Mr + Mrs Fred Bulah

Phone No 578 Hockessin Dela

RECEIVED
OCT 13 1950
OFFICE OF
THE GOVERNOR

Hockessin Dela
Oct 12, 1950

Hon Gov. Carvel

Dear Gov. I received
a letter today from Mr Eisenbray
stating they had no Transportation
facilities for School No. 107 C. The
School Bus passes my Home twice a
day picking up Children along the
way: he could put my Daughter
of at the postoffice She would
only be 2 Blocks: from the school
it is also good Road: There are
transportation for some pupil While
other have to go thru Rain. Hail
Sleet. Snow an mud: To get to schol
which isent Right: To take my
Child to school would not Reroute

the Bus at all: put her off at the postoffice an pick her up at the postoffice: an Bring her right back to my Door: the Bus is not full: so that isent an excuse: please look into the Matter for me: As I seem to be getting the Runa Round:

Sincerely Fred Bulah
Hopkinsville Ky

October
9
1950

Mr. Fred Bulah
Hockessin, Delaware

Dear Mr. Bulah:

I have your letter dated October 3, 1950, addressed to Governor Carvel, concerning a problem of transportation for your daughter to and from school.

At the Governor's direction, I have contacted Mr. Preston Eisenbrey who is in charge of transportation for the State Department of Public Instruction and am informed by him that he has sent the necessary application forms to you under the date of October 4, 1950. I am assured by Mr. Eisenbrey that when these forms have cleared, authorization for transportation of your daughter will be immediately forthcoming.

Thanking you for bringing this matter to our attention, I am

Cordially yours,

George I. Sylvester, Jr.
Administrative Assistant

GIS:jkm

October 10, 1950

Mr. Fred Bulah
Limestone Road
Hockessin, Delaware

Dear Mr. Bulah:

I wish to acknowledge the receipt of the application for transportation for your daughter, Shirley, to attend the Hockessin School #107C.

I am very sorry, however, that we have no transportation facilities provided for this school. Therefore, the only transportation benefits to which you would be entitled would be the private allowance based on the distances as shown in Rule 18 of the enclosed Rules and Regulations.

The application will be properly investigated and you will be notified just what the allowance will be.

Yours very truly,

DEPARTMENT OF PUBLIC INSTRUCTION

Preston G. Eisenbrey
Supervisor of Transportation

PGE:mw
enc.

cc Gov. Elbert N. Carvel

IN THE COURT OF CHANCERY
OF THE STATE OF DELAWARE,
IN AND FOR NEW CASTLE COUNTY

LOUISE ETHEL BELTON, an Infant, by her Guardian ad Litem, ETHEL BELTON, et al.,

Plaintiffs,

vs.

FRANCIS B. GEBHART, et al.,

Defendants.

COMPLAINT

LOUIS L. REDDING
ATTORNEY AT LAW
923 MARKET STREET
WILMINGTON 7, DELAWARE

3. The Honorable Court issue a permanent injunction forever restraining and enjoining the defendants from enforcing and executing so much of Article X, Section 2, of the Constitution of the State of Delaware, and 38 Laws of Delaware, Chapter 222, as requires and empowers them to maintain separate schools for colored and white children.

4. The Honorable Court issue a permanent injunction forever restraining defendants from denying the plaintiffs and other colored children similarly situated, residing within said Claymont Special School District, the right and privilege of attending the Claymont High School aforesaid, and from making any distinction based upon color or ancestry in the opportunities which the defendants provide for public high school education.

5. The Honorable Court will allow plaintiffs their costs herein, reasonable counsel fees, and such other and further relief as may appear to the Court equitable and just.

Louis L. Redding

Louis L. Redding
923 Market Street
Wilmington 7, Delaware
Attorney for Plaintiffs

IN THE COURT OF CHANCERY
OF THE STATE OF DELAWARE,
IN AND FOR NEW CASTLE COUNTY

SHIRLEY BARBARA BULAH, an Infant, by her Guardian ad Litem, SARAH BULAH, et al.,

Plaintiffs,

vs.

FRANCIS B. GEBHART, et al.,

Defendants.

COMPLAINT

LOUIS L. REDDING
ATTORNEY AT LAW
923 MARKET STREET
WILMINGTON 7, DELAWARE

Exhibit 2 RC

State of Delaware

DEPARTMENT OF PUBLIC INSTRUCTION
Dover
Business Administration

R. L. Herbst
Assistant Superintendent

December 11, 1950

Mr. Fred Bulah
Limestone Road
Hockessin, Delaware

Re: Your letter of November 22nd

Dear Mr. Bulah:

I have thoroughly investigated your request in respect to your daughter being transported on the school bus that is being operated for the benefit of pupils attending the Hockessin School #29. Inasmuch as there is no provision made for this bus, or any bus, to go to the Hockessin School #107, I have no way of issuing a permit for your daughter to ride.

You, no doubt, realize that the laws of Delaware require the State Board of Education to provide separate schools for colored pupils. Therefore, we who are responsible for administering the laws, have always considered this to include the transportation of pupils. However, since this is the first formal request of which we have any record, we are referring it to the State Board of Education for their consideration. We will advise you of their action as soon as possible.

The next official Board meeting of the State Board of Education will be December 15th.

Yours very truly,

DEPARTMENT OF PUBLIC INSTRUCTION

Preston G. Eisenbrey
Supervisor of Transportation

PGE:mw
cc Gov. E. N. Carvel
Dr. G. R. Miller

Preston G. Eisenbrey, Supervisor of Transportation, Dover
John H. Bastian, Supervisor of Business & Accounting, Dover
Harry Smith, Supervisor of Maintenance, Milton
B. F. Lovell, Supervisor of School Buildings & Grounds, Dover

Exhibit 4 RC

Feb. 18, 1951

Dear Mrs. Bulah:--

I have received your letter of February 13.

Your letter concerns a matter which is not the jurisdiction of the local school board. Therefore I am referring your letter to Dr. George R. Miller, Jr., State Superintendent, Dept. of Public Instruction, Dover, Del. You should hear from Dr. Miller in the near future.

Yours truly,

Gordon F. Biehn, Chairman
Board of School Trustees
Hockessin School No. 29

2. The Honorable Court enter a judgment or decree declaring that the policy, custom, usage and practice of defendants, operating under Article X, Section 2, of the Constitution of the State of Delaware, and 36 Laws of Delaware, Chapter 222, in denying infant plaintiff and other colored children residing in Hockessin, Delaware, solely because of color or ancestry, the right and privilege of enrolling in, attending, and obtaining elementary school instruction in Hockessin School No. 29 are violations of the equal protection and due process clauses of the United States Constitution and therefore unconstitutional and void.

3. The Honorable Court issue a permanent injunction forever restraining and enjoining the defendants from enforcing and executing so much of Article X, Section 2, of the Constitution of the State of Delaware, and 36 Laws of Delaware, Chapter 222, as requires and empowers them to maintain separate schools for colored and white children.

4. The Honorable Court issue a permanent injunction forever restraining defendants from denying the infant plaintiff and other colored children similarly situated, residing in Hockessin, Delaware, the right and privilege of attending Hockessin School No. 29, and from making any distinction based upon color or ancestry in the opportunities which the defendants provide for elementary school education for infant plaintiff and other colored children similarly situated.

5. The Honorable Court will allow plaintiffs their costs herein, reasonable counsel fees, and such other and further relief as may appear to the Court equitable and just.

Louis L. Redding
925 Market Street
Wilmington, Delaware

Attorney for Plaintiffs

18

(a) Hockessin School No. 107 is greatly inferior and unequal to Hockessin School No. 29 in the following deprivations and inequalities in facilities and instruction incurred by pupils at Hockessin School No. 107 and not incurred by pupils at Hockessin School No. 29: at No. 29 instruction of the six elementary grades is divided among four teachers, while at No. 107 instruction of the six elementary grades is divided between two teachers, with the result that less teacher time, attention, instruction and study supervision, is given to the pupils in each individual grade in No. 107 than in No. 29, this tending toward retardation of pupils in No. 107; at No. 29 there is a well-equipped playground conducive to optimum physical growth and development of pupils, while at No. 107 the playground is makeshift or poorly designed and the equipment is scanty, poor, makeshift, and not calculated to conduce to sound physical growth and development of pupils; the site of No. 29 is well-located, on attractive, elevated terrain, and the physical plant, including school building and playground, are meticulously kept and cared for, while at No. 107 the site is low-lying, close by railroad tracks, and the physical plant is poorly kept; at No. 29 there is bus transportation furnished by defendants to take pupils to and from school, while at No. 107 no bus transportation, nor any substantial equivalent, is furnished.

CLASS OF SERVICE

This is a full-rate Telegram or Cablegram unless its deferred character is indicated by a suitable symbol above or preceding the address.

91 8153 /

WESTERN UNION

EX-1201

(58)

W. P. MARSHALL, PRESIDENT

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DL=Day Letter
NL=Night Letter
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PA512

P=WUA375 LONG PD=WILMINGTON DEL 24 452PME= 1954 SEP 24 PM 6 44

=THE HONORABLE J CALEB BOGGS=

=1250 KYNLYN DR KYNLYN WILMINGTON DEL=

=REQUEST IN VICINITY OF MILFORD HIGH SCHOOL BEGINNING 8 A=M=, MONDAY, SEPTEMBER 27, 1954, STATE POLICEMEN ADEQUATE TO ASSURE PERSONAL SAFETY OF ELEVEN CHILDREN WHOSE ADMITTANCE TO THAT HIGH SCHOOL WAS LAST NIGHT CONFIRMED BY STATE BOARD OF EDUCATION= HOPE SUCH POLICEMEN WILL OPERATE AS UNOBTRUISIVELY AS IS CONSISTENT WITH COMPLETE PROTECTION OF THE ELEVEN= HOPE ALSO NO OCCASION FOR USE OF POWERS OF THE POLICE WILL ARISE=

LOUIS L REDDING=

African American Education in Delaware: A History through Photographs, 1856-1930

by Bradley Skelcher

A Delaware Heritage Press Book

First Printing, February 1999

ISBN: 0-924117-13-3

Library of Congress Catalog Card Number: 98-076184

Delaware Heritage Commission
Carvel State Office Building
820 North French Street, 4th Floor
Wilmington, DE 19801

Union Colored School, Kent County
Courtesy of Hagley Museum and Library

Bridgeville Colored School, Sussex County
Courtesy of Hagley Museum and Library

Three, Four, and Five Room Schools

With few exceptions, three, four, and five room school buildings were brick buildings. The exception was the Cheswold three-room school, which had wood shingle siding. Like the Fork Branch school, the Lenni Lenape claim this as a Native American school. Brick schoolhouses had flat roofs. Some had brick parapets with stone inserts over each bay extended above the decorative stone cornice. The three room schoolhouses, such as the Newark Colored School which follows, had three banks of six windows and three bays that divided the interior into three, four, or five rooms. The Bridgeville School was similar except it had two-side wing entrances.

Cheswold Colored School, Kent County
Courtesy of Hagley Museum and Library

Bridgeville Colored School, Sussex County
Courtesy of Hagley Museum and Library

Booker T. Washington Colored School in Dover, Kent County
Courtesy of Hagley Museum and Library

After completing the building, the school added an auditorium and other rooms in 1923. These were added to the two rear sides of the H shaped building. Service Citizens of Delaware was very proud of the new facility in Dover. In its 1922 Annual Report, the Service Citizens boasted:

> The largest colored school in the state will be in Dover and the plans adopted call for a central auditorium. This auditorium will meet a great need in the state. At present, there is no hall in which the colored people can meet for their various conventions and conferences. As such an auditorium will be used more for community purposes than for school exercises, it is felt proper that

> we should equip that hall with seats, motion picture outfit and stage properties, at a cost of $3700.[183]

The Auxiliary Association usually located new school buildings near the old schoolhouses. If surveys showed a change in the concentration of the population, then they made attempts to locate the new school to reflect it. They tried to locate the new schools in the center of population concentrations. The new site for the Booker T. Washington school reflected shifts in the African American population away from the south side of Loockerman Street to the north side of it. There were numerous complaints about these new school locations that came mainly from Euro-Americans. Mrs. Nolan Steele from Dover complained in a letter to duPont about the location of the Booker T. Washington School. She wrote:

> I have a little matter to bring before you. We own the farm that joins the ground on which the colored school-house stands here in Dover. Our land joins it on the west and north. My own two little boys, 7 and 11 years of age walk into Dover school every morning, and they are compelled to meet the road full of negro [sic] children...Partly on account of this we put our farm in the agent's hands for sale. Two or three different parties have been out to look at the place and because of the negro [sic] school-house, would not have it any price [sic]. You see it not only causes a depreciation in the value of our property, but knocks the sale of it entirely.[184]

By the mid 1920s, the Auxiliary Association had completed fifty-three buildings with 156 rooms. The Auxiliary Association had under construction an additional twenty-nine buildings and sixty classrooms for both Euro-American and African Americans. During the 1920s, African Americans began settling into their new schools and began operations.

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[183] "Co-operative Citizenship in Delaware," Report to the Annual Meeting of the Service Citizens of Delaware, (May 12, 1922), 74, Purnell Collection-Service Citizens, RG 9200, Delaware State Archives.

[184] Mrs. Nolan Steele, Dover, Delaware, to P.S. duPont, October 26, 1923, P.S. duPont Papers.

Brown v. Board of Education

Part 1: The Plaintiffs

More of this Feature

- Part 2: The Supreme Court Decision

Related Resources

- Brown v. Board of Education
- Brown II
- Civil Rights Movement Resources

From Other Guides

- Brown v. Board of Education
- The Little Rock Nine: Integrating Central High
- The Civil Rights Memorial

Elsewhere on the Web

- The Robert Russa Moton Museum
- Little Rock Central High

In Prince Edward County, Virginia, it has been fifty years since the African American students of Robert Russa Moton High School rose in protest against the unequal conditions of their segregated school. Their efforts led to the case, *Davis v. the County School Board of Prince Edward County*, which was one of the cases that was consolidated with *Brown v. Board of Education of Topeka, Kansas*.

In *Brown v. Board of Education*, the United States Supreme Court made the landmark decision to end the doctrine of "separate but equal" in public elementary and high schools. At the time of the decision, 17 states and the District of Columbia had segregated public schools. During the 1952-1953 Supreme Court term, five cases were combined under the name *Brown v. Board of Education*. The four other cases were *Briggs v. Elliot*, *Belton v. Gebhart*, *Bulah v. Gebhart*, and *Davis v. the County School Board of Prince Edward County, Virginia*.

In *Briggs v. Elliot*, the plaintiffs, Harry Briggs and nineteen other parents, brought suit against R.W. Elliot the president of the Clarendon County school board in South Carolina. While buses were available to white schools, African American students walked miles to school on foot. The plaintiffs requested that the county provide buses for black students. After the petition was ignored, suit was filed challenging segregation in schools. Reverend J.A. DeLaine, a school principal, recruited the plaintiffs and the help of

the NAACP. Thrugood Marshall of the NAACP and Harold Boulware served as counsel for the case. In May 1951, the case was heard before a three-judge panel in a U.S. District Court. They argued that segregation caused substantial psychological damage, but the court ruled 2 to 1 against them with Judge Julius Waring dissenting. Instead, the court ordered the board to equalize the schools. The case was appealed to the United States Supreme Court.

Belton v. Gebhart and *Bulah v. Gebhart* were two separate Delaware cases that focused on the inequality of black and white schools. *Belton v. Gebhart* was brought by Claymont parents who were required to send their children to a decaying segregated high school outside of their community. And *Bulah v. Gebhart* was brought by Sarah Bulah, who had requested that the Delaware Department of Public Instruction provide bus transportation for the black students in Hockessin. Her request was denied. Upon the instruction of a local attorney, the parents in both cases petitioned their local schools, but their children were denied admission. In 1951, the cases were filed and heard by the Delaware Court of Chancery. The Chancellor ruled that the schools had violated the equal protection clause and ordered the admission of eleven African American children. The board of education appealed the decision.

In *Davis v. the School Board of Prince Edward County*, inequality was also at issue. In Prince Edward County, Virginia, the inequality in the educational system had been a problem since after the Civil War. Not only were the facilities for black students deemed inadequate with drafty holes in the floor and heating problems, but also African American teachers were paid less then white teachers. In an effort to remedy the inadequate facilities and to ward off a potential legal challenge by the NAACP, Robert Russa Moton High School was built for African American students in 1939. Despite the effort, the new school was still inadequate. It lacked a gymnasium, cafeteria, auditorium with seats, and lockers. Additionally, it only had the capacity to accommodate 180 students, and already by its second year there were 219 students enrolled. In the late 1940s, the board again attempted to remedy the situation, but this time with temporary buildings that became known as "tar paper shacks." Fed up with the inadequate facilities, on April 23, 1951, students went on strike in protest of the overcrowding, the shacks, and the lack of progress in the plan to build a new high school. With the help of attorney Oliver Hill and Spottswood Robinson, the students decided to continue the strike until May 7 and to sue for the integration of schools in Prince Edward County. On May 23, a suit was filed in the Federal District Court in Richmond. The court decided in favor of the county, and the case was appealed to the United States Supreme Court.

May 17, 2004, marks the 50th anniversary of the decision in Brown v. Board of Education

The Redding Symposium on the 50th Anniversary of Brown:
Celebrating the Past, Considering the Present & Contemplating the Future

April 23, 2004 • John M. Clayton Hall • University of Delaware

Introduction
Agenda
Registration

Organizing Partners

American Civil Liberties Union—Delaware

Delaware Heritage Commission

Delaware State Bar Association

Delaware State University

Metropolitan Wilmington Urban League

University of Delaware

Widener University School of Law

SITE HOST

For more information on this symposium, contact Dr. Leland Ware at the University of Delaware.

The Redding Symposium

This event has special significance for Delaware as two of the five consolidated cases that are remembered as *Brown, Bulah v. Gebhart* and *Belton v. Gebhart*, arose in this state. A distinguished Delaware civil rights lawyer, the lat Louis L. Redding, represented the plaintiffs in those cases. A group of Delaware organizations will convene a one-day symposium to commemorate this historic event on Friday, April 23, 2004, at the Clayton Hall conference facility. The organizing groups include the University of Delaware, the American Civil Liberties Union—Delaware, the Metropolitan Wilmington Urban League, Widener University School of Law, Delaware State University, the Delaware Heritage Commission and the Delaware State Bar Association.

The symposium participants will include lawyers, academics, civil rights leaders, and others, who will discuss the Brown decision and examine the present, past and future of school desegregation in the United States. The program will consist of two parts: two morning sessions, during which the panelists will discuss the history of the Brown decision, including the two Delaware cases, and commemorate Louis Redding's many contributions as a civil rights lawyer. Two afternoon sessions will examine current desegregation issues and consider the future of school desegregation.

Some of the better known participants will include Professor **Jack Greenberg** of Columbia Law School, who was for many years the Director of the NAACP's Legal Defense Fund; **Juan Williams**, a former *Washington Post* reporter and author of *Thurgood Marshall, American Revolutionary*; **Patricia Williams**, an author, columnist, and Professor at Columbia Law School and **James T. Patterson**, a Professor Emeritus at Brown University and author of *Brown v. Board of Education: A Civil Rights Milestone and its Troubled Legacy*. There will also be a luncheon at which a nationally recognized person will serve as the keynote speaker. The presentations made by the participants will be published as chapters of a book that will be base on the theme of the symposium.

Brown v. Board of Education 50th Anniversary Commission

Commission Meeting October 29-30, 2003

The Brown v. Board of Education 50th Anniversary Commission will meet October 29-30, 2003 in Wilmington, Delaware. The Brown et al v. Board of Education case Belton et al v. Gebhart et al had its origins in the State of Delaware. The Brown Commissioners representing Delaware and hosting the meeting are Littleton Mitchell and Judge Charles Toliver.

The evening of October 29th, the Commissioners and special guests will attend a reception and program during which time Ruth Ann Minner, Governor of Delaware and James M. Baker, Mayor of Wilmington will address the assembled persons. The following morning newly appointed Commission Co-Chair R. Alex Acosta, Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice and Principal Deputy Assistant Attorney General Mike Wiggins will take their oaths as Commissioners.

Between its business sessions on October 30th the Commission and meeting attendees will participate in presentations and discussions lead by Delaware Chief Justice Norman Veasey, Leland Ware, Dr. Jeanne Nutter and Dr. Ann Wollard-Provine. Justice Veasey will provide remarks on the Delaware litigation Bulah v. Gebhart and Mr. Ware will discuss the impact of the Brown decision on education and equal rights in Delaware. Dr. Nutter will focus on the status of African American education before Brown while Dr. Provine will present information concerning the desegregation experience in Delaware as a result of Brown. The Delaware Congressional delegation will address the body during a luncheon sponsored by the Delaware Bar Association. Also, during the lunch the Commission will recognize heirs of the litigants and litigators of Bulah v. Gebhart and members of the public.

Other members of state, city and county government and the judiciary will be in attendance.

Delaware Public Archives
...your window to the past!

May 13, 2004 **FOR IMMEDIATE RELEASE**

DELAWARE'S KEY ROLE IN BROWN V. BOARD TO BE RECOGNIZED ON MAY 17

The 50th anniversary of the Supreme Court's historic decision ending segregation of the nation's public schools will be commemorated at two ceremonies in Delaware on Monday – May 17. While the attention of many will be focused on the dedication of a National Park Service Historic Site in Topeka, Kansas, Delawareans will gather to remember the state's important role in the case. Many Americans today are unaware that *Brown v. Board* was actually a combination of cases from several states. And while many legal scholars argue that the Delaware case had the greatest impact on the Supreme Court's ruling, this fact is often ignored or simply forgotten.

At 10 AM citizens will join at the former Hockessin Colored School to unveil a historical marker detailing the efforts of student Shirley Bulah's mother to obtain the same transportation services to the school that were provided to the community's white students. In 1951, with the assistance of the Delaware's first African-American attorney Louis L. Redding, Mrs. Bulah filed a suit against the State Board of Education that was subsequently combined with a similar case for argument before the state's Chancery Court. The Delaware cases were later joined with others as *Brown v. Board.* Classmates and friends of the late Shirley Bulah Stamps are expected to participate in the unveiling. The school was closed in 1959. The building now serves as the Hockessin Community Center (located at 4266 Millcreek Road, Hockessin DE).

At 1:30 PM, Delaware Governor Ruth Ann Minner will be joined by Wilmington Mayor James Baker and Chief Justice Myron Steele for the unveiling of a marker at the New Castle County Courthouse in Wilmington (500 King Street). Participants will recognize the impact of the groundbreaking decision of Delaware Chancellor Collins J. Seitz, who ruled that the disparity of facilities and services provided in the communities of Hockessin and Claymont violated the African-American students right to the equal protection of the law as provided in the 14th Amendment of the U.S. Constitution. Unlike the other cases in *Brown v. Board*, Delaware's was the only one in which the finding was for the plaintiffs. The importance and impact of the Seitz decision is reflected by its citation in the Supreme Court's ruling on May 17, 1954.

All interested persons are encouraged to attend these special events. For information contact Russ McCabe (Delaware Public Archives) at 302-841-8086 (russ.mccabe@state.de.us).

The Sussex County Women's Republican Club

Dec. 4, 1953.

Att. Gen. H. Albert Young
U. S. Supreme Court
Wilmington, Del.

Dear Mr. Young:

I am disappointed in you as a "Member of the Republican Party" because of the Argument you are presenting in regards to the present Delaware School laws and the segregation practices that exist in this state.

Respectfully,
(Mrs.) Inez Burton.

IN THE

Supreme Court of the United States

October Term, 1953. No. 10.

FRANCIS B. GEBHART, WILLIAM B. HORNER, EUGENE H. SHALLCROSS, JESSE OHRUM SMALL, N. MAXSON TERRY, JAMES M. TUNNELL, Members of the State Board of Education of the State of Delaware, GEORGE R. MILLER, JR., State Superintendent of Public Instruction of the State of Delaware, ALFRED EUGENE FLETCHER, GEORGE CLIFFORD JOHNSON, SAGER TRYON, EARL EDWARD ROWLES, Members of the Board of Education of the Claymont Special School District, HARVEY E. STAHL, and HAIG KUPJIAN,

Petitioners,

v.

ETHEL LOUISE BELTON, an Infant, by Her Guardian ad Litem, ETHEL BELTON, ELBERT JAMES CRUMPLER, an Infant, by His Guardian ad Litem, JOSEPH CRUMPLER, RICHARD LEON DAVIS and JOHN TERRELL DAVIS, Infants by Their Guardian ad Litem, JOHN W. DAVIS, SPENCER W. ROBINSON, an Infant, by Her Guardian ad Litem, WILLIE ROBINSON, STYRON LUCILLE SANFORD, an Infant, by Her Guardian ad Litem, EMMA FOUNTAIN, ALMENA A. SHORT, an Infant, by Her Guardian ad Litem, JOHN SHORT, MYRTHA DELORES TROTTER, an Infant, by Her Guardian ad Litem, HARLAN TROTTER, ETHEL BELTON, JOSEPH CRUMPLER, JOHN W. DAVIS, WILLIE ROBINSON, EMMA FOUNTAIN, JOHN SHORT, and HARLAN TROTTER,

Respondents.

FRANCIS B. GEBHART, WILLIAM B. HORNER, EUGENE H. SHALLCROSS, JESSE OHRUM SMALL, N. MAXSON TERRY, and JAMES M. TUNNELL, Members of the State Board of Education of the State of Delaware, GEORGE R. MILLER, JR., State Superintendent of Public Instruction of the State of Delaware, GORDON F. BIEHN, FREDERICK H. SMITH, HENRY C. MITCHELL, and ETHEL C. McVAUGH, Members of the Board of School Trustees of Hockessin School No. 29,

Petitioners,

v.

SHIRLEY BARBARA BULAH, an Infant, by Her Guardian ad Litem, SARAH BULAH, FRED BULAH and SARAH BULAH,

Respondents.

BRIEF FOR PETITIONERS ON REARGUMENT.

H. ALBERT YOUNG,
Attorney General of the State of Delaware.

LOUIS J. FINGER,
Special Deputy to the Attorney General.

International, 236 Chestnut St., Phila. 6, Pa.

WIDENER LAW SYMPOSIUM JOURNAL

Volume 9 2002 Issue 1

THE ROLE OF DELAWARE LAWYERS IN THE DESEGREGATION OF DELAWARE'S PUBLIC SCHOOLS: A MEMOIR

IRVING MORRIS*

THE CONTEXT

The Delaware desegregation litigation is unique in the history of the country in breaking down the barriers of racial segregation in public education.[1] A handful of Delaware lawyers, with the active substantial

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* Unless it is otherwise clear from the text and the notes, I base the facts and events I relate and the opinions I express in this article on my involvement in and experience with Delaware's desegregation litigation. I claim in their entirety the views expressed herein, as well as any errors. I am grateful to my friends Victor F. Battaglia, Louis R. Lucas, John A. Munroe, Jes P. Street, Leland Ware and William E. Wiggin, who permitted me to impose upon each of them to read this paper in draft and share helpful comments. Leland Ware especially encouraged me to submit this article for publication. I owe particular thanks to Victor F. Battaglia for suggesting investigating the movement in the Catholic community and to Dona Devine, Mary Elizabeth Power Lubitsh and James P. Collins for their help in developing the material I set forth in Note 33. I also express my gratefulness to the following members of *The Widener Law Symposium Journal*: Joshua Kutinsky, who led the effort, Jennifer Hurvitz, Cindy Meneeley Brown, Robert Greenberg, and Dennis Meloro who read some or all of the text and notes in draft and made suggestions, and then exercised the good judgment to defer to me. Jamie Scaringi of the *Journal* staff discharged the tedious task of Blue Book observance placing me much in her debt. Finally, I acknowledge the vital help of A. Lynn Nurthen, my secretary who was by my side for more than twenty years in the practice of law until I retired, Amber Crooks of The Sun and Surf in Palm Beach, Florida, my "secretary" in retirement, and Lena Mooney of the *Journal* staff, each of whom patiently made the difficult to follow changes in the numerous "editions" of the paper and did not hesitate to tell me when a sentence did not make sense, thus helping to make this published article better.

1. A concise overall summary of the desegregation litigation in Delaware appears in CAROL HOFFECKER, FEDERAL JUSTICE IN THE FIRST STATE: A HISTORY OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE (1992). The summary appears at 171-82, where Hoffecker emphasizes Judge Murray M. Schwartz's role in bearing judicial responsibility for carrying out the three-judge Court's Order naming "an interim school board that was charged with creating an interdistrict plan." *Id.* at 177-79. For the in-depth

participation at critical times of lawyers from outside Delaware, were in the forefront of the effort to desegregate the public schools of the State, while more than a score of Delaware attorneys, including every Attorney General who served between 1950 and 2000, resisted desegregation.

No domestic issue confronting the people of the United States in the Twentieth Century was (and is in the Twenty-first Century) of greater significance than the complex problem of race relations.[2] From the foundation of the United States as a nation, slaves were a vibrant part of its

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history and analysis of part of the history of the Delaware desegregation cases, one should turn to four studies:

(1) RICHARD KLUGER, SIMPLE JUSTICE: THE HISTORY OF BROWN V. BOARD OF EDUCATION AND BLACK AMERICA'S STRUGGLE FOR EQUALITY (Vintage Books 1977) (1976). KLUGER discusses the 1950 University of Delaware case at 289-90, 430-32. KLUGER at 434-50 takes up the proceedings in 1951-1952 in the Court of Chancery and the Supreme Court of the State of Delaware in the Delaware cases subsequently on appeal before the Supreme Court in *Brown v. Board of Education*, 347 U.S. 483 (1954) [hereinafter *Brown I*], and 349 U.S. 294 (1955) [hereinafter *Brown II*]. Finally, KLUGER addresses the proceedings in 1952-1955 in the Delaware cases before the Supreme Court in *Brown I* and *Brown II* at 539-40, 579-81, 649-50, 677-78, 702-10, 729, and 745.

(2) JEFFREY A. RAFFEL, THE POLITICS OF SCHOOL DESEGREGATION: THE METROPOLITAN REMEDY IN DELAWARE (1980).

(3) RAYMOND WOLTERS, THE BURDEN OF BROWN: THIRTY YEARS OF SCHOOL DESEGREGATION 175-251 (1984) (a study from a neoconservative's view about what happened in Delaware schools in the period after *Brown* to the adoption of the four districts in 1981).

(4) PAUL R. DIMOND, BEYOND BUSING: INSIDE THE CHALLENGE TO URBAN SEGREGATION 283-339, 347-52, 388-91 (1985) (the proceedings in the case of *Evans v. Buchanan*, C.A. Nos. 1816-1822, in the years 1971-1980, including the trial before the three-judge Court and the proceedings before the United States Supreme Court). DIMOND is far more detailed than WOLTERS about the renewal of the litigation in the 1970s (Dimond was an active participant in the remedy phase). There is no text addressing the Delaware cases in the period between *Brown I* and the renewal of *Evans v. Buchanan* in 1971 comparable to KLUGER and DIMOND for the litigation in the period each addresses.

2. Gilbert Thomas Stephenson in the first sentence of his preface to his book, RACE DISTINCTIONS IN AMERICAN LAW (1910), wrote: "America has to-day [*sic*] no problem more perplexing and disquieting than that of the proper and permanent relations between the white and the colored races." The problem obviously remains and will not go away quickly. *See Racial disparities linger, study says*, WILMINGTON NEWS J., June 26, 2002, at A1 (reporting on a study by LELAND WARE ET AL., THE PACE OF PROGRESS, THE STATE OF PEOPLE OF COLOR IN DELAWARE: A COMPARATIVE ANALYSIS OF RACIAL DISPARITIES IN INCOME, EMPLOYMENT, EDUCATION, HOME OWNERSHIP, BUSINESS OWNERSHIP, AND INVOLVEMENT WITH THE CRIMINAL JUSTICE SYSTEM (2002), prepared at the University of Delaware and commissioned and published by the Metropolitan Wilmington Urban League).

people. The Constitution had the fundamental flaw of counting slaves as "three fifths of all other Persons."[3] The constitutional provision was a compromise between ironic positions: the Southern States wanted to count their slaves as full citizens, while the Northern States viewed the slaves as property and did not want to count them at all.[4] By the time of the Civil War some four million residents of the United States, an eighth of its population, were slaves.[5] Acting under his war powers, President Abraham Lincoln in September 1862 announced the Emancipation Proclamation, effective January 1, 1863, freeing all slaves in areas still in rebellion.[6] The Emancipation Proclamation did not apply to the States within the Union since Lincoln "had no constitutional power to act against slavery in areas loyal to the United States."[7] Accordingly, the legal status of slaves residing in Delaware, a border State that stayed within the Union, remained unchanged.[8] The auction of slaves took place in Delaware throughout the Civil War.[9] With the national adoption of the Thirteenth, Fourteenth and Fifteenth Amendments to the Constitution,[10] the majority of Delawareans used statutes providing for the separation of the races to maintain the subjugation of blacks. Thus, in Delaware, blacks and whites could not marry without violating the law; nor could they come together in hotels or

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3. U.S. CONST., art. I, § 3.

4. Don E. Fehrenbacher, *Why the War Came*, *in* THE CIVIL WAR, AN ILLUSTRATED HISTORY 7-8 (Geoffrey C. Ward et al. eds., 1990).

5. JOHN HOPE FRANKLIN, FROM SLAVERY TO FREEDOM 185-86 (1967).

6. JAMES M. MCPHERSON, BATTLE CRY OF FREEDOM 557-58 (1988), citing in note 24, at 557, V THE COLLECTED WORKS OF ABRAHAM LINCOLN 433-36 (Roy C. Basler ed., 1952-55).

7. MCPHERSON, *supra* note 6, at 558.

8. WARD, *supra* note 4, at 72.

9. DELAWARE: A GUIDE TO THE FIRST STATE 100 (Jeannette Eckman et al. eds., 1993) [hereinafter THE DELAWARE GUIDE]("Negro slavery persisted in Delaware until the close of the Civil War, although the number of slaves had decreased from 8,887 in 1790 to 1,798 in 1860, at which time there were 19,829 free Negroes in the State.").

10. Long after their effective dates Delaware ratified the three amendments on February 12, 1901 (the 92nd anniversary of President Abraham Lincoln's birth), when the Senate Pro Tempore and the Speaker of the House of Representatives of Delaware's General Assembly officially signed Senate Joint Resolution No. 13 adopted unanimously by the Senate on January 30, 1901, and by the House without dissent on January 31, 1901, with two members of the House absent. Delaware thus ratified the three amendments long after their effective dates. Delaware General Assembly Enrolled Bills, Vol. 1, page 33 (February 12, 1901); Delaware General Assembly Journal of the Senate, 1901, 222; Delaware General Assembly Journal of the House of Representatives, 1901, 355-56. John A. Munroe referred to the belated ratification as "[a] political gesture." *See* John A. Munroe, *The Negro in Delaware*, 56 THE S. ATLANTIC Q. 428-44, at 437 (1957), *reprinted in Articles on American Slavery*, VII SOUTHERN SLAVERY AT THE STATE AND LOCAL LEVEL 166-83 (Paul Finkelman ed., 1989).

restaurants or barber shops or public restrooms or theaters or participate together in myriad other activities affecting the daily lives of Delaware residents without the risk of violating the law.[11] Not the least of the white majority's efforts was in public education where the Delaware Constitution of 1897 provided: "... separate schools for white and colored children shall be maintained."[12]

THE FIRST "FIRST"

Even after the two World Wars of the Twentieth Century the United States successfully fought for freedom from fascist tyranny, Delaware maintained its racially segregated educational system, including separate institutions of higher learning. The University of Delaware in Newark for whites offered a far wider diversity of courses in superior facilities with a larger and better trained faculty than did the Delaware State College for blacks near Dover. In the twelve grades of the public school system Delaware maintained, blacks attended schools in special school districts rather than the public schools whites attended. Given the unwillingness of those serving in the General Assembly or as Governor to end racial segregation in the public schools with the intolerable results of continued segregation, Delaware's system remained intact and, indeed, unchallenged

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11. Illustrative of the racial divide is the story of Wilmington's motion picture houses. As late as 1950 Wilmington had eleven cinemas catering to the white market: the Rialto, Queen, Arcadia, Savoy, Aldine and Grand, all on Market Street; in addition, within the City limits were the Ace, Park, Ritz, Warner and Strand. Only one Wilmington cinema, the National between 8th and 9th on French Street, was open to black people. As television came to the fore and the public shifted from attending movies to watching television at home, coupled with the flight of white people from Wilmington to the suburbs where movie houses were available to them, by 1982 with the closing of the Rialto not a single one of the movie houses remained open. Elbert Chance, *The Motion Picture Comes To Wilmington Part I*, DEL. HIST. 229, 259 (Fall-Winter 1990-91).

12. DEL. CONST., art. 10, § 2 (1897). But harshness toward the black man was not always the way in Delaware. The first Constitution of Delaware, adopted on August 27, 1776, by the representatives from New Castle, Kent and Sussex Counties "chosen by the freemen of [Delaware]," provided in Article 26: "No person hereafter imported into this State from Africa ought to be held in Slavery under any Pretence whatever, and no Negro, Indian or Mulatto Slave, ought to be Brought into the State for Sale from any part of the World." The 1776 Constitution of Delaware and The Bill of Rights are set forth in HAROLD B. HANCOCK, DELAWARE TWO HUNDRED YEARS AGO: 1780-1800 at 185-99 (1987). "By 1790, Delaware, the smallest slave state, had a higher percentage of free blacks in its population than any other state—6.6 percent of the total population." *Id.* at 14. "The first Federal census (1790) showed a population of 59,096 people of whom 46,310 were white, 3,899 were free Negroes, and 8,887 were Negro slaves." THE DELAWARE GUIDE, *supra* note 9, at 50.

until 1950. Finally, the abandoned victims sought relief in the only practical recourse available to them, the courts.

Delaware's first black lawyer, Louis L. Redding admitted in 1929,[13] was the only black lawyer at the Delaware Bar in 1950.[14] In the Court of Chancery he attacked as a violation of the Equal Protection Clause of the United States Constitution the University of Delaware's policy of rejecting all black students because of their color and, moreover, because "a state college for Negroes [i.e., Delaware State College] exists in Delaware and offers courses leading to the degrees which plaintiffs seek."[15] Redding had at his side Jack Greenberg of New York, a young lawyer on the staff of the National Association for the Advancement of Colored People Legal Defense and Educational Fund, Inc. (the Inc. Fund). Thurgood Marshall, then the head of the Inc. Fund and later the first black lawyer appointed to the Supreme Court of the United States, had hired Greenberg, the first white lawyer the Inc. Fund ever employed. As a recent law school graduate not yet admitted to the Bar, I served as an unpaid research assistant to Redding and Greenberg. While Greenberg received a salary, Redding received no compensation, a situation that prevailed for Redding's desegregation work for almost thirty years. Opposing Redding and Greenberg were Attorney General Albert W. James and Deputy Attorney General William H. Bennethum. Aiding the Attorney General was the University's counsel, Southerland, Berl & Potter (known today as Potter, Anderson & Corroon), the oldest firm in Delaware as the lineal successor to the practice Andrew Caldwell Gray started in 1826 in New Castle.[16] The judge was the young Vice Chancellor only recently appointed to the post, Collins J. Seitz, himself a graduate of the University.[17] In *Parker*, after visiting both the University and the College, Seitz found the College "woefully inferior"[18] to the University in both its physical facilities and the educational opportunities it offered to undergraduates.[19] Seitz held the University's refusal "to consider plaintiffs' applications because they are Negroes . . . violated the guarantee contained in the Equal Protection Clause of the

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13. Leland Ware, *Louis Redding's Civil Rights Legacy*, 4 DEL. L. REV. 137, 138-39 (2001).

14. Joshua W. Martin, III, et al., *Minorities in the Delaware Bar in* THE DELAWARE BAR IN THE TWENTIETH CENTURY 661 (Helen L. Winslow ed., 1994) [hereinafter THE DELAWARE BAR].

15. Parker v. University of Del., 75 A.2d 225, 226 (Del. Ch. 1950).

16. WILLIAM T. QUILLEN, POTTER ANDERSON & CORROON LLP: AN AMERICAN LAW PRACTICE THE FIRST 175 YEARS 7-8 (2001).

17. *Parker*, 75 A.2d at 231. Seitz subsequently served as Chancellor, then as a judge of the United States Court of Appeals for the Third Circuit and Chief Judge of that Court and, finally, as one of its Senior Judges.

18. *Id.* at 234.

19. *Id.* at 230-34.

United States Constitution."[20] The State did not appeal. Twenty-five ye later, Richard Kluger in the definitive study of the landmark *Brown I* a *Brown II* litigation, wrote of the *Parker* case: "The University of Delaw became the first state-financed institution in America to be desegregatec the undergraduate level by court order."[21] The Order in *Parker* was not last "first" the lawyers for plaintiffs in Delaware accomplished in leading nation in desegregating public schools.

THE SECOND "FIRST"

Within a few months after *Parker*, black parents came to Reddi protesting the busing of black school children throughout Delaware attend special black schools. After making clear he would not undertak narrow attack upon the busing, but would represent parents who we willing to attack the segregation of the Jim Crow schools themselv Redding, again with Greenberg at his side, mounted an attack on Delawar mandated racially segregated public school system.

Redding and Greenberg filed their cases, *Belton v. Gebhart*[22] and *Bulah Gebhart*, in the United States District Court for the District of Delaware a sought a three-judge court, required at that time by federal law since th were attacking the constitutionality of Delaware's law mandati segregation of its public schools.[23] But because State law was involved, t State, under the direction of Attorney General H. Albert Young wi Deputy Attorney General Louis J. Finger on the case with him, successful moved to have the State courts of Delaware hear the cases first. The tw cases came before Seitz, who had presided in *Parker*. The Senate of t General Assembly of Delaware had confirmed Seitz's appointment to t constitutional office of Chancellor in June 1951, but only after Lieutenar Governor Alexis I. duPont Bayard[24] intervened to support Seitz, breakin

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20. *Parker*, 75 A.2d at 234.

21. KLUGER, *supra* note 1, at 432.

22. "Redding's papers named as principal defendant in both the Claymont an Hockessin cases the members of the State Board of Education, first of whom in alphabetic order was Francis B. Gebhart." *Id.* at 435. *Belton* and *Bulah* are reported together at 87 A.2 862 (Del. Ch. 1952) under the name Belton v. Gebhart [hereinafter *Belton*].

23. *Belton*, 87 A.2d at 864-66; 28 U.S.C. § 2281.

24. Kluger mistakenly identifies Bayard as a Republican. KLUGER, *supra* note 1, at 433 In fact, Bayard and his family were staunch Democrats. Charles J. Durante et al. *Opportunities for Reform 1940-1968 in* THE DELAWARE BAR, *supra* note 14, at 554-55; THE DELAWARE GUIDE, *supra* note 9, at 49. Bayard served as the Chairman of the Delawar Citizens for Kennedy-Johnson in the 1960 election. Elmer Paul Brock and I were the Vic Chairmen. Kennedy carried Delaware in his successful campaign for the presidency, the firs time a Democrat had won Delaware's three electoral votes since Franklin D. Roosevelt's las campaign in 1944. THE WORLD ALMANAC AND BOOK OF FACTS 399 (Mark S. Hoffman ed.,

up a coalition of State senators who opposed Seitz because of his stand on racial segregation in *Parker*.

In *Belton* and *Bulah*, Redding and Greenberg attacked head-on the constitutionality of segregation as a violation of the Equal Protection Clause of the Fourteenth Amendment.[25] Sociologists testified segregation of the races in public schools is inimical to the health and well being of the black school children inducing in them a sense of inferiority to their white peers.[26] In addition, Redding and Greenberg produced evidence about the disparity in facilities between the white and black public schools.[27] Bound as he recognized he was on the constitutional issue by the Supreme Court's decision in *Plessy v. Ferguson*,[28] Chancellor Seitz, nonetheless, on April 1, 1952, ruled for the plaintiffs, finding that "based on the testimony and exhibits [in evidence], plus the inspection which I made of all the structures involved,"[29] the disparity in the facilities between the white and black schools violated the Equal Protection Clause of the Fourteenth Amendment.[30] He also made it clear, were he free to do so, he would hold the racially mandated segregation of black students unconstitutional under the Fourteenth Amendment.[31]

What is remarkable is not only Seitz's decision but the action he took flowing ineluctably from the sense of fairness he brought to the case before him:

> It seems to me that when a plaintiff shows to the satisfaction of a court that there is an existing and continuing violation of the "separate but equal" doctrine, he is entitled to have made available to him the State facilities which have been shown to be superior. To do otherwise is to say to such a plaintiff: "Yes, your Constitutional rights are being invaded, but be patient, we will see whether in time they are still being violated." If, as the Supreme Court has said, this right is personal, such a plaintiff is entitled to relief immediately, in the only way it is available, namely, by admission to the school with the superior facilities. To postpone such relief is to deny relief, in whole or in part, and to say that the protective provisions of the Constitution offer no immediate protection.[32]

1992). Bayard had five ancestors who had served as senators from Delaware from the founding of the country. THE DELAWARE BAR, *supra* note 14, at 554-55; THE DELAWARE GUIDE, *supra* note 9, at 49.

25. *Belton*, 87 A.2d at 863.
26. *Id.* at 864.
27. *Id.* at 866-71.
28. 163 U.S. 537 (1896).
29. *Belton*, 87 A.2d at 866.
30. *Id.* at 866-71.
31. *Id.* at 864-66 (citation omitted).
32. *Id.* at 869-70 (citation omitted).

The Order Seitz entered directed the State Board of Education and its members to admit the plaintiffs immediately to the white schools in their communities.

Of Chancellor Seitz's decision, Kluger wrote: "For the first time, a segregated white public school in America had been ordered by [a] court of law to admit black children. 'This is the first real victory in our campaign to destroy segregation of American pupils in elementary and high schools,' Thurgood Marshall announced to the press."[33] Another informed observer

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33. KLUGER, *supra* note 1, at 449. Although the Claymont High School was the first public high school desegregated in Delaware, it was not the first high school in Delaware to be desegregated. That distinction goes to the Salesianum School for Boys in Wilmington, a private Catholic school. Its principal, Father Thomas A. Lawless, made an initial effort in 1947, which his superiors at the Oblates of St. Francis de Sales overruled. After the Oblates shifted their policy, Salesianum by 1950 had admitted a number of black young men. Kluger tells part of the story, including quoting from Chancellor Seitz's forthright speech at the June 1951 commencement exercises at Salesianum. *Id.* at 432-33. Following sharply upon the heels of Chancellor Seitz's April 1, 1952 decision in *Belton*, Edmond J. FitzMaurice, Bishop of the Catholic Diocese of Wilmington (until 1974 covering Delaware and the Eastern Shore of Maryland and Virginia), in July 1952, in individual sessions orally directed the parish priests in Wilmington to admit black children to their elementary parochial schools effective with the Fall term 1952. To that time the Catholic black children in Wilmington attended the parochial elementary school operated by the black ethnic parish, St. Joseph's at 11th and French Streets across from the Public Building (subsequently named as the Daniel L. Herrmann Court House) housing the City and County offices, including the Superior Court and the Court of Chancery. The school with its all black enrollment closed after the 1954-55 school year. The Catholic Interracial Council of Delaware led by its first President, William Duffy, Jr., with the active participation of Mary Elizabeth Power (now Lubitsh) (Editor of *Truth and Deeds*, the Council's monthly "newsnotes" first published in July 1950), Father (later Monsignor) Thomas J. Reese, Charles A. Robinson, Collins J. Seitz and Ethel Tynes, among others, sparked the Bishop's action. With the approval of Bishop FitzMaurice, Father Reese, then assistant pastor of St. Helena's Church in Bellefonte, organized the Council founded in the fall of 1948. *State Catholic Group National Award Winner*, WILMINGTON J. EVERY EVENING, Dec. 17, 1951, at 1, 28. At a luncheon on December 17, 1951, at the Plaza Hotel in New York City, the Council received the 1951 Lane Bryant, Inc. $1,000 national award from among 200 nominations for its efforts in behalf of race relations and harmony. *Id.* at 1. The article reporting the award referred to the presenter's praise of the Council's success, "including the breaking down of segregation practices in private high schools, and the providing of scholarships to needy Negro students." *Id.* at 28. According to Donn Devine, Archivist for the Diocese, James P. Collins, Counsel for the Diocese, and Ms. Lubitsh with whom I spoke in March 2002, there is no written record telling the accomplishment of the Catholic community in 1950-1952. John A. Munroe, Delaware's preeminent historian, called to my attention an article he had written over forty years ago in which in a paragraph he addressed the desegregation of Salesianum and the parochial school system. *See* Munroe, *supra* note 10, at 441-42. Clearly the accomplishment warrants more than a paragraph and this footnote. Duffy subsequently had a sterling judicial career on the courts of Delaware serving as an Associate Judge of the Superior Court, President Judge of that Court,

at the time referred to the Delaware ruling as "this magnificent decision in Delaware."[34] A subsequent Chancellor, William T. Allen, forty years later, in a book commemorating the bicentennial celebration of the Court of Chancery, referred to *Belton* as the Court of Chancery's "proudest accomplishment."[35] For a second time the lawyers for plaintiffs in Delaware had achieved another "first" as the nation struggled with the desegregation of its public schools.

DELAWARE AMONG THE FIVE CASES IN *BROWN*

The State appealed from *Belton*, and the plaintiffs cross-appealed to preserve their right to attack the doctrine of "separate but equal" as a legal principle established in *Plessy v. Ferguson*.[36] In a unanimous Opinion by Chief Justice Clarence A. Southerland, joined in by Justice Daniel F. Wolcott and Superior Court Judge James B. Carey (sitting by designation), the Supreme Court of Delaware on August 28, 1952, affirmed Seitz's decision and Order finding "independently" the inequality of the facilities in the schools the law compelled black children to attend. The Supreme Court, however, provided the defendants could come back "at some future date" to seek relief were they to remove the "inequalities" between the schools.[37] The Supreme Court took the same tack as had Chancellor Seitz with respect to the applicability of *Plessy v. Ferguson*: "It is for the Supreme Court, not us, to overrule its decisions or to hold them outmoded."[38] I think it is clear from what Southerland wrote that he and his colleagues thought Chancellor Seitz's comment about rejecting the "separate but equal" doctrine not in accord with their view of the matter.[39]

Chancellor of the Court of Chancery, and finally, as an Associate Justice of the Supreme Court of Delaware. Seitz's subsequent role in the desegregation litigation is of historic and national significance.

34. KLUGER, *supra* note 1, at 535 (quoting Will Maslow, former field director of the President's Committee on Fair Employment Practices (FEPC) and general counsel of the American Jewish Congress).

35. William T. Allen, *Speculations on the Bicentennial: What is Distinctive About our Court of Chancery in* COURT OF CHANCERY OF THE STATE OF DELAWARE 1792-1992 at 18. In the same book Chief Justice E. Norman Veasey referred to Chancellor Seitz's decisions in *Parker* and *Belton* collectively as "one of the Court's finest hours." *Id.* at 2.

36. Gebhart v. Belton, 91 A.2d 137 (Del. 1952).

37. *Id.* at 148-52.

38. *Id.* at 141-42 (quoting Boyer v. Garrett, 183 F.2d 582 (4th Cir. 1950 per curiam)). *See also* Chancellor Seitz's view in *Belton*, 87 A.2d at 865 ("Nevertheless, I do not believe a lower court can reject a principle of United States Constitutional law which has been adopted by fair implication by the highest court of the land. I believe the 'separate but equal' doctrine in education should be rejected, but I also believe its rejection must come from that Court.").

39. Gebhart v. Belton, 91 A.2d at 141-42.

Young was away when Finger learned of the decision. Finger consulted with Stephen E. Hamilton, Jr., another Deputy Attorney General. They did not see any basis for further review and so told State officials who called seeking the Attorney General's Opinion.[40] Young initially agreed with his deputies.[41] Since Young and Finger did not contemplate an appeal, they did not seek a stay of Seitz's decree or the mandate affirming Seitz. Accordingly, when the schools opened after Labor Day 1952, the plaintiff black students attended the Claymont High School and Hockessin School No. 107. The desegregation took place without incident. As time passed, however, pressure mounted from certain members of the State Board of Education and others upon Young and ultimately Young agreed to seek a review.[42] Finger, with Hamilton's help, prepared the petition for *certiorari*, a difficult task in the face of Seitz's factual findings now affirmed by the Supreme Court of Delaware.[43]

When Young told Redding he intended to seek review in the United States Supreme Court, he also told him he thought he would have to seek the removal of the children from their schools to maintain the State Board's position before the Supreme Court. Redding begged Young not to do so. Young, sympathetic with the cause of the children, agreed not to take action provided Redding would not argue the presence of the children in the schools mooted the issue before the Supreme Court. Redding agreed.[44]

Thus, although the Supreme Court of Delaware handed down its Opinion on August 28, 1952, Young and Finger did not file the petition for *certiorari* seeking review by the United States Supreme Court until November 13, 1952.[45] When Finger hand delivered the petition to the Office of the Clerk of the Supreme Court in Washington, he was told his opponents had fifteen days to cross-petition if they so desired and Finger should so tell his opposition. On his return to Wilmington, Finger repeated to Redding what the Clerk had said. Redding, however, told Finger he did

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40. Telephone Interview with Louis J. Finger, Aug. 1, 1993.

41. *Id.*

42. Based on my friendship and many conversations with Attorney General Young, I know (as his actions in the desegregation litigation demonstrate) he was torn between, on the one hand, following his personal views, the product of his Jewish religion and his abhorrence of racial and religious prejudice from his own experience, and, on the other hand, obeying his oath to defend the Constitution of Delaware as its Attorney General, a Constitution mandating segregation of the races in its public schools. Young was mindful and proud of his election in 1950 that made him the first Jew elected to a statewide post in Delaware's history, a feat unmatched until Dennis Greenhouse's election in 1982 as State Auditor thirty-two years later.

43. Interview with Louis J. Finger, *supra* note 40.

44. *Id.*

45. KLUGER, *supra* note 1, at 539-40.

not believe it necessary for the successful plaintiffs to cross-petition.[46] Redding and Greenberg believed they could assert the equal protection violation as an argument for affirmance without filing a cross-petition, a decision which created in Kluger's words, "a moment of possible crisis" in the second argument in *Brown I*, since a reviewing court may not permit a party to raise on appeal an issue a lower court has ruled upon but from which ruling the party did not appeal.[47]

Surprising Young and Finger,[48] the Supreme Court, motivated by its desire, as Kluger quotes Justice Tom Clark, "to have representative cases from different parts of the country," on November 24, 1952, granted review and scheduled argument in the two Delaware cases in *Brown I* along with the four other cases addressing segregation in public schools, three from State courts and one from the District of Columbia.[49] Delaware was unique among the five cases in that only in the Delaware cases was the defendant government body seeking a review. In all the other cases, the black students and their parents had lost in the courts below.[50]

The Supreme Court held two substantive arguments in the five cases. At the first, on December 9, 1952, Chief Justice Fred M. Vinson presided. In the course of the argument, Redding, while not claiming their presence in school mooted the Delaware cases, did refer to the fact of the black children's presence without incident in the previously white schools in support of his assertion the world would not come to an end were black children and white children to attend school together. As Redding made the point, Finger heard an astonished Vinson whisper to Justice Jackson words to the effect: "The black kids are already in the schools!"[51] Young and Finger thought Redding had gone back on his agreement.[52]

When Vinson died, the school case was still undecided. After President Dwight D. Eisenhower appointed Earl Warren as Chief Justice to succeed Vinson, the Supreme Court scheduled a second argument held a year later on December 8, 1953, at which Warren presided.

As Kluger tells the story, Young in his argument allied himself "with the South Carolina, Virginia, and Kansas readings of the historical evidence. For the Court to rule against segregation, he said, would require it to go plainly counter to the intentions of the framers of the Fourteenth Amendment."[53] At the second argument, Justices Frankfurter and Jackson

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46. Interview with Louis J. Finger, *supra* note 40.
47. KLUGER, *supra* note 1, at 678.
48. Interview with Louis J. Finger, *supra* note 40.
49. KLUGER, *supra* note 1, at 539-40.
50. *Brown I*, 347 U.S. at 486-88 n.1.
51. Interview with Louis J. Finger, *supra* note 40.
52. *Id.*
53. KLUGER, *supra* note 1, at 677.

questioned Greenberg sharply about the plaintiffs' entitlement to argue the unconstitutionality of Delaware's segregated system as a violation of the Equal Protection Clause, since the Delaware decisions had found the school facilities unequal and granted relief on that basis and not because segregation itself was illegal.[54] Although one of the bases of the attack Redding and Greenberg had made in the Delaware courts was the constitutional violation of Delaware's system, they had not appealed from the Supreme Court of Delaware's affirmance leaving undisturbed the issue of the lawfulness of Delaware's system. Young and Finger[55] argued Redding and Greenberg had no standing to raise the constitutional issue because of their failure to appeal. After the noon recess, Marshall arose in place of Greenberg to complete the argument in the Delaware case, arguing the four State cases "had in effect been consolidated and the constitutional issue was identical in all."[56] *Belton* from Delaware was the last case argued before the Supreme Court took the matter under advisement.

On May 17, 1954, in *Brown I* the Supreme Court in the other four cases unanimously held segregation *per se* of students on racial grounds unconstitutional.[57] Thus, Delaware had the benefit of the rulings in the other cases. In writing the Opinion for the unanimous Court, Chief Justice Warren noted Seitz's position in *Belton* and not only quoted from it but included the precise citation as well: "A similar finding was made in the Delaware case: 'I conclude from the testimony that in our Delaware society, State-imposed segregation in education itself results in the Negro children, as a class, receiving educational opportunities which are substantially inferior to those available to white children otherwise similarly situated. 87 A.2d 862, 865.'"[58]

Although the Supreme Court decided the substantive issue in *Brown I* in 1954 holding racial segregation in public education was a denial of the equal protection of the laws, the Supreme Court did not enter a decree at that time in any of the cases. It requested the parties to present further argument to assist the Supreme Court in formulating the decrees it should enter.[59]

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54. KLUGER, *supra* note 1, at 677.

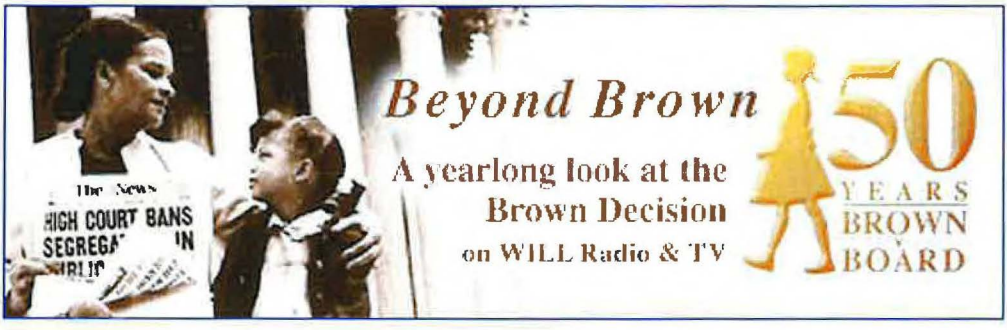
55. Although Finger was no longer a Deputy Attorney General having resigned at the end of 1952, Young had the benefit of Finger's help; he enlisted him as "Special Deputy Attorney General." *Brown I*, 347 U.S. at 485. Pursuant to 29 DEL. CODE ANN. § 2501 of the 1953 Delaware Code Annotated, Young received extra compensation for arguing on behalf of the State before the Supreme Court of the United States.

56. KLUGER, *supra* note 1, at 678.

57. *Brown I*, 347 U.S. at 495.

58. *Id.* at 494 n.10.

59. *Id.* at 495-96.



The Five Individual Cases that Became Known as Brown v. Board
The Supreme Court combined five cases under the heading of Brown v. Board of Education, because each sought the same legal remedy. The combined cases emanated from Delaware, Kansas, South Carolina, Virginia and Washington, DC. The following describes those cases:

Delaware- Belton v. Gebhart (Bulah v. Gebhart)
First petitioned in 1951, these local cases challenged the inferior conditions of two black schools designated for African American children. In the suburb of Claymont, African American children were prohibited from attending the area's local high school. Instead, they had to ride a school bus for nearly an hour to attend Howard High School in Wilmington. Located in an industrial area of the state's capital city, Howard High School also suffered from a deficient curriculum, pupil-teacher ratio, teacher training, extra curricular activities program, and physical plant. In the rural community of Hockessin, African American students were forced to attend a dilapidated one-room school house and were not provided transportation to the school, while white children in the area were provided transportation and a better school facility. In both cases, Louis Redding, a local NAACP attorney, represented the plaintiffs, African American parents. Although the State Supreme Court ruled in favor of the plaintiffs, the decision did not apply to all schools in Delaware. These class action cases were named for Ethel Belton and Shirley Bulah.

Kansas - Brown v. Board of Education
In 1950 the Topeka NAACP, led by McKinley Burnett, set out to organize a legal challenge to an 1879 State law that permitted racially segregated elementary schools in certain cities based on population. For Kansas this would become the 12th case filed in the state focused on ending segregation in public schools. The local NAACP assembled a group of 13 parents who agreed to be plaintiffs on behalf of their 20 children. Following direction from legal counsel they attempted to enroll their children in segregated white schools and all were denied. Topeka operated eighteen neighborhood schools for white children, while African American children had access to only four schools. In February of 1951 the Topeka NAACP filed a case on their behalf. Although this was a class action it was named for one of the plaintiffs, Oliver Brown.

South Carolina - Briggs v. Elliot
In Claredon County, the State NAACP first attempted, unsuccessfully and with

a single plaintiff, to take legal action in 1947 against the inferior conditions African American students experienced under South Carolina's racially segregated school system. By 1951, community activist Rev. J.A. DeLaine, convinced African American parents to join the NAACP efforts to file a class action suit in U.S. District Court. The Court found that the schools designated for African Americans were grossly inadequate in terms of buildings, transportation and teachers salaries when compared to the schools provided for whites. An order to equalize the facilities was virtually ignored by school officials and the schools were never made equal. This class action case was named for Harry Briggs, Sr.

Virginia - Davis v. County School Board of Prince Edward County
One of the few public high schools available to African Americans in the state was Robert Moton High School in Prince Edward County. Built in 1943, it was never large enough to accommodate its student population. Eventually hastily constructed tar paper covered buildings were added as classrooms. The gross inadequacies of these classrooms sparked a student strike in 1951. Organized by sixteen year old Barbara Johns, the students initially sought to acquire a new building with indoor plumbing. The NAACP soon joined their struggles and challenged the inferior quality of their school facilities in court. Although the U.S. District Court ordered that the plaintiffs be provided with equal school facilities, they were denied access to the white schools in their area. This class action case was named for Dorothy Davis.

Washington, DC – Bolling v. Melvin Sharpe
Eleven African American junior High School students were taken on a field trip to the cities new modern John Phillip Sousa school for whites only. Accompanied by local activist Gardner Bishop, who requested admittance for the students and was denied, the African American students were ordered to return to their grossly inadequate school. A suit was filed on their behalf in 1951. After review with the Brown case in 1954, the Supreme Court ruled "segregation in the District of Columbia public schools...is a denial of the due process of law guaranteed by the Fifth Amendment..." This class action case was named for Spottswood Bolling.

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Belton (Bulah) v. Gebhart

There were two separate cases in Delaware, but the issues were the same. Black families were frustrated with the inequitable conditions in schools reserved for African-American children. Belton v. Gebhart was brought by parents in Claymont, who were forced to send their children to a run-down segregated high school in Wilmington rather than a school in the community. Bulah v. Gebhart was brought by Sarah Bulah, a parent who had made several attempts to convince the Delaware Department of Public Instruction to provide bus transportation for black children in the town of Hockessin. Particularly galling was the fact that a bus for white children passed her house twice a day, but would not pick up her daughter.

The parents sought representation from Louis Redding, a local lawyer who was the state's first black attorney. He suggested that they petition their all-white neighborhood schools on behalf of their children. The children were denied admission and in 1951, the cases Belton v. Gebhart and Bulah v. Gebhart were filed. At the state's request the cases were heard at the Delaware Court of Chancery rather than the U.S. District Court. Jack Greenberg from the NAACP Legal Defense and Educational Fund, Inc. assisted Redding with the case.

In a groundbreaking decision, the Chancellor ruled that the plaintiffs were being denied equal protection of the law and ordered that the eleven children involved be immediately admitted to the white school. The board of education, however, appealed the decison. Delaware was the only case of the five that achieved relief for the plaintiffs at the state level. The decision did not strike down Delaware's segregation law.

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http://www.nps.gov/brvb/pages/belton.htm

Brown v. Board of Education

National Historic Site
National Park Service
U.S. Department of the Interior

THE CASE

In *Brown v. Board of Education of Topeka*, Mr. Oliver Brown and 12 other plaintiffs in Topeka, Kansas held that segregated public schools were not equal and could not be made equal, hence they were being deprived of the equal protection of the laws. The case was brought on behalf of 20 African-American children who were denied access to white elementary schools. Oliver Brown's daughter was denied admission to Sumner Elmentary, an all-white school near her home Instead she was forced to attend Monroe Elementary, an all-black school over two miles away. Children attending the three other allblack elementary schools in Topeka were in a similar circumstance. The plaintiffs challenged an 1879 Kansas law which permitted segregation of races in elementary schools.

Brown v. Board of Education was officially filed with the U.S. District Court for Kansas on February 28, 1951 by the local branch of the NAACP of Topeka. The U.S. District Court unanimously refused to grant relief because it could not overrule the 1896 U.S. Supreme Court decision *Plessy v. Ferguson* permitting "separate but equal" in the use of public transportation facilities. While the Plessy decision did not involve the issue of schools, the principle carried over. It inferred that segregation of races was valid if facilities were equal, since it is equal protection of the laws that is guaranteed by the 14th Amendment. In light of the unacceptable decision, the case was then appealed to the U.S. Supreme Court. It was argued by NAACP attorney Thurgood Marshall in December 1952.

Included in the findings of the District Court was a discussion concerning the negative effect of segregation of the races in Topeka elementary schools. The U.S. Supreme Court adopted the lower court's language as the basis for its decision. The Court issued its historic decision on May 17, 1954. Chief Justice Earl Warren stated that in the Court's opinion education "is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity ... is a right which must be made available to all on equal terms." He delivered the unanimous Opinion reversing *Plessy v. Ferguson* and declaring "separate educational facilities are inherently unequal"

Does segregation of children in public schools solely on the basis of race ... deprive the children of the minority group of equal educational opportunities? We believe that it does....
-U.S. Supreme, Court, May 17,1954

--Washington School First Grade, Topeka, Kansas, 1956.
Photograph courtesy Joe Douglas Collection, University of Kansas Libraries

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CORRESPONDING CASES

The movement toward desegregation of public schools was not limited to the *Brown* case. Four other cases were heard with *Brown v. Board of Education*. They were consolidated by the Supreme Court, and *Brown v. Board of Education* was selected as the lead case. *Briggs v. Elliot -- South Carolina*. Twenty African-Americans from Clarendon County first filed in 1951 on behalf of their children. With the help of the NAACP, they sought to secure better schools, equal to those provided for white children. The U.S. District Court found the black schools were clearly inferior compared to white schools: buildings were no more than wooden shacks, transportation and educational provisions did not meet basic needs, and teachers' salaries were less than those received in white schools. Further, the lower court "...ordered the defendants to immediately equalize the facilities ... [but the children were] denied admission to the white schools during the equalization program."

Davis v. County School Board of Prince Edward County -- Virginia. One hundred and seventeen AfricanAmerican high school students chose to strike rather than attend all-black Morton High, which was in need of physical repair. The students initially wanted a new building with indoor plumbing to replace the old school. The effort evolved and the suit was filed on behalf of the students in 1951. The U.S. District Court ordered equal facilities be provided for the black students but "denied the plaintiffs admission to the white schools during the equalization program."

B*olling v. Sharp -- District of Columbia*. The plaintiffs were 11 African-American junior high school youths who were refused admission to all-white schools. Their school was grossly unequal in terms of physical condition, the location in a rundown part of the city, and lacking adequate educational materials. The suit was filed on behalf of the minors in 1951. After review with the Brown case in 1954

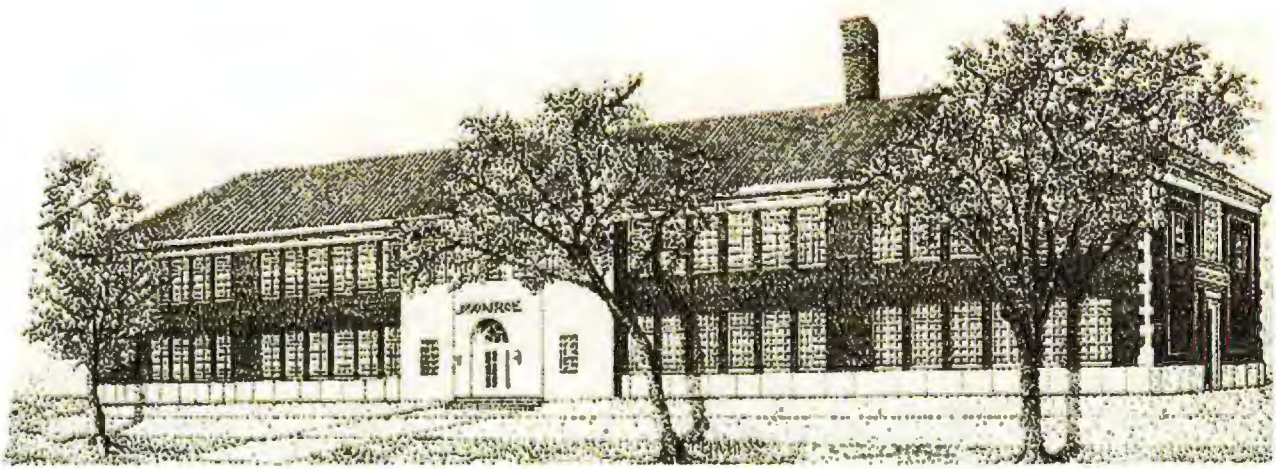
the Supreme Court ruled that "segregation in the public schools ... is a denial of the due process of law guaranteed by the Fifth Amendment .....

Belton v. Gebhart (Bulah v. Gebhart) -- Delaware. First petitioned in 1951, these two cases involved two black schools: Howard High School in Wilmington and a one-room elementary school in Hockessin. Many African-American students rode the bus nearly an hour to attend Howard High School. The school was over-crowded, located in the industrial area of town, and sorely lacking in educational areas. Six-yearold Shirley Bulah and other children attending the elementary school in Hockessin wanted equal transportation to their one-room school. Relief for the initial requests for improvement was denied. The two cases combined, both seeking desegregation because "the Negro schools were inferior with respect to teacher training, pupilteacher ratio, extra-curricular activities, physical plant, and time and distance involved in travel."

THE DECISION

Chief Justice Warren explained that even 'With respect to buildings, curricula, qualifications and salaries of teachers ... [the decision] cannot turn on merely a comparison of these tangible factors .... We must look instead to the effect of segregation itself on public education." Further he said, "segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has the tendency to [retard] the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racial[ly] integrated school system." Segregation violates the 14th Amendment of the Constitution and is therefore unconstitutional.

The impression of *Brown v. Board of Education* on us as a society is indelible. In countless ways it continues to have ramifications in every community and state in this country, as well as throughout the world. It is, and shall forever remain, a foundation block in the civil rights movement.



--Illustration by Denise A. Hopkins

Brown v. Board of Education **Orientation Handbook**

Combined *Brown* Cases, 1951-1954

Belton v. Gebhart (*Bulah v. Gebhart*)

Overview

First petitioned in 1951, these two cases involved two black schools: Howard High School in Wilmington and a one-room elementary school in Hockessin. Many African-American students rode the bus nearly an hour to attend Howard High School. The school was over-crowded, located in the industrial area of town, and sorely lacking in educational areas. Children attending the elementary school in Hockessin wanted equal transportation to their one-room school. Relief for the initial requests for improvement was denied. The two cases were combined, both seeking integration because "the Negro schools were inferior with respect to teacher training, pupil-teacher ratio, curricular and extra-curricular activities, physical plant, and time and distance involved in travel." Their unsuccessful challenge in U.S. District Court was appealed to the U.S. Supreme Court.

Discussion

The final challenge to segregated schools in Delaware came by way of two separate cases with identical issues. One case developed in the suburb of Claymont and another in the rural community of Hockessin.

Segregated Howard High School was a continual source of frustration for African American parents in the Wilmington suburb of Claymont. Although their community had a well maintained school in a picturesque setting with spacious facilities, African American children could not, by law, attend the Claymont school. Instead they were transported daily on a twenty mile round trip to Howard High School located in an undesirable section of Willmington. Not only was the distance an adverse factor, class size, teacher qualifications in terms of advanced degrees, and the incomplete curriculum also angered African American parents. Students interested in vocational training courses had to walk several blocks to the run-down Carver annex regardless of the weather.

In March of 1951, eight African American parents sought legal counsel from attorney Louis Redding. At his urging these parents asked state education officials to admit their children to the local Claymont School, they were denied. Consequently, Redding agreed to take their case.

In the rural community of Hockessin, Mrs. Sarah Bulah only wanted equal opportunity for their adopted daughter, Shirley Barbara. While a bus carrying white children passed her home each day, she had to drive Shirley two miles to an old one-room schoolhouse designated for African American children. Sarah Bulah decided to share her concern with state officials, so she wrote to the Department of Public Instruction and to the Governor. Their replies reaffirmed that no bus transportation would be provided because "colored" children could not ride on a bus serving white children. Undaunted, Mrs. Bulah made an appointment with attorney Louis Redding.

In both cases attorney Redding was ready to challenge the notion of not permitting integrated schools. Both Sarah Bulah and the parents from Claymont including Ethel Belton were prepared to sue in order to change state law. Their case would name the State Board of Education as the principal defendant. The Board members were specifically charged. The first name among the members was Francis B. Gebhart. The resulting cases were called *Belton v. Gebhart* and *Bulah v. Gebhart*.

Judge Collin Seitz, in this case ruled that the "separate but equal" doctrine had been violated and that the

plaintiffs were entitled to immediate admission to the white school in their communities. Although a victory for the named plaintiffs, his decision had not dealt the sweeping blow to segregation they had hoped for. The decision did not apply broadly throughout Delaware.

The *Belton* and *Bulah* cases would ultimately join four other NAACP cases in the Supreme Court ruling in *Brown*.

Other Cases

Bolling v. Sharp

Washington D.C.

In the case of Bolling v. Sharp African-American junior high school youths were refused admission to all-white schools. The schools had unequal terms of physical condition and lacked adequate education materials. Even as the capital of our nation, Washington D.C. did not set a positive example regarding race relation.

In 1950 while preparing the Bolling case, Charles Hamilton Houston suffered a heart attack. He asked colleague and friend James Nabritt, Jr. to help Gardner Bishop and his group.

In 1951 the case of Bolling v. Sharp was filed in U.S. district court. This case was named for Spottswood Thomas Bolling, one of the children who accompanied Gardner to Sousa High. He was among those denied admission based solely on race. It was appealed.

The Bolling case would later meet with success as one of the cases combined under Brown v. Board of Education.

Belton v. Gebhart

Delaware

In the case of Belton v. Gebhart, two black schools from Delaware:Howard High in Wilmington and a one-room elementary school in Hockessin, petitioned for equal transportation to their one-room school. The elementary school was located in the industrial area of town and badly lacked educational areas. The two cases were combined, both seeking integration because "the Negro schools were inferior with respect to teacher training, pupil-teacher ratio, curricular and extra-curricular activities, physical plant, and

time and distance involved in travel."

Eight parents sought legal help from Louis Redding of the NAACP; he agreed to help them. The parents explained to him how the students had to ride the bus twenty miles round trip to Howard High School. Students interested in vocational training courses had to walk several blocks to run down Carver annex regardless of the weather.

Mrs. Sarah Bulah wanted equal opportunity for her adopted daughter, Shirley Barbara. She wrote to the Department of Public Instruction and to the governor. Their replies reaffirmed that no bus transportation would be provided because "colored" children could not ride on a bus serving white children. Mrs. Bulah made an appointment with Louis Redding. Their case would name the State Board of Education as the principal defendant. The first name on the board list was Francis B. Gebhart. The results in cases were called Bulah v. Gebhart.

Judge Collin Seitz ruled that " the Separate but equal doctrine had been violated and that the plaintiffs were entitled to immediate admission to the white school in their communities."

The Belton and Bulah cases would ultimately join four other NAACP cases in the Supreme Court ruling in Brown v. Board of Education.

Davis v. Prince Edward County

Virginia

I n the case of Davis v. Prince Edward County, 117 African American high school students chose to strike rather than attend all-black Moton High, which was in need of physical repair. The students first wanted a new building with indoor plumbing to replace the old school.

Strike leader, Barbara Johns, enlisted the assistance of NAACP attorneys. The U.S. District Court ordered equal facilities be provided for the black students but "denied the plaintiffs admission to the white schools during the equalization program."

The Robert Moton School added grades nine through twelve by 1947 due partly to the fundraising efforts of the Farmville Colored Women's Club. The new school was never adequately large enough, necessitating the use of tarpaper-covered buildings constructed on the campus for use as classrooms. The poor classrooms sparked a student strike in 1951.

Rev. Francis Griffin and M. Boyd Jones petitioned to push for change. With the strike underway, Barbara Jones and classmate Carrie Stokes sought legal help from NAACP attorneys in Richmond. Oliver Hill agreed to meet with them. The strike lasted ten days; Hill promised that action would be taken on their behalf. The students returned to school on May 7, 1951.

During the trial the first student listed was a ninth grade girl, daughter of a local farmer. Her name was Dorothy Davis. The Virginia case was filed as Dorothy E. Davis v. County School Board of Prince Edward County.

The case was later added to the Brown v. Board of Education cases.

Briggs v. Elliot

South Carolina

In the case of Briggs v. Elliot, in 1947, twenty African Americans parents from Clarendon County, South Carolina, petitioned for better schools for their children. The schools they had were wooden shacks. They wanted the new schools to be equal to the whites. They also petitioned for higher teacher's salaries.

With the help of NAACP lawyers, Rev. James Hinton and Rev. J.A. Delaine, the parents issued a challenge to find the courage to test the legality of the discriminatory practices aimed at African American school children.

Some students had to walk eight miles each way to school. They approached the Clarendon County school board but the officials failed to secure school buses. African American parents collected donations and purchased a secondhand school bus.

In May of 1950 with the help of the NAACP Legal Defense Fund, the case of Briggs v. Elliot was filed. The court ruled against the petitioners and ordered schools to be equalized, focusing on equalization and ignoring the broader question of the constitutionality of segregation.

The states action resulted in an NAACP appeal to the U.S. Supreme Court. The Briggs case became part of the Brown litigation.

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