

## THE *BRIGGS V. ELLIOTT* LEGACY: BLACK CULTURE, CONSCIOUSNESS, AND COMMUNITY BEFORE *BROWN*, 1930–1954

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*In the years between Emancipation and Brown v. Board of Education, African Americans battled against the inequities in education, health care, and economic opportunities advanced by segregation. In this article, the author discusses the African American community's response to the hostility of white Americans, the fight against Jim Crow oppression, and the fight to preserve African American culture. Creatively channeling their resources, African Americans in the early twentieth century worked within their segregated communities to establish a system of local core values that eventually provided the impetus to challenge the doctrine of segregation in the courts. The author maps the progression of black consciousness from the dismal "nadir" of the 1890s following Reconstruction to the launching of the first of five cases that led to Brown: Briggs v. Elliott. Focusing on the individuals who strengthened their communities even within the confines of segregation, the author suggests that from the local struggles of the African American community in the early twentieth century emerged the "culmination of the African American struggle for freedom" that we now know as Brown.*

### I. INTRODUCTION

How do we use the occasion of the fiftieth anniversary of the 1954 *Brown v. Board of Education* U.S. Supreme Court decision, which overturned the judicial foundation of separate but equal in public education, to open up new ways of understanding its significance for the world we live in today? The question suggests the need to place the decision in historical context. Constitutional issues and the strategies of NAACP lawyers have dominated recent scholarly discourse on this landmark

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case.<sup>1</sup> It may be instructive, therefore, to examine anew the lives and experiences of the rural southern black people in South Carolina who launched *Briggs v. Elliott*,<sup>2</sup> the first of the five cases that together formed *Brown v. Board of Education*. In the first half of the twentieth century, African Americans composed forty-three percent of the population of South Carolina. Although burdened by white oppression and the ravages of the Great Depression, even in the bleak 1930s black South Carolinians struggled to regain political and social citizenship rights. In their local communities, they agitated for equitable distribution of health and welfare resources, and for better schools for their children.<sup>3</sup>

An examination of *Brown's* origins in rural Clarendon County, South Carolina, illustrates how local people and their leaders waged a long multifaceted struggle to overthrow Jim Crow. This essay has two parts. The first part recapitulates the evolution of *Briggs v. Elliott* and the deplorable state of rural southern black schools in the 1930s and 1940s, which gave rise to the education reform movement that unfolded in the courts. Rural southern black professionals, especially ministers, teachers, and nurses, found the deteriorating health status of black people as alarming as the overwhelming inequalities in physical facilities, teachers, and equipment that burdened black schools. These two overlapping concerns, education and health care, were structurally intertwined in *Briggs*, and implicit in *Brown*. The second part of this essay concentrates on the socio-historical context from the 1890s through the 1940s that witnessed the simultaneous emergence of racial segregation codified in law and the development of a black professional class that would pursue various strategies to destroy Jim Crow, especially in the educational arena.

The educational arena became a political and emotional battlefield after Reconstruction collapsed in 1877. During the ensuing two decades, court decisions combined with southern states' disenfranchising constitutions to nullify the Fourteenth and Fifteenth Amendments, which guaranteed equal protection for black citizens' civil, social, and political rights.<sup>4</sup> Black peoples' loss of the rights to vote, serve on juries, testify in court, and have access to places of public accommodation and transpor-

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1. *Brown v. Bd. of Educ.* 349 U.S. 294, 301 (1955) (*Brown II*); *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954). See generally JACK GREENBERG, *CRUSADERS IN THE COURTS: HOW A DEDICATED BAND OF LAWYERS FOUGHT FOR THE CIVIL RIGHTS REVOLUTION* (1994); WALDO E. MARTIN JR., *BROWN V. BOARD OF EDUCATION: A BRIEF HISTORY WITH DOCUMENTS* (1998); MARK V. TUSHNET, *MAKING CIVIL RIGHTS LAW: THURGOOD MARSHALL AND THE SUPREME COURT, 1936-1961* (1994); MARK V. TUSHNET, *THE NAACP'S LEGAL STRATEGY AGAINST SEGREGATED EDUCATION, 1925-1950* (1987).

2. *Briggs v. Elliott*, 98 F. Supp. 529 (E.D.S.C. 1951).

3. PATRICIA SULLIVAN, *DAYS OF HOPE: RACE AND DEMOCRACY IN THE NEW DEAL ERA 143-50* (1996). Sullivan provides a cogent analysis of the interaction between a diverse local leadership of South Carolinians and the national leaders of the National Association for the Advancement of Colored People (NAACP) during the 1930s and 1940s. She argues that, "voting was the major impetus for the expansion of civil rights activities during the late 1930s and early 1940s." *Id.* at 143.

4. See, e.g., *Cumming v. Richmond Bd. of Educ.*, 175 U.S. 528 (1899); cf. *Yick Wo v. Hopkins*, 118 U.S. 356 (1886).

tation, systematized racial hierarchy and supported white hegemony. The fate of black education was hotly contested and black people fared badly. According to historian James D. Anderson, between 1860 and 1935 most black children in the South did not have access to public elementary schools: “High schools were virtually nonexistent, and the general unavailability of secondary education precluded even the opportunity to prepare for college.”<sup>5</sup> Still, black southerners held fast to “a fundamental belief in learning and self-improvement and a shared belief in universal education as a necessary basis for freedom and citizenship.”<sup>6</sup>

These convictions led rural black southerners to practice a form of double taxation to achieve racial uplift. Communities of parents and teachers built their own school buildings and supplied their own transportation, equipment, books, and supplies, while most of their taxes went to support the white schools. Teachers used their meager salaries, as well as solicited funds from white philanthropic foundations, to provide supplies and services. For example, Nannie L. Craighead asked the Rosenwald Fund for money to defray expenses to take her students to a health clinic in Richmond, Virginia.<sup>7</sup> Seventy-three of her seventy-six pupils suffered from enlarged tonsils, poor vision, or bad teeth.<sup>8</sup> These were by no means the worst, or the least, health problems black students and adults faced. All of these forces—double taxation, meager resources, and illness—operated in Clarendon County and they weighed heavily on Joseph Albert De Laine.<sup>9</sup>

## II. THE EVOLUTION OF *BRIGGS*

Every black community had individuals who, as historian V.P. Franklin put it, possessed a passion for education and believed that through its acquisition they could achieve self-possession, determination, preservation, sufficiency, and improvement.<sup>10</sup> Between 1930 and 1954, the creative agency and courage of the second generation “New Negro” teachers, ministers, and nurses in rural South Carolina were skillfully deployed. These rural black professionals were just as significant in their communities—perhaps even more so because they were in short supply—as were those who practiced in the large metropolises. Joseph Albert De Laine, an AME minister and teacher of great personal dignity and self-possession, was one of these rural southern black professionals. Born in 1898 in Manning, South Carolina, De Laine earned a teaching

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5. JAMES D. ANDERSON, *THE EDUCATION OF BLACKS IN THE SOUTH, 1860–1935*, at 285 (1988).

6. *Id.* at 281.

7. *Id.* at 177.

8. *Id.*

9. *Id.* at 179; RICHARD KLUGER, *SIMPLE JUSTICE: THE HISTORY OF BROWN V. BOARD OF EDUCATION AND BLACK AMERICA’S STRUGGLE FOR EQUALITY 3–26* (First Vintage Books 1977) (1975).

10. See, e.g., V.P. FRANKLIN, *BLACK SELF-DETERMINATION: A CULTURAL HISTORY OF THE FAITH OF THE FATHERS 147–85* (1984).

license and, in 1931, a Bachelor of Theology degree from Allen University in Columbia, South Carolina.<sup>11</sup> He married Marie Belten, a school teacher, and together they had three children. During the week, De Laine and Belten taught at Scott's Branch School, and on the weekends Reverend De Laine served as a pastor on a rural AME circuit.<sup>12</sup>

In 1947, with the full support of the black citizens of Clarendon County, De Laine approached the chairman of the District 22 Board of Trustees, Roderick W. Elliott, and made a simple request for a school bus for black children.<sup>13</sup> It was a reasonable and just entreaty given the grossly inequitable distribution of tax revenues and material resources that black residents received. Approximately seventy percent of Clarendon County's 32,000 residents were African American.<sup>14</sup> Most of the black population earned less than \$1000 a year, and the average number of years they attended school was four.<sup>15</sup> In the opinion of many, "[t]he black schools of South Carolina were a disgrace."<sup>16</sup> White teachers in Clarendon County earned two-thirds more than the average black teacher and black parents had to pay not only for supplies, but also for coal to heat ramshackle one-room school buildings.<sup>17</sup> "[T]he county previously had charged each black pupil \$7 a year for coal and other sundries that the white got free."<sup>18</sup> Black children had sixty-one schools while white students had twelve; however, the county provided thirty buses for white students and none whatsoever for black children.<sup>19</sup>

Elliott was well aware of the distributional inequities. Indeed, as the long-time head of the District 22 School Board, he had approved virtually every unequal expenditure during the previous twenty-five years.<sup>20</sup> Black citizens in South Carolina had few, if any, social, civil, or political liberties that the state's justice system protected. Thus, Elliott responded to De Laine's request with all of the unquestioning arrogance of a white supremacist: "We ain't got no money to buy a bus for your nigger children."<sup>21</sup> Elliott's cold dismissive response to the simple request for a school bus set in motion forces that neither he, nor De Laine, could have foreseen would signal the doom of the separate but equal doctrine.

De Laine quietly began mobilizing the black community, its ministers, teachers, farmers, parents, and veterans to take legal action to force the government to address their grievances. He engaged a black Columbia attorney, Harold R. Boulware, to fashion the petition against the

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11. KLUGER, *supra* note 9, at 8–10.

12. *Id.* at 11–15.

13. *Id.* at 4.

14. *Id.* at 6.

15. *Id.*

16. *Id.* at 13.

17. *Id.* at 13–14.

18. *Id.* at 22.

19. *Id.* at 4, 8.

20. *Id.* at 349.

21. *Id.* at 4.

Clarendon School District for a bus. They filed *Pearson v. County Board of Education* in the U.S. District Court in Florence County.<sup>22</sup> The court threw out the petition on the grounds that Levi Pearson, the named plaintiff, was not a resident of the appropriate school district.<sup>23</sup>

In March of 1949, De Laine and Pearson went to Columbia for a meeting with Thurgood Marshall. By November, De Laine, following the plan he had worked out with Marshall at their March meeting, had persuaded twenty black farmers to sign an NAACP petition.<sup>24</sup> The first name listed on the petition was Harry Briggs. Briggs, a thirty-four-year-old Navy veteran, was a father of five children and worked at the Carrigan service station in Summerton.<sup>25</sup> His wife, Liza, worked as a maid at a Summerton motel.<sup>26</sup> Both would lose their jobs when the case of *Briggs v. Elliott* was filed.<sup>27</sup> Indeed, most of the petitioners suffered identical experiences of white terrorism, violence, and economic retaliation for exercising their rights as U.S. citizens.<sup>28</sup>

The rage of white South Carolinians strengthened black resolve to invest everything they had and to launch an all-out quest to achieve both freedom of opportunity and equality of condition. For Reverend De Laine, there was no equivocation, but a grim determination to persevere. In 1950, in an open letter widely distributed throughout the Clarendon County black community, De Laine rallied his people: "Shall we suffer endless persecution just because we want our children reared in a wholesome atmosphere? What some of us have suffered is nothing short of Nazi persecution."<sup>29</sup>

The hearings before the U.S. District Court in Charleston revealed the deplorable status of black education. On the stand, Matthew Whitehead, a Howard University Professor of Education, reported on the survey he had conducted of the Clarendon County schools. In response to skillful questioning by NAACP attorney Robert Carter, Whitehead testified:

There was no running water at all, nor any urinals in any of these places for boys. At Scott's Branch School, the same situation prevailed, only to a greater degree of disgust . . . 694 students serviced by two toilets for boys and two toilet seats for girls, of the same out-of-door type construction, no running water, no urinals . . .<sup>30</sup>

Whitehead also described the inadequate instructional equipment:

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22. *Id.* at 17.

23. *Id.*

24. *Id.* at 23.

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.* at 24–25.

29. *Id.* at 25.

30. *Id.* at 350.

The lady who taught the first grade at the school showed me three chairs which she had just received that had been sent over from the white school, that were dilapidated and the children could not sit in them. Other chairs had spokes and rounds out in them and the bottoms were out in many of them.<sup>31</sup>

As far as the writing tables were concerned, he noted that “there were actually holes in the tables.”<sup>32</sup> He later recalled, “[i]t was all now down there on the record, and I could see it multiplied throughout the South. And you could see it on the faces of the people in the courtroom—a sort of sigh of relief that it had finally all come out.”<sup>33</sup>

On June 23, 1951, the district court ruled against the black plaintiffs’ plea to end racial segregation in South Carolina’s schools. However, in a twenty-page dissent, Judge J. Waties Waring, a native white South Carolinian, declared: “[S]egregation in education can never produce equality and . . . is an evil that must be eradicated.”<sup>34</sup> He wrote:

This case presents the matter clearly for adjudication, and I am of the opinion that all of the legal guideposts, expert testimony, common sense and reason point unerringly to the conclusion that the system of segregation in education adopted and practiced in the State of South Carolina must go and must go now.<sup>35</sup>

Waring concluded emphatically, “[s]egregation is per se inequality.”<sup>36</sup> The *Briggs* case was consolidated with four other cases from Kansas, the District of Columbia, Delaware, and Virginia which, on appeal to the U.S. Supreme Court, became known collectively as *Brown v. Board of Education*.<sup>37</sup>

### III. BRIGGS’S HISTORICAL CONTEXT: DESTROYING JIM CROW

Comprehending the revolutionary significance of *Briggs* and *Brown* requires a return to the late nineteenth century. “It is now clear that something highly significant happened in southern race relations during the 1890s.”<sup>38</sup> Scholars have speculated greatly about this mysterious and dangerous “nadir” decade. Ironically, even before the 1890s, white southerners had already inaugurated practices that separated them from

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31. *Id.* at 351.

32. *Id.*

33. *Id.*

34. *Briggs v. Elliott*, 98 F. Supp. 529, 547–48 (E.D.S.C. 1951).

35. *Id.* at 548.

36. *Id.*

37. For a discussion of the Justice Department’s amicus brief supporting the end of school segregation, see MARY L. DUDZIAK, *COLD WAR CIVIL RIGHTS: RACE AND THE IMAGE OF AMERICAN DEMOCRACY* 99–102 (2000). The brief ended with a quote from President Harry Truman, “If we wish to inspire the people of the world whose freedom is in jeopardy, if we wish to restore hope to those who have already lost their civil liberties, if we wish to fulfill the promise that is ours, we must correct the remaining imperfections in our practice of democracy.” *Id.* at 101–02.

38. Howard N. Rabinowitz, *More Than the Woodward Thesis: Assessing The Strange Career of Jim Crow*, 75 J. AM. HIST. 842, 848 (1988).

African Americans in schools, churches, hospitals, and places of public accommodation. Why, then, did the 1890s witness new segregation laws and judicial decrees that merely reinforced customary practice? In an incisive critique of the many editions of C. Vann Woodward's *The Strange Career of Jim Crow*, historian Howard Rabinowitz speculated that, perhaps, black "resistance to de facto segregation may have helped move white southerners in the direction of additional laws."<sup>39</sup> Recent scholars have similarly targeted black attitudes and refusal to acknowledge white supremacy. An increase in racial violence, disfranchisement, and lynching seems to correlate with the rising tide of black land ownership.<sup>40</sup>

African American communities turned inward as white southerners codified Jim Crow.<sup>41</sup> Black southerners searched for creative ways to ensure that black needs for health care, education, and social services were met, and, as historian Elsa Barkley Brown posits, "to construct communities of struggle."<sup>42</sup> Eventually, black communities established their own network of medical, nursing, legal training institutions, and normal schools, resulting in a professional class.<sup>43</sup> White philanthropic foundations often provided welcome assistance in this institution-building process of community formation. The Rosenwald Fund helped black communities build hundreds of one-teacher elementary school houses that amounted to a "great transformation of the overall structure of black elementary schooling."<sup>44</sup> As Anderson observes, "there were school build-

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39. *Id.* at 850.

40. See Terence Finnegan, *Lynching and Political Power in Mississippi and South Carolina*, in UNDER SENTENCE OF DEATH: LYNCHING IN THE SOUTH 189, 189–218 (W. Fitzhugh Brundage ed., 1997). Finnegan noted that, in South Carolina "[f]rom 1896 to 1910 the Republican regions had about the same percentage of the black population (43.5 percent of the black population, but had only 26.8 percent of black lynching incidents) but black lynching incidents increased to 34.3 percent of the state's total." *Id.* at 216 n.12. Finnegan concluded that "[w]hites disfranchised African Americans because of their supposed inferiority, but they lynched when African Americans challenged the myths that sustained white supremacy and refused to accept the social, economic, and political constraints that white racism demanded." *Id.* at 215.

41. See generally JACK M. BLOOM, CLASS, RACE, AND THE CIVIL RIGHTS MOVEMENT 18–46 (1987). Bloom argues that "[t]he oft-besieged black population was forced into a solidarity that transcended class and status lines and helped to forge a black consciousness. The black movement of the 1950s was very much a product of the whole black community." *Id.* at 145. This analysis is an accurate description of the Clarendon County black community that came together to launch the *Briggs v. Elliott* case. See also STEVEN HAHN, A NATION UNDER OUR FEET: BLACK POLITICAL STRUGGLES IN THE RURAL SOUTH FROM SLAVERY TO THE GREAT MIGRATION 451–52, 463 (2003). For insightful discussions of the community mobilization process in the modern civil rights movement era, see ALDON D. MORRIS, THE ORIGINS OF THE CIVIL RIGHTS MOVEMENT: BLACK COMMUNITIES ORGANIZING FOR CHANGE (1984) and JOHN DITTMER, LOCAL PEOPLE: THE STRUGGLE FOR CIVIL RIGHTS IN MISSISSIPPI (1994).

42. Elsa Barkley Brown, *Negotiating and Transforming the Public Sphere: African American Political Life in the Transition from Slavery to Freedom*, in THE BLACK PUBLIC SPHERE: A PUBLIC CULTURE BOOK 111, 113 (1995).

43. For a discussion of the development of black nursing training facilities and hospitals see DARLENE CLARK HINE, BLACK WOMEN IN WHITE: RACIAL CONFLICT AND COOPERATION IN THE NURSING PROFESSION 1890–1950, at 94–107 (1989) and Darlene Clark Hine, *Black Professionals and Race Consciousness: Origins of the Civil Rights Movement, 1890–1950*, 89 J. AM. HIST. 1279, 1289 (2003).

44. Anderson, *supra* note 5, at 181.

ings, teachers, desks, and seats throughout the black South in 1940 that had not been available in 1900.”<sup>45</sup> Embedded cultural values augmented an insurgent consciousness in black rural southerners that strengthened their resolve to maintain control over their education.

Fettered by inadequate economic resources, and dogged by the ever-present specter of white violence and terror, the marginal and precarious status of most African Americans severely restricted the space in which they could fashion resistance. Therefore, they improvised a nuanced and multifaceted compound of resistance strategies, uplift institutions, and oppositional consciousness.<sup>46</sup> Few southern whites discerned the radical potential of black life behind “the veil.” The erection of parallel institutions—that is, the creation, maintenance, and sustenance of an institutional infrastructure boasting a rich variety of religious denominations, colleges and universities, social service clubs, newspapers and businesses, fraternal organizations and professional associations, and hospitals and clinics combined with fluid family structures—offered effective bulwarks against hopelessness and despair.<sup>47</sup> This black parallelism allowed the requisite nurturing in safe spaces that southern rural African Americans needed to discuss public and private concerns.<sup>48</sup> Psychologically and metaphorically relatively secure behind the veil, black southerners crafted their own meaning of race, and shared memories of the rights that had been wrested from their grasp. They knew that no period of “Negro Domination” had existed, and they also knew that they were outnumbered and outgunned.<sup>49</sup> They had to amass other resources for the long struggle. During the nadir of the 1890s, they constructed an oppositional consciousness that illuminated the complications

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45. *Id.*

46. CYNTHIA NEVERDON-MORTON, *AFRO-AMERICAN WOMEN OF THE SOUTH AND THE ADVANCEMENT OF THE RACE, 1895–1925*, at 78–103 (1989). Neverdon-Morton documents the uplift activism of several urban southern black women health professionals. See especially her discussion of nurse Millie E. Hale and the establishment of the Millie E. Hale Hospital and Auxiliary in Nashville, Tennessee on July 1, 1916. Millie Hale and her husband, physician John H. Hale, transformed their fourteen-room home into a community center replete with pre- and post-natal care, a free drug dispensary, and adult clinics. In summarizing the extent and breadth of services provided in 1923, Neverdon-Morton noted that, “1,155 people received food, money, bedding, and coal; 400 sick people were provided with meals; nurses visited 7,687 homes to provide bedside care; and nurses were assigned to two medical dispensaries.” *Id.* at 173.

47. DAVID T. BEITO, *FROM MUTUAL AID TO THE WELFARE STATE: FRATERNAL SOCIETIES AND SOCIAL SERVICES, 1890–1967*, at 2–3 (2000). Beito notes that “the movement to build hospitals thrived especially in the South. By 1931 black fraternal societies had founded nine fraternal hospitals in the South.” *Id.* at 181. But the threat of white offense remained. As Beito declared, black hospitals “stood as visible reminders of the wider potential for black organizational talent and assertiveness.” *Id.* at 190.

48. For a discussion of the role the church played in providing safe spaces, see EVELYN BROOKS HIGGINBOTHAM, *RIGHTEOUS DISCONTENT: THE WOMEN’S MOVEMENT IN THE BLACK BAPTIST CHURCH, 1880–1920*, at 10 (1993). See also Kevin Gaines, *Rethinking Race and Class in African-American Struggles for Equality, 1855–1941*, 102 AM. HIST. REV. 378–87 (1997).

49. See, e.g., ERIC FONER, *RECONSTRUCTION: AMERICA’S UNFINISHED REVOLUTION, 1863–1877*, at 88–95 (1988).



of being poor, rural, black, and southern with, as yet, unfulfilled dreams of American citizenship.<sup>50</sup>

It is as important to unravel the dynamics of black resistance to white politics and law as it is to understand the social construction of whiteness. The tacit collusion of the interests of northern industrialists, southern demagogues, and planter elites to create a permanent subordinate labor force confined African Americans into an endless cycle of poverty and powerlessness. Interlocking systems of economic exploitation and electoral disfranchisement adversely affected the status, shape, and substance of black education, health, and welfare. As W.E.B. Du Bois declared, “a disfranchised working class in a modern industrial civilization . . . will be diseased, it will be criminal, it will be ignorant, it will be the plaything of mobs and it will be insulted by caste restrictions.”<sup>51</sup>

Writing in 1914, a white Georgian physician underscored Du Bois’s assessment, but he blamed their deteriorating health on black people themselves while asserting that “the negro health problem is one of the ‘white man’s burdens.’”<sup>52</sup> He opined that “there was no more healthy race of people to be found anywhere in the world than the slaves of the South before the Civil War.”<sup>53</sup> After enumerating the morbidity and mortality statistics of black southerners from tuberculosis, smallpox, typhoid fever, whooping cough, rheumatism, influenza, and heart disease, he concluded that “the kind of education we have been trying to give the negro has been a disappointment.”<sup>54</sup> He elaborated: “Millions of dollars have been spent, and thousands of teachers and others have devoted many years of earnest labor to the education of the negro, and as a result of it all we find the negro race as a whole in worse condition than they were in slavery times.”<sup>55</sup> The physician suggested the kind of education that African Americans should receive:

In addition to improved methods of farming, stock raising, poultry raising, etc. . . . [t]he women should be instructed in cooking, and the care of infants. . . . They should be made to know that typhoid fever is an infectious disease, and instructed in methods of disinfect-

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50. Thavolia Glymph thoughtfully suggests that “[t]he white South continued to control much of black people’s world but black people’s memories of the Civil War and emancipation pressed against that control in ways that are only beginning to be explored and understood.” Thavolia Glymph, *Liberty Dearly Bought: The Making of Civil War Memory in Afro-American Communities in the South*, in *TIME LONGER THAN ROPE: A CENTURY OF AFRICAN AMERICAN ACTIVISM, 1850–1950*, at 111, 130 (Charles M. Payne & Adam Green eds., 2003). Elsa Barkley Brown insightfully identifies the places where political ideas and consciousness raising took place beyond the white gaze: “Forums for political discussions were literary societies, ward meetings, mutual benefit society and fraternal society meetings, women’s clubs, labor organizations, newspapers, street corners, kitchens, washtubs, and saloons.” Brown, *supra* note 42, at 111, 142.

51. W.E.B. Du Bois, *quoted in* Charles H. Wesley, *The Negro Has Always Wanted the Four Freedoms*, in *WHAT THE NEGRO WANTS* 90, 99–100 (Rayford W. Logan ed., 1944).

52. L.C. Allen, *The Negro Health Problem*, 5 *AM. J. PUB. HEALTH* 194, 194 (1915).

53. *Id.* at 195.

54. *Id.* at 199.

55. *Id.*

tion and cleanliness, and informed of the benefits of typhoid vaccination. They should be told how the mosquito spreads malaria, and instructed in methods of prevention. They should be told of sanitary privies, and that houseflies are as dangerous as mad dogs. They should be especially instructed concerning the two twin enemies of the negro race—gonorrhoea and syphilis. . . . Divest their minds of the vague superstitions which most of them harbor concerning the causation of disease, and make them understand that disease is caused from uncleanness, alcohol, germs, bad habits and bad morals.<sup>56</sup>

His opinions represented white southern conventional wisdom about the impending destruction or disappearance of the black race. The education whites advocated for black people would have prepared them to return to servitude.

As the material conditions of black citizens worsened, many white southerners not only denied culpability, but also embraced a fictitious scientific theory dubbed “survival of the fittest” or “social Darwinism.” They deployed the rhetoric of the white man’s burden to rationalize consolidation of a Jim Crow society. At the outset of the 1890s, white southerners smothered their fear, anxiety, and ambivalence about the prospect of black self-sufficiency and landownership. They concealed their anxiety under deep loathing and disdain for their alleged “racial inferiors.” The tension arising from fear of inferiors forged the core of what historian Grace Elizabeth Hale has dubbed the “culture of segregation.”<sup>57</sup>

Southern landowners sought proof of black dependency and servility, and demanded reassurance that black people accepted economic subordination and resigned themselves to the reality of white power. Any overt expression of black resistance to “utter demoralization” alarmed whites despite their outward complacency.<sup>58</sup> Booker T. Washington’s 1895 address at the Cotton States Exhibition in Atlanta, Georgia, accommodated white desire for acknowledgement of black unreadiness for political citizenship. Washington placated white people with assurances that, in all things social, the two groups could be as separate as fingers on the hand.<sup>59</sup> In the *Atlanta Compromise Address of 1895*, Washington seemed to privilege racial uplift over social equality as the

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56. *Id.* at 252–53.

57. GRACE ELIZABETH HALE, *MAKING WHITENESS: THE CULTURE OF SEGREGATION IN THE SOUTH, 1890–1940*, at xii (1999). “Southerners created a common whiteness to solve the problems of the post–Civil War era and built their collectivity on not just a convention or a policy but on segregation as a culture.” *Id.* at xi.

58. HAHN, *supra* note 41, at 428–29. Hahn maintains that “[w]here blacks had constructed a substantial basis of community life and continued to wield measures of local power—the coasts of South Carolina and Georgia leap out as examples—lynchings were rare and the threat of them could arouse an armed and militant defense.” *Id.* at 428.

59. See LOUIS R. HARLAN, *BOOKER T. WASHINGTON: THE MAKING OF A BLACK LEADER, 1856–1901*, at 218 (1972).

prerequisite for social citizenship.<sup>60</sup> But Washington did not earn the title “Wizard of Tuskegee” without justification. He sponsored annual conferences for black farmers to help them become more skilled and efficient.<sup>61</sup> At the same time that he preached servility, the wily Washington taught self-sufficiency and autonomy and created opportunities for black rural southerners to come together, exchange information, and build communities.<sup>62</sup>

Washington, like many rural southern African Americans, proved adept at wearing a mask and engaging in other forms of dissemblance. Many African Americans wore the mask of deference and abided the customary laws of racial etiquette without betraying their disaffection and resentment. The strategy of black parallelism emerged from, and reflected back upon, the core values that black people transmitted to each other across time and place. The core value system proved to be especially resilient in the rural South with its relatively isolated, widely dispersed, small black communities.

To understand the full dynamics of black resiliency during the years between 1890 and the 1920s, and to chart the process of constructing, revising, and transforming communities of struggle, requires a wider lens. Despite its solidarity under shared oppression, the black community was never monolithic. Internal fissures, factions, disputes, and battles raged. Indeed, between 1930 and 1954, prominent New Negro professionals and activists generated considerable discord.<sup>63</sup> Professors, physicians, nurses, and lawyers heatedly debated the efficacy of black institutions. One group of activists and elite professionals argued for the complete overthrow of racial segregation and the separate but equal doctrine.<sup>64</sup> Others insisted that black people should pursue the goal of equality of condition to preserve educational institutions and maintain control of their schools.<sup>65</sup>

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60. See LOUIS R. HARLAN, *BOOKER T. WASHINGTON: THE WIZARD OF TUSKEGEE, 1901–1915*, at 205 (1983).

61. Allen W. Jones, *The Role of Tuskegee Institute in the Education of Black Farmers*, 60 *J. NEGRO HIST.* 252, 254–67 (1975).

62. See ANDERSON, *supra* note 5, at 51–52; Jones, *supra* note 61, at 252–67.

63. See generally JONATHAN SCOTT HALLOWAY, *CONFRONTING THE VEIL: ABRAM HARRIS JR., E. FRANKLIN FRAZIER, AND RALPH BUNCHE, 1919–1941* (2002).

64. In 1944, historian Rayford Logan enumerated the six “irreducible fundamentals of first-class citizenship” for black Americans. “1. Equality of opportunity, 2. Equal pay for equal work, 3. Equal protection of the laws, 4. Equality of suffrage, 5. Equal recognition of the dignity of the human being, 6. Abolition of public segregation.” Rayford W. Logan, *The Negro Wants First-Class Citizenship*, in *WHAT THE NEGRO WANTS*, *supra* note 51, at 1, 14. While historian Charles H. Wesley conceded that advances had been made through black institutions he rejected “the fallacies in this argument that the Negro’s status can be advanced by in-group progress along one path of material development and delay in other paths of life . . .” by comparing black Americans to German Jews. Wesley, *supra* note 51, at 99.

65. RICHARD ROBBINS, *SIDELINES ACTIVIST: CHARLES S. JOHNSON AND THE STRUGGLE FOR CIVIL RIGHTS* 130–34 (1996).

In the early 1940s, South Carolina native Gordon Blaine Hancock<sup>66</sup> posed the questions that consumed so much black attention:

What proportion of our moral and material energies shall we use fighting segregation and what proportion shall we employ making the most of it, to gain strength with which further to fight it? Shall we adopt the same type of education current among the whites or shall we seek a type of education that meets the needs of the millions of Negroes who must live by the labors of their hands rather than a type that meets the needs of the few Negroes in the higher brackets of life? In the first case we too often satisfy merely our pride; in the second we satisfy the demands of an inexorable situation.<sup>67</sup>

The *Brown* decision and the earlier *Briggs* case answered Hancock's questions and represented a triumph for the integrationist stance.<sup>68</sup>

By the dawn of the twentieth century, the social construction of race appeared to be complete. A chasm of silence, absence, and mystery divided the white and black communities. In historian Charles Wesley's rueful contention, black Americans "developed the mask which grinned through shinning teeth and the lips which hid behind the soul of protest. Many a shuffling, smiling, bowing and bending body of a servant and worker carried within a violence of opposition which the suppression of speech alone prevented."<sup>69</sup> Perhaps it was this tradition of black people shielding their inner thoughts and beliefs that made Roderick Elliott feel free to insult Reverend De Laine. Times had changed one man, but not the other.

By the 1940s a transformed black consciousness was readily apparent to anyone who cared to look. De Laine could not turn his back and shuffle away from Elliott's humiliating words. He had to fight. In the most remote regions of the rural South, national and global events that began during the World War I emergency and continued through the devastation of the Great Depression and the limitations and frustrations of the New Deal affected black consciousness. When combined with the Great Migration, the New Negro renaissance, the spread of Marcus Garvey's nationalist ideas about race pride and black solidarity,<sup>70</sup> and the

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66. Gordon Blaine Hancock was born in 1884 in Ninety-Six, South Carolina. He received an A.B. degree from Benedict College in Columbia, South Carolina in 1911 and A.B., B.D., and A.M. degrees from Harvard University in 1919, 1920, and 1921. *Who's Who*, in *WHAT THE NEGRO WANTS*, *supra* note 51, at 345, 347.

67. Gordon B. Hancock, *Race Relations in the United States: A Summary*, in *WHAT THE NEGRO WANTS*, *supra* note 51, at 217, 242-43.

68. *Brown v. Bd. of Educ.*, 394 U.S. 294 (1955) (*Brown II*); *Briggs v. Elliott*, 349 U.S. 914 (1955). Fifty years later the debate continues as scholars explore the social and economic costs of desegregation that included the threat to historically black institutions. See ALBERT L. SAMUELS, *IS SEPARATE UNEQUAL? BLACK COLLEGES AND THE CHALLENGE TO DESEGREGATION* (2004).

69. Wesley, *supra* note 51, at 91.

70. ROBBINS, *supra* note 65, at 93. Robbins observed that "Garvey's black nationalism with its Africanist cultural overtones . . . had a profound, astonishing appeal to the consciousness of black masses." *Id.* at 93. Hahn asserts that Garveyism was more prevalent in the South than in the North.

“Double V” campaign against Nazism and fascism abroad and Jim Crow discrimination at home during World War II, there existed a fertile environment for a heightened race consciousness and militant advocacy to flourish.<sup>71</sup>

Three distinct national victories by second generation New Negro professionals and activists comprised the success of a New Reconstruction. First, beginning in the 1930s and early 1940s, African Americans overthrew one of the most effective disfranchisement devices, the Democratic Party white primary.<sup>72</sup> The 1944 decision in *Smith v. Allwright* opened the door to participation in the electoral process that white southerners had denied black citizens since the first Reconstruction had collapsed in 1877.<sup>73</sup> Second, during World War II African Americans led a Double V campaign to fight Nazism and fascism abroad, and racism at home. Activists set in motion forces that spurred the desegregation of the U.S. military.<sup>74</sup> These forces inspired the third victory. In 1949, local rural black men and women in Clarendon County, South Carolina, under the leadership of De Laine launched a suit for equality of educational resources that would culminate in the 1954 *Brown* decision, overthrowing the separate but equal doctrine promulgated by *Plessy v. Ferguson*.<sup>75</sup> Thus, the 1940s witnessed a multifaceted black struggle against the entire edifice of segregation. The momentum of the previous two decades peaked with the victory in *Brown*.

#### IV. CONCLUSION

In his argument before the U.S. Supreme Court, Thurgood Marshall asked the Court to declare *Plessy v. Ferguson* unconstitutional. He recounted the highpoints of the long struggle of African Americans to secure equal justice under the law. He declared that race ideology undermined the fabric of American democratic values. The problem of the twentieth century had indeed been that of the color line, as W.E.B. Du Bois had prophesized.<sup>76</sup> By the time Marshall made this argument, black intellectuals, scholars, and activists, together with their progressive white

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“For although Garvey’s movement is generally understood to have taken hold largely in the black urban North, its most extensive bases were in fact to be found in the rural and small-town South.” HAHN, *supra* note 41, at 471. According to Hahn, there were twenty-five divisions of Garvey’s Universal Negro Improvement Association in South Carolina. *Id.* at 471, 472.

71. NAN ELIZABETH WOODRUFF, *AMERICAN CONGO: THE AFRICAN AMERICAN FREEDOM STRUGGLE IN THE DELTA* 6 (2003). Woodruff examines the struggles of black sharecroppers in Mississippi and Arkansas for social and economic justice during the first half of the twentieth century.

72. See DARLENE CLARK HINE, *BLACK VICTORY: THE RISE AND FALL OF THE WHITE PRIMARY IN TEXAS* (2003).

73. See *id.* at 231–48; see also CHARLES ZELDEN, *THE BATTLE FOR THE BLACK BALLOT: SMITH V. ALLWRIGHT AND THE DEFEAT OF THE TEXAS ALL-WHITE PRIMARY* (forthcoming 2004).

74. Exec. Order No. 9981, 3 C.F.R. 722 (1943–1948).

75. *Plessy v. Ferguson*, 163 U.S. 537 (1896); ROBERT J. COTTRILL ET AL., *BROWN V. BOARD OF EDUCATION: CASTE, CULTURE, AND THE CONSTITUTION* 119–32 (2003).

76. W.E.B. Du Bois, *The Souls of Black Folks*, in *THREE NEGRO CLASSICS* 221 (1965).

allies, had closed ranks to support integration. To suggest alternatives as the goal for African Americans at this juncture was unthinkable. On May 17, 1954, the Supreme Court ruled unanimously that a classification based solely on race violated the Fourteenth Amendment to the U.S. Constitution. Chief Justice Earl Warren emphatically declared, “[I]n the field of public education the doctrine of ‘separate but equal’ has no place. Separate education facilities are inherently unequal.”<sup>77</sup>

The *Brown* decision reverberated deeply in black people’s political consciousness because it represented more than an end to segregation in public school education. The decision also concerned the dismantling of distributional inequalities in health care and social welfare services. *Brown* was a culmination of the African American struggle for freedom of opportunity that began in the post-Emancipation era. *Brown* was about the emergence of a militant second generation New Negro consciousness and the evolution of aggressive demands for equality of condition and social justice. The outcome of this New Reconstruction differed significantly from the one that had collapsed in 1877. A series of precedent-setting U.S. Supreme Court decisions in the 1940s and early 1950s marked the successful onslaught against the all-white primary disfranchisement laws, white-only restrictive housing covenants, and separate and unequal education. On July 26, 1948, President Harry Truman issued Executive Order 9981, initiating the desegregation of the U.S. military.<sup>78</sup>

The *Brown* decision ended a major phase in black educational, social, and political history, but it simultaneously ignited another more encompassing phase in the long struggle that would have national and international consequence. *Brown* unleashed a powerful demonstration of massive white violence and intolerance that met an even stronger black opposition in the social revolution known as Civil Rights Movement. Eventually this movement destroyed the segregation laws and public policies that had regulated vital aspects of black life including education, health care, and social welfare.

A long perspective on *Brown* provides a clearer understanding of the connections between local struggles such as that led by Reverend De Laine in Clarendon County, South Carolina, and the national NAACP-orchestrated legal cases for social justice and freedom of opportunity. The social revolution was one of the unforeseen consequences of local and national collective black resistance to those actions of late-nineteenth- and early-twentieth-century white southerners who had erected the legal, political, and social edifice of Jim Crow, and the efforts of their grandchildren who massively resisted demolition of separate but equal in the aftermath of *Brown*.

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77. *Brown v. Bd. of Educ.*, 347 U.S. 483, 495 (1954).

78. For an analysis of President Truman’s Executive Order 9981, see DUDZIAK, *supra* note 37, at 83–86.