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A National Issue: Segregation in the District of Columbia and the Civil Rights Movement at Mid-Century

WENDELL E. PRITCHETT*

“In view of our decision that the Constitution prohibits the states from maintaining racially segregated public schools, it would be unthinkable that the same Constitution would impose a lesser duty on the Federal Government.”¹ So begins the penultimate paragraph of the Court’s opinion in *Bolling v. Sharpe*. In this statement, which precedes the Court’s declaration that the Fifth Amendment bars segregation in the District’s schools, the Court implies that, as an emblem of national aspirations, the District of Columbia must meet a higher standard in its treatment of civil rights.²

In reaching this conclusion, the Court echoed the leadership of the nation’s expanding civil rights movement. Always viewed as a symbol of democracy, the District of Columbia in the post-WWII era played an increasingly important role in the national fight against discrimination. This Essay will examine the relationship of D.C. to the civil rights movement through an analysis of the efforts of one group, the “National Committee on Segregation in the Nation’s Capital.” Organized in 1946, the Committee sought to bring nationwide attention to the shame of discrimination in the District. Premised on the theory that scholarly research and dissemination of information could change racial attitudes and promote the lowering of legal obstacles to integration, the Committee spent more than a year putting together a report on race relations in D.C.³ Released in the fall of 1948, “Segregation in Washington”⁴ drew national interest, helped spur government intervention and community organization against discrimination in many areas of D.C. society, and set the terms of debate under which the battle against school segregation in the District would achieve success.

An examination of this group and the activities it spawned reveals the deep connections between civil rights lawyers, an emerging web of new civil rights

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1. *Bolling v. Sharpe*, 347 U.S. 497, 500 (1954).

2. This “political” interpretation of *Bolling* is the majority scholarly view. David Bernstein, however, argues in this issue that the political reading obscures *Bolling*’s roots in the Court’s *Lochner*-era substantive due process jurisprudence. See David E. Bernstein, *Bolling, Equal Protection, Due Process, and Lochnerphobia*, 93 *Geo. L.J.* 1253 (2005).

3. On mid-twentieth-century theories of racial relations, see DAVID L. CHAPPELL, *A STONE OF HOPE: PROPHETIC RELIGION AND THE DEATH OF JIM CROW* 26–43 (2004); WALTER A. JACKSON, GUNNAR MYRDAL AND AMERICA’S CONSCIENCE: SOCIAL ENGINEERING AND RACIAL LIBERALISM, 193–1987 (1990).

4. NAT’L COMM. ON SEGREGATION IN THE NATION’S CAPITAL, *SEGREGATION IN WASHINGTON* (1948) [hereinafter *SEGREGATION IN WASHINGTON*].

organizations, and the nation's liberal elite at the mid-twentieth century.⁵ The story of the effort to end segregation in Washington also contributes to our understanding of the development of liberal theories of race relations and provides an important context for understanding the *Bolling* decision.

While segregation was a powerful institution in post-war D.C., the city's race relations history had been complex and constantly changing. Antebellum D.C. possessed a large and influential free black population,⁶ and after the Civil War, because of the relatively benign rule of the federal government as compared with that of the states, D.C. became a mecca for America's black elite.⁷ Howard University played a central role in this process. The nation's foremost black college, organized at a time when discrimination was the rule at most institutions of higher learning, Howard drew blacks from around the nation. For decades, its law and medical schools produced the majority of the nation's black professionals, and D.C.'s black elite was large and economically diverse.⁸

In the early twentieth century, D.C. blacks, like those across the nation, witnessed the erection of many barriers to economic and social progress. Beginning with the Taft administration, but expanding dramatically during Woodrow Wilson's term, Jim Crow regulations increasingly restricted the movements and opportunities of the Capital's black citizens.⁹ D.C. became the focal point for segregationists in Congress. Led by Senator Theodore Bilbo, who bragged to his constituents in Alabama that segregation in the nation's capital was the rule,¹⁰ Congress oversaw the District's management with careful attention to the separation of the races.¹¹

African-Americans fought these efforts in a variety of ways and with increasing effort. During the 1930s, D.C. was a leader in the "Don't Buy Where You Can't Work" movement, and blacks picketed many businesses that denied them jobs and services.¹² Although progress was inconsistent, the New Deal increased opportunities for blacks in the federal government, and it also assisted blacks in securing symbolic victories against Jim Crow. One example celebrated by many was the dismantling of the segregated cafeteria system in the Interior Department by two of its black professionals, William Hastie and Robert

5. On the strategies of civil rights lawyers and activists, see MARY L. DUDZIAK, *COLD WAR CIVIL RIGHTS: RACE AND THE IMAGE OF AMERICAN DEMOCRACY* (2000); GENNA RAE McNEIL, *GROUNDWORK: CHARLES HAMILTON HOUSTON AND THE STRUGGLE FOR CIVIL RIGHTS* (1983); MARK TUSHNET, *THE NAACP'S LEGAL STRATEGY AGAINST SEGREGATED EDUCATION, 1925-1950* (1987).

6. On Black D.C. before the Civil War, see CONSTANCE GREEN, *THE SECRET CITY: A HISTORY OF RACE RELATIONS IN THE NATION'S CAPITAL* 12-55 (1967).

7. *Id.* at 91-119; JACQUELINE MOORE, *LEADING THE RACE: THE TRANSFORMATION OF THE BLACK ELITE IN THE NATION'S CAPITAL, 1880-1920* (1999).

8. JONATHON SCOTT HOLLOWAY, *CONFRONTING THE VEIL: ABRAM HARRIS, JR., E. FRANKLIN FRAZIER, AND RALPH BUNCHE* 45-50 (2002); MOORE, *supra* note 7, at 111-32.

9. GREEN, *supra* note 6, at 155-215.

10. HOLLOWAY, *supra* note 8, at 50-58.

11. Joseph D. Lohman & Edwin R. Embree, *The Nation's Capital*, *SURVEY GRAPHIC*, Jan. 1947; GREEN, *supra* note 6, at 267.

12. HOLLOWAY, *supra* note 8, at 50-67.

Weaver. Interior Secretary Harold Ickes supported their action in 1934, and despite some protest by white employees, integration proved uneventful. Most other federal cafeterias were integrated in the years that followed.¹³ In post-World War II Washington, segregation was an institution under attack on political, economic and ideological grounds.

A central tenet of the attack on segregation was the theory that racism was the result of ignorance and that education would result in the decline of prejudice. Coined the “contact theory,” this approach to race relations was promoted by many academics as the answer to racial tensions.¹⁴ Advocates hoped that the integration experienced by World War II soldiers and workers would provide the framework for continued racial cooperation, and they worked to create institutions to promote this goal.

One such organization was the American Council on Race Relations. The Council was founded in 1944 with the support of liberal philanthropists including Edwin Embree of the Rosenwald Fund and Marshall Field and the participation of civil rights leaders including Walter White, Mary McCloed Bethune, and Lester Granger.¹⁵ The stated goal of the organization was “to bring about full democracy in race relations,” through the “discovery of fundamental knowledge” about racial problems.¹⁶ Led by University of Chicago sociologist Louis Wirth, the organization sought to promote scholarly study of racial issues, to develop materials for use by government and private organizations, and to assist local communities in organizing programs of racial cooperation.¹⁷ To avoid conflict with civil rights organizations, the group declared that it would be “more concerned with planning than with execution.”¹⁸ It would provide basic research to other groups and assist them in coordinating programs to eliminate discrimination in American society. The council would also take on “pilot projects” for the “testing of methods and techniques in race relations.”¹⁹

The group’s leaders, Edwin Embree, Louis Wirth and Robert Weaver, were paradigmatic examples of mid-twentieth century liberal thought on race. Born into a well-known Nebraska abolitionist family, Embree attended interracial Berea College and received a degree at Yale.²⁰ There he made contacts that would eventually lead to his position as president of the Rosenwald Fund, the

13. GILBERT WARE, WILLIAM HASTIE: GRACE UNDER PRESSURE 81 (1941).

14. GORDON W. ALLPORT, THE NATURE OF PREJUDICE (1954); see also JACKSON, *supra* note 3.

15. See National Committee on Segregation in the Nation’s Capital, 1946–49, *microformed in NAT’L ASS’N FOR THE ADVANCEMENT OF COLORED PEOPLE, PAPERS OF THE NAACP* [hereinafter PAPERS OF THE NAACP], Part 5. Campaign Against Residential Segregation, 1914–1955, Reel 12 (Univ. Publ’ns of Am., 1994).

16. Memorandum from Louis Wirth to Board of Directors (Mar. 7, 1947) (on file with Univ. of Chi. Library).

17. AM. COUNCIL ON RACE RELATIONS, REPORT (1950), Louis Wirth Papers [hereinafter Wirth Papers], Box 5 (Univ. of Chi. Library).

18. *Id.*

19. *Id.*

20. On Embree, see JOHN KIRBY, BLACK AMERICANS IN THE ROOSEVELT ERA: LIBERALISM AND RACE 13–16 (1980).

nation's most influential liberal philanthropic organization. From its founding in 1917 through its closure in 1949, the Rosenwald Fund was the most significant financial supporter of black uplift, donating millions of dollars to black colleges and providing scholarships to talented African-Americans.²¹ It was also one of the major supporters of the NAACP and the Urban League.²² Embree led the fund from 1927 until 1948, and in these years, he was a crucial participant in the formation of American race relations policies. During the New Deal, Embree pushed the federal government to hire "Negro Advisors" in each department to ensure that blacks were treated fairly in the expanding federal system.²³ As the end of World War II approached, Embree hoped that the American Council on Race Relations could build upon the positive interactions of blacks and whites in the war effort and develop new mechanisms for interracial cooperation.

To run the organization, Embree turned to University of Chicago sociologist Louis Wirth. Without question the leader in the field of "intergroup relations," Wirth was an obvious choice to run an organization that sought to provide intellectual grounding to movement for racial equality. Born in Germany, Wirth immigrated to the United States as a child. A student of pioneering University of Chicago sociologists Robert Park and Ernest Burgess, Wirth received his Ph.D. in 1926, beginning what was to be an illustrious but abbreviated career.²⁴ As a professor at Tulane University, Wirth's outspoken advocacy of civil rights cost him his job. He was rewarded with a position at the University of Chicago, where he remained until his death in 1952. During the 1930s and 1940s, Wirth was a pioneer in the study of urban race relations, a leader of the National Association for Intergroup Relations, a consultant to several government efforts to relieve racial tensions and an activist for civil rights groups including the Urban League and the American Jewish Congress.²⁵

Wirth's deputy at the Council was Robert Weaver. Scion of one of D.C.'s elite black families, Weaver received his Ph.D. in economics from Harvard in 1933.²⁶ Since then, he had been working closely with Embree to protect the interests of blacks in the New Deal. From 1934 to 1944, Weaver served in a number of positions in the federal government, including Negro Advisor to Interior Secretary Harold Ickes, and a similar position with Nathan Strauss, head of the United States Housing Authority. During World War II, Weaver held numerous positions, all with the responsibility to see that blacks participated in

21. EDWIN EMBREE, *INVESTMENT IN PEOPLE: THE STORY OF THE JULIUS ROSENWALD FUND* (1949); Jayne Beilke, *The Changing Emphasis of the Rosenwald Fellowship Program, 1928-1948*, 66 *J. NEGRO EDUC.* 3 (1997); A. Gilbert Belles, *The College Faculty, the Negro Scholar, and the Julius Rosenwald Fund*, 54 *J. NEGRO HIST.* 383 (1969).

22. KENNETH JANKEN, *WHITE: THE BIOGRAPHY OF WALTER WHITE, MR. NAACP* (2003).

23. KIRBY, *supra* note 20, at 14-17.

24. On Wirth, see generally ROGER A. SALERNO, *LOUIS WIRTH: A BIO-BIBLIOGRAPHY* (1987).

25. *Id.*

26. Wendell Pritchett, *Robert Clifton Weaver*, in *AFRICAN-AMERICAN LIVES* 856-57 (Henry Louis Gates & Evelyn Brooks Higginbotham eds., 2004).

the war economy.²⁷ In 1944, Embree brought Weaver to Chicago (where the Rosenwald Fund was headquartered), to direct the Mayor's Council on Race Relations. The purpose of the Council was to mediate racial tensions in the city, in the hopes of avoiding the riots that plagued several cities during the war. Frustrated after a year of inaction in this position, Weaver moved over to the American Council on Race Relations.²⁸ During his time there, he wrote two influential studies about blacks in American society, advised civil rights groups across the nation on issues of labor and housing discrimination²⁹ and aided in the preparation of the briefs in *Shelley v. Kraemer*, the 1948 case which invalidated racial covenants.³⁰

While Embree, Wirth and Weaver did not agree on every aspect of the civil rights program, like most racial liberals of the time, they believed that race relations could be improved through careful scholarly study of racial groups and targeted interventions by trained social workers.³¹ The goal of the Council was to put these theories to work by connecting research with activism.

One of the Council's first pilot projects focused on segregation in Washington, D.C. In the spring of 1946, Edwin Embree brought together Council staff with several civil rights leaders, including sociologist Charles S. Johnson and Truman aide Philleo Nash, to organize the effort.³² Embree argued that, because of "the symbolic significance of the Nation's Capital as the repository of the American Creed," challenging segregation in Washington could establish a precedent for fighting the institution across the country.³³ The contradiction of racial segregation in a democracy was, as Embree stated, "tragically dramatized in the capital of what we are pleased to call the greatest and strongest democracy."³⁴ The first step, the group concluded, was to gather detailed factual information about segregation and discrimination in the District. This data could be used for a campaign by civic leaders to promote the dismantling of segregation within the capital.³⁵

With financial support from the Rosenwald Fund, the group organized the "National Committee on Segregation in the Nation's Capital."³⁶ Serving on the

27. *Id.*

28. *Id.*

29. ROBERT CLIFTON WEAVER, *NEGRO LABOR: A NATIONAL PROBLEM* (1946); ROBERT CLIFTON WEAVER, *THE NEGRO GHETTO* (1948).

30. 334 U.S. 1 (1948). For Weaver's role, see CLEMENT VOSE, *CAUCASIANS ONLY: THE SUPREME COURT, THE NAACP, AND THE RESTRICTIVE COVENANT CASES* 159-63 (1959).

31. On racial liberalism, see CHAPPELL, *supra* note 3, at 26-43; JACKSON, *supra* note 3, at 280-81.

32. Letter from Edwin Embree, President, Julius Rosenwald Fund, to Walter White, Apr. 23, 1946, *microformed in PAPERS OF THE NAACP*, Part 5, Campaign Against Residential Segregation, 1914-1955, Reel 12 (Univ. Publ'ns of Am., 1994).

33. *Id.*

34. *Id.*

35. *Id.*

36. See Minutes of the Organization Meeting of the National Committee on Segregation in the Nation's Capital (Oct. 14, 1946), *microformed in PAPERS OF THE NAACP*, Part 5, Campaign Against Residential Segregation, 1914-1955, Reel 12 (Univ. Publ'ns of Am., 1994); Minutes of the Executive

Executive Committee were Wirth and his University of Chicago colleague Joseph Lohman (who was also Director of Race Relations at the Rosenwald Fund), Robert Weaver, civil rights attorney Charles Hamilton Houston (who would two years later initiate the *Bolling* case), Howard University sociologist E. Franklin Frazier, and Dillard University President Will Alexander.³⁷ Like Embree, Weaver and Wirth, all of these men had been active during the New Deal and World War II eras in the effort to eliminate discrimination in government programs.³⁸ Houston had served on the President's Committee on Fair Employment Practices. Alexander managed several New Deal programs including the Farm Security Administration. All of them had long argued that eliminating discrimination would improve the efficiency of government programs and that integration would soon be seen as uneventful. Houston and Weaver were also natives of the District.³⁹

The group secured over 100 other national leaders to serve on the Committee. Among the members were Eleanor Roosevelt, Minneapolis Mayor Hubert Humphrey, Rev. John LaFarge of New York, union leaders Walter Reuther and Phillip Murray, actors Helen Hayes and Melvyn Douglas, businessmen Lewis Gannett and Marshall Field, university presidents George Shuster of Hunter College and Mordecai Johnson of Howard, and civil rights leaders Walter White and Sadie T.M. Alexander.⁴⁰

Over the next year, the Executive Committee directed a group of more than a dozen researchers who examined several areas of race relations in the District. Among the topics they studied were: the housing, job and health status of D.C.'s black population; segregation and discrimination within the federal government; the district government and the debates over "home rule," and the influence of business and real estate interests in the city.⁴¹

While the staff was conducting its research, President Truman's Committee on Civil Rights released its report.⁴² The report addressed race relations in the nation as a whole but reserved special opprobrium for D.C. Calling the District a "graphic illustration of a failure of democracy" and denouncing segregation as "intolerable," the President's committee recommended several Congressional

Committee of the Julius Rosenwald Fund (Oct. 31, 1946), Charles Hamilton Houston Papers, Box 19 (on file with Moorland Spingarn Research Center, Howard University).

37. Minutes of the Executive Committee of the National Committee on Segregation in the Nation's Capital, at 1 (Oct. 23, 1946), *microformed in* PAPERS OF THE NAACP, Part 5, Campaign Against Residential Segregation, 1914-1955, Reel 12 (Univ. Publ'ns of Am., 1994).

38. On the activities of Weaver, Houston, Frazier and Alexander during the New Deal, see generally KIRBY, *supra* note 20; RAYMOND WOLTERS, *NEGROES AND THE GREAT DEPRESSION: THE PROBLEM OF ECONOMIC RECOVERY* (1970).

39. McNEIL, *supra* note 5, at 166.

40. Minutes of the Executive Committee of the National Committee on Segregation in the Nation's Capital, *supra* note 36.

41. Study Areas, Reports to Executive Committee, *microformed in* PAPERS OF THE NAACP, Part 5, Campaign Against Residential Segregation, 1914-1955, Reel 12 (Univ. Publ'ns of Am., 1994).

42. On the President's Committee, see DONALD MCCOY & RICHARD RUETTEN, *QUEST AND RESPONSE: MINORITY RIGHTS AND THE TRUMAN ADMINISTRATION* (1973).

actions to rectify the situation, including eliminating segregation in public schools, prohibiting it in public facilities, and outlawing restrictive covenants in housing.⁴³ Unlike the National Committee, however, Truman's group did not base its arguments on detailed empirical study.

After more than a year of work, in December of 1948 the National Committee released its ninety-one page report at a press conference at the Willard Hotel in downtown Washington.⁴⁴ In presenting the report, Louis Wirth stated, "We aren't pointing an accusing finger at Washington; we're pointing an accusing finger at ourselves. We seek to make the Capital a symbol of the nation."⁴⁵ Entitled "Segregation in Washington," the report began by focusing on the global implications of discrimination in the district. "Few Americans," it argued, "appreciate what a shock Washington can be to visitors from abroad."⁴⁶ As evidence, the report reproduced a letter from a Danish visitor who argued that, "Washington today, despite its great outward beauty, is not a good 'salesman' for your kind of democracy."⁴⁷

The report then examined several aspects of segregation in the city, describing the almost complete exclusion of blacks by eating establishments in the downtown, the restrictions imposed on black customers in drug stores and other commercial operations, and discrimination against African-Americans in local hotels.⁴⁸ The report also described the exclusion of blacks from local theaters, focusing in particular on the National Theater, which, after protests against segregation from the Actor's union, decided to convert its playhouse to a movie theater and continue its policy.⁴⁹ After citing several examples of discrimination against both African-Americans and visitors of color from around the world, the report repeated Gunnar Myrdals's assertion that segregation in D.C. commercial operations was more rigid than anywhere in the South.⁵⁰

The report also noted that segregation had not always been the norm in D.C. In fact, the report argued, in the late 1800s, discrimination in public facilities was prohibited by local ordinance. In 1872 and 1873, the D.C. council passed a law giving Negroes equal rights in all places of public accommodation, including restaurants and hotels.⁵¹ This law, the report argued, had never been repealed, but had instead simply been removed from the D.C. code sometime in the early 1900s.⁵²

After describing the restrictions on people of color in D.C., the report devoted

43. *End of Racial Bars Demanded By President's Committee. Suffrage Asked for District.* WASH. POST, Oct. 30, 1947, at 1.

44. SEGREGATION IN WASHINGTON, *supra* note 4.

45. *Segregation Report Reaction Awaited.* WASH. DAILY NEWS, December 11, 1948.

46. SEGREGATION IN WASHINGTON, *supra* note 4, at 7.

47. *Id.* at 10.

48. *Id.* at 11-17.

49. *Id.* at 17.

50. *Id.* at 17.

51. *Id.* at 18.

52. *Id.* For further discussion, see *supra* text accompanying notes 81-99.

the majority of its pages to outlining the impact that segregation had on District residents. Blacks and whites lived in close proximity during much of the nineteenth century, but segregation had been imposed with increasing force during the first half of the twentieth century, resulting in the creation of a black ghetto that formed a crescent around the seat of government and the business district.⁵³ Excluded from newly developed areas in the outlying sections of D.C., blacks were forced to find accommodations in the declining and overcrowded interior. This segregation had a dramatic impact on the lives of blacks. “Only 30 percent of the residents of the District of Columbia are Negroes,” the report stated. “But Negroes have 70 per cent of the slum residents, 69 per cent of the tuberculosis deaths, and 69 per cent of the felony arrests.”⁵⁴

Rather than being the result of “natural” forces, the report argued, this system of segregation was imposed by powerful interests, particularly those in the real estate sector. The 1948 Washington Real Estate Board Code of Ethics stated that “no property in a white section should ever be sold, rented, advertised or offered to colored people.”⁵⁵ Seeking to provide “exclusiveness,” realtors had imposed segregation and created a system that incorporated racism into the property values of D.C. neighborhoods. Segregation was maintained by residents’ associations, which had organized into the powerful Federation of Citizens’ Associations that policed the city’s racial borders.⁵⁶

The result was that blacks were forced to pay higher rents in the limited areas to which they had access, and in these areas housing was significantly inferior.⁵⁷ The damage caused by segregation was exacerbated, the report concluded, by the on-going urban renewal program that was clearing many formerly poor black areas for middle-class housing restricted to whites. Of the 30,000 new units built during the 1940s, just 200 were available to blacks.⁵⁸

Employment opportunities were just as restricted as public accommodations and housing, the report stated. The industrial and white collar jobs available to blacks were those at the lowest end of the pay scale like janitor, messenger, and

53. *Id.* at 26–28.

54. *Id.* at 26.

55. *Id.* at 30 (quoting Washington Real Estate Board Code of Ethics, Section 5, Article 15 (1948)). Weaver discussed the real estate industry’s role in creating black ghettos at length in his 1948 book, *THE NEGRO GHETTO*. On the role of residential restrictions in entrenching racial segregation, and the battles against these restrictions, see generally CLEMENT VOSE, *CAUCASIANS ONLY: THE SUPREME COURT, THE NAACP AND THE RESTRICTIVE COVENANT CASES* (1959); STEPHEN GRANT MEYER, *AS LONG AS THEY DON’T MOVE NEXT DOOR: SEGREGATION AND RACIAL CONFLICT IN AMERICAN NEIGHBORHOODS* (2000); A. SCOTT HENDERSON, *HOUSING AND THE DEMOCRATIC IDEAL: THE LIFE AND THOUGHT OF CHARLES ABRAMS* (2000); Arnold Hirsch, *Choosing Segregation: Federal Housing Policy Between Shelley and Brown*, in *FROM TENEMENTS TO THE TAYLOR HOMES: IN SEARCH OF AN URBAN HOUSING POLICY IN TWENTIETH CENTURY AMERICA* 206 (John Bauman ed., 2000).

56. *See id.* at 34–36.

57. *Id.* at 33.

58. *Id.* at 41.

cook.⁵⁹ Although blacks had achieved footholds in a few parts of local government, there too they were generally restricted to the lowest-paying occupations. In federal employment, efforts during the war had opened up some opportunities to blacks, particularly in new agencies like the Office of Price Administration.⁶⁰ These examples proved that integrated offices could function efficiently. However, many federal agencies—the worst example was the State Department—still practiced a rigid discrimination that limited blacks to the lowest ranking positions.⁶¹

The final section of the report focused in education and recreation in D.C. “Every September,” the report stated, “the Superintendent of Schools makes two speeches. They are identical in content, but one is made to Negro teachers and the other to white teachers.”⁶² This separation was enforced throughout all aspects of the public school system, the report concluded. But separate did not mean equal in the District’s schools, as Negro schools received far less funding, had less qualified teachers, and had older facilities than their white counterparts.⁶³ Higher education also maintained a dual system. Blacks had Howard University, but other local colleges and universities remained closed.⁶⁴ The system also applied to afterschool programs, run by the recreation department, in which segregation was so rigidly imposed that the city even named two marble champions (one white, one black) each year.⁶⁵

The report concluded by noting that Congress had assumed control of the governance of the District in the late 1800s to protect white citizens from increasing black power.⁶⁶ The result was that all residents of the district were disenfranchised, and local government was controlled by business elites in the Board of Trade and by Southern Congressional leaders intent on promoting D.C. as the “capital of white supremacy.”⁶⁷ The report called on the nation to rectify this situation and make the District a symbol of the country’s aspirations. For more than half a century, the report concluded, D.C. had been building “ghettoes of mind, body and spirit They are ghettoes that cramp the soul of the nation In the Nation’s Capital, we must mean what we say, and give people of all races and colors an equal chance to life liberty and the pursuit of happiness.”⁶⁸

The report received significant national and local attention, appearing on the front pages of the *Washington Star* and the *Washington Post*, which described it

59. *Id.* at 55. Much of this section relied on Weaver’s work in *NEGRO LABOR: A NATIONAL PROBLEM*, *supra* note 29.

60. *Id.* at 68–74.

61. *Id.* at 63–65.

62. *Id.* at 75.

63. *Id.* at 76–77.

64. *Id.* at 78.

65. *Id.* at 83.

66. *Id.* at 84–85.

67. *Id.* at 86–88.

68. *Id.* at 91.

as "stinging."⁶⁹ The *Pittsburgh Courier*, the only African-American paper with a D.C. office, titled its article on the report "*The Disgrace of the District of Columbia*."⁷⁰ The *Atlantic Monthly* stated that the report was "even more ugly reading than the report of the President's Committee," and the *Nation* called it "a most honest and thorough statement."⁷¹ A number of school districts across the country declared that they would not send children on field trips to the district unless segregated facilities were eliminated.⁷²

Reaction to the report by the District's leadership was immediate. Harry Wender, Chairman of the D.C. Board of Recreation, stated that he agreed with the objectives of the report but argued that many of its assertions were "without justification."⁷³ Major General U.S. Grant, head of the National Capital Planning Commission, acknowledged that segregation existed but called the charges that local institutions were entrenching segregation "false and unjust."⁷⁴ The Federation of Citizen's Associations, while acknowledging segregation, argued that "complete equality" was being attained in the district's schools.⁷⁵ The editors of the *Star* also criticized the report and noted that the majority of the Committee members were not from the District.⁷⁶ The editorial board of the *Post* criticized the "committee's effort to deck out the report, non-researchlike, with stage effects and its consequent tendency to error and extravagance," but it acknowledged that the document was basically accurate.⁷⁷

Although the Committee languished after the report was released, the document gave support to the activities of many other civil rights groups that were advocating for changes in local policy, and it contributed to some significant immediate achievements. Just days after the report's release, the Civilian Aeronautics Administration declared that it would bar any discrimination at National Airport's facilities.⁷⁸ Interior Secretary J.A. Krug declared that his department, which was negotiating to turn over operation of several facilities in the District to the local recreation department, would not complete the transfer until the recreation department eliminated its requirement of racial segregation in its facilities.⁷⁹ While it battled with the department over the requirement, the D.C. recreation department did announce that it was opening two playgrounds on an

69. Press Comments on Segregation in Washington. Reports to Executive Committee, *microformed in PAPERS OF THE NAACP, Campaign Against Residential Segregation, 1914-1955*, Reel 12 (Univ. Publ'ns of Am., 1994).

70. *Id.*

71. *Id.*

72. *Id.*

73. Murrey Marder, *D.C. Business Accused of Maintaining Negro Ghetto*, WASH. POST, Dec. 11, 1948, at 1.

74. Murrey Marder, *Segregation Report Assailed as Distorted 'Special Plea'*, WASH. POST, Dec. 22, 1948, at 1.

75. *Segregation Report on Schools Held Distorted*, WASH. POST, Feb. 9, 1949, at 1.

76. *Segregation Report Defended*, WASH. STAR, Dec. 12, 1948, at 12.

77. *Capital Dilemma*, WASH. POST, Dec. 13, 1948, at 1.

78. *Unsegregated Airport*, WASH. POST, Jan. 1, 1949, at 4.

79. *Id.*

“experimental” integrated basis, and it agreed to allow integrated after-school programs in school buildings.⁸⁰

Among the most interesting outcomes of the report was an effort to resuscitate the District’s nineteenth-century “lost” laws regarding discrimination. In 1949, the National Lawyers Guild released a report arguing that the 1872 and 1873 anti-discrimination laws were still in effect and recommended that the District’s Corporation Counsel enforce them.⁸¹ To push the local government to take action, a group of District activists formed the Coordinating Committee for the Enforcement of D.C. Anti-Discrimination Laws (CCEAD).⁸² Led by Mary Church Terrell, at 88 years old an African-American institution and scion of one of D.C.’s most famous families, the group directed a three-pronged attack on public segregation that included lobbying the D.C. government, initiating legal action to secure the enforcement of the statutes, and protesting at those commercial facilities that refused to integrate.⁸³

The District Commissioners agreed to enforce the law, partly as a matter of civil rights, but in large part because they viewed it as an important precedent for home rule.⁸⁴ During the postwar years, demands by District business and public officials for autonomy had greatly increased, and the question of the laws’ applicability provided an opportunity to explore the legal principles for Congressional authorization of local autonomy.⁸⁵ With the blessing of the District Corporation Counsel’s office, the CCEAD brought together other civil rights organizations and civil rights lawyers for a test case. Terrell, along with two other African-Americans and one white person, attempted to get service at Thompson’s Restaurant, a downtown business. When they were refused, they immediately filed charges in the Corporation Counsel’s office.⁸⁶ In July of 1950, a D.C. district judge dismissed the charges, ruling that the laws, though initially valid, had been “repealed by implication.”⁸⁷ The local appellate court, however, reversed, holding most of the laws to be both valid and unrepealed.⁸⁸

The case was appealed to the D.C. Circuit, and Solicitor General Philip

80. *Id.*; *Step Forward*, WASH. POST, May 8, 1949, at 4; *Recreation Board Terminates Segregation at 2 Playgrounds*, WASH. POST, May 11, 1949, at 1; Dorothea Andrews, *Interior and Recreation Board Compromise on Segregation*, WASH. POST, July 2, 1949, at 1.

81. Marvin Caplan, *City Voices: Integrating D.C. Eating Places*, WASH. POST, Apr. 25, 1985, at DC1 (District Weekly).

82. The efforts of the CCEAD are ably described by Beverly Jones. See Beverly W. Jones, *Before Montgomery and Greensboro: The Desegregation Movement in the District of Columbia, 1950–1953*, PHYLON, vol. 93, no. 2 (1982), at 144–54.

83. *Id.*

84. *Hunt for ‘Lost’ District Anti-Segregation Law Opened by Court*, WASH. STAR, Jan. 31, 1950, at 1; Sam Zagoria, *Study Ordered of Segregation Laws in D.C.*, WASH. POST, Feb. 1, 1950 at 1; *D.C. to Test Discrimination Law of 1873*, WASH. POST, Feb. 22, 1950, at 1.

85. On the history of the battle for home rule, see Steven J. Diner, *From Jim Crow to Home Rule*, 13 WILSON Q. 90 (1989); Martha Derthick, *Politics in Voteless Washington*, 25 J.L. & POL. 93 (1963).

86. Jones, *supra* note 82, at 146–47.

87. *District of Columbia v. John R. Thompson Co.*, 81 A.2d 249, 250 (Mun. Ct. App. D.C. 1951).

88. *Thompson*, 81 A.2d at 256.

Perlman filed an amicus brief that argued that the statutes were valid and declared that “the problem of racial discrimination in the nation’s Capital is a matter of serious concern to the people of the entire country,” because it “assumed exaggerated importance in conveying a misleading impression of American life.”⁸⁹ Twenty-two national groups, including the American Civil Liberties Union, the Congress of Industrial Organizations, and Americans for Democratic Action, also joined to file a brief arguing for the laws’ application.⁹⁰

While the courts were considering the matter, the CCEAD organized protests at several downtown stores to push them to integrate. Activists secured the signatures of 4,000 D.C. residents who pledged not to patronize Woolworth’s, Hecht’s, Kresge’s, Murphy’s and other major department stores that refused to serve blacks at their lunch counters.⁹¹ Within the year, each of these establishments capitulated to the pressure, and agreed to provide full services to African-American customers.⁹²

A divided D.C. Circuit declared the anti-discrimination statutes invalid.⁹³ Ignoring the content of the laws, the five judges in the majority focused on the question of the city government’s authority to pass and enforce them.⁹⁴ Judge E. Barrett Prettyman, whose vote decided the case, concluded in his concurring opinion that the laws were invalid on two grounds: either they exceeded the authority granted to the city government by Congress,⁹⁵ or they were municipal regulations that had been “abandoned” by the city and thus voided.⁹⁶ Prettyman declined to choose between these options.⁹⁷

District lawyers quickly appealed, and in an 8–0 decision, the Supreme Court reversed. Per Justice Douglas, the Court held that the 1871 Organic Act creating the D.C. City Council granted it general police power to regulate local affairs, that the 1872 and 1873 regulations fell within this authority, and that they remained valid.⁹⁸ The decision was a major victory for local activists, providing a rallying point to attack segregated institutions across the city. *Bolling* was decided a year later, and within a few years, all of the District’s public institutions, and many of its private ones, were integrated.

The work of national and local civil rights activists to shine light on the

89. Memorandum for the United States as Amicus Curiae, *John R. Thompson Co. v. Dist. of Columbia*, 203 F.2d 579 (D.C. Cir. 1953), *rev’d*, 346 U.S. 100 (1953); *Government Files Supporting Brief in ‘Lost Laws’ Case*, PITTSBURGH COURIER, July 7, 1951, at 1; *Congress Already Has Right to Vote Home Rule, Says Brief*, WASH. POST, Sept. 19, 1951, at 8.

90. *Twenty-Two Groups Enter Race Suit*, WASH. POST, Nov. 20, 1951, at 2B.

91. Letter from Annie Stein to E. Franklin Frazier, Nov. 28, 1950, E. Franklin Frazier Papers, Box 38 (on file with the Moorland-Spingarn Research Center, Howard University).

92. Jones. *supra* note 82.

93. *John R. Thompson Co. v. Dist. of Columbia*, 203 F.2d 579 (D.C. Cir. 1953).

94. *Id.* at 581–89.

95. *Id.* at 593.

96. *Id.* at 596. Prettyman argued that desuetude principles should apply here, because the municipal corporation had been granted both legislative and executive power by Congress. *Id.* at 594.

97. *Id.* at 597–98.

98. *District of Columbia v. John Thompson Co.*, 346 U.S. 100 (1953).

practice of segregation in the District of Columbia provided a powerful framework within which to attack school segregation. By the early 1950s, segregation in the District was a national disgrace, and one that could not be met with arguments of states' rights. The efforts of the National Committee Against Segregation in the Nation's Capital, as well as those of the Coordinating Committee for the Enforcement of Anti-Discrimination Laws in the District, reveal the multifaceted approach of civil rights lawyers, activists, and liberal institutions to promoting civil rights in the post-war years. By exposing the corrosive effects of segregation on the vital symbol of democracy, the nation's capital, activists were able to change the terms of debate over the legality of segregation in the District. Their efforts helped to shape the understanding of the Supreme Court justices, who, in *Bolling*, struck down D.C.'s segregated school system in an opinion noted for its brevity. By making segregation a national concern, civil rights leaders weakened the arguments against federal intervention to eliminate the institution, not only in the District of Columbia, but across the nation.