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"WITH ALL DELIBERATE SPEED" MEANS NOW!

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I am honored to be a part of the first law oriented symposium sponsored by the Charles Hamilton Houston Pre-law Society at Howard University. I am particularly honored by this invitation to deliver the keynote address to this conference focusing on the thirtieth anniversary of Brown v. Board of Education of Topeka, Kansas, popularly referred to as Brown v. Board of Education, 347 U.S. 483 (1954).

Most of you in this room were not even thought of when the Brown decision was rendered on May 17, 1954. As a matter of fact, I was only twelve years old myself. That means most of your parents were about the same age. I can gauge your ages and that of your parents pretty well, as my oldest son will complete his freshman year at Howard in a month or so. Hence, most of you are not familiar with the conditions of the country, and

*Before the Inaugural Annual Law Conference of the Charles Hamilton Houston Pre-law Society, Howard University on April 14, 1984, held in the Armour J. Blackburn University Center. This Conference commemorates "The 30th Anniversary of the Brown Decision." The speech is dedicated to the members of the Pre-law Society who seek the labor of law as their ultimate professional goal. The Pre-law Society, named after Dr. Charles Hamilton Houston is an important root of the Howard University School of Law.

especially the conditions of the Southland regarding the rigid system of segregation in the area of public education in 1954. See, e.g., J.P. Guzman, Crusade For Civic Democracy The Story of the Tuskegee Civic Association, 1941-1970, at pp. 100, 150-58 (Vantage Press, 1984).

The story of the education of Blacks does not begin with Brown v. Board of Education. It begins with the untold and unsung and unknown heroes and heroines of Afro-America. It begins with the definition of human dignity and liberty which formed the basis for the formulation of the Declaration of Independence, the 13 colonies, the Federalist Papers and the ratification of the Constitution. The episodes of this story are legion with references to the enactment by state legislatures of the Black Codes which codified and made a criminal act the teaching of any black person to read. The story has a theme that relates back to the original draft of the Constitution wherein is embodied the concept that a slave was not to be recognized in any way other than as chattel, that is, a piece of physical property. This theme created a drama which would play itself out by the prosecution and conviction of white and black Americans, who dared to declare an intellectual disobedience to an unjust law forbidding the teaching of blacks to read and to write. It was the law that created and protected the characters in this drama when they donned the robes of klansmen to taunt

and to brutalize blacks, who despite the unjust law stole away in the night to learning centers throughout the South to learn how to read and to write while their masters slept. The effect of these laws is stamped in every tombstone of men and women whose knowledge lead them to write articles and letters and to speak out against and to publically condemn apartheid in America.

Though the law was clear on what black people were forbidden to do, the law or the customs of the community drove black people to defy the law as to their human right to learn how to read and write. Like a cook book given to a hungry man, the more education denied to blacks, the more they hungered for it. This hunger lead the white establishment to create schools to educate blacks to do the jobs no longer desired by white Americans, and to quell the irrepressible eruption and defiance of a people who associated education with the definition of human dignity and liberty.

J. Smith, "The Right of Education Is A Human Right," before the Title I Educational Institute, Washington, D.C., Nov. 17, 1979.

This eruption lead to the creation of a segregated public educational system characterized by one room school houses, poor facilities and educational hand-me-downs to black students. The segregated system was characterised by discriminatory pay scales for black teachers, and a tax system which favored the rich and disfavored the poor as it related to the allocation of tax dollars for public education.

Despite the barriers that thwarted the progress of educating blacks, the resistance against ignorance manifested itself with the emergence of black lawyers, black doctors, black dentist, black banks, construction companies, and an increased black ownership of property, interests in railroads, inventions, science, the birth of black artists and politicians. By the turn of the century (1900) the defiance against ignorance already had begun to show its importance as thousands of black Americans had been graduated from black colleges. For example, Howard Law School, founded in 1869 was thirty-one (31) years old, and had graduated hundreds of black lawyers. See W. Dyson, Howard University The Capstone of Negro Education, 219-238 (1941).

In 1896 the United States Supreme Court sanctioned a dual system of public education, one for whites, the other for blacks, in its decision of Plessy v. Ferguson, 163 U.S. 537 (1896). The doctrine of "separate but equal" announced Plessy was an effort to suppress the inevitable doctrine of "together and equal." Nonetheless, the United States Supreme Court gave black Americans half, and perhaps the most important half of the loaf by requiring that public education for black Americans be equal, even if separate from that of whites.

Charles Hamilton Houston, after whom the pre-law society is named was born in 1895, one year before the Supreme Court decided Plessy v. Ferguson. See G.R. McNeil, Groundwork: Charles Hamilton Houston and the Struggle for Civil Rights (U. of Pa. Press, 1983).

By 1930, he had been graduated from Harvard Law School, and had become Vice-Dean of the Howard University School of Law and had started to focus his mind on how to change society by using the law as a tool for social engineering. As fate would have it, Houston and men and women who thought like Houston -- all rooted in the philosophy of resistance and defiance of ignorance, and all familiar with the educational needs of their race, and all committed and determined to fulfill the American promise of "equal justice under law," began to attack the basic premise of Plessy v. Ferguson as a per se violation of the United States Constitution. These black and white lawyers filed law suits to establish that "separate but equal" in reality meant "separate and unequal." Houston and others filed law suits to equalize the pay of black teachers, to crack the doors of white colleges supported by the tax dollars of the American people, who opposed the exclusion of blacks from tax supported state universities. Indeed, it was the progeny of slaves who wrote the briefs, and who argued the cases that eventually lead to the landmark decision of Brown v. Board of Education in 1954. See e.g., "Fighting Segregation Lawyers Here Recall Brown Decision," Washington Post, May 2, 1979, at C-9, col. 1.

On May 17, 1954, exactly 57 years after its decision in Plessy, the United States Supreme Court ruled in the first of two Brown opinions "that in the field of public education the doctrine of 'separate and equal' has no place. Separate educational facilities

are inherently unequal." At last, the Supreme Court had joined the resistance against ignorance and inequality in the public education of black people. Soon after this opinion, the question asked was how rapidly must America eradicate its apartheid public educational system? In a second Brown decision, the United States Supreme Court, determined to erase the badges of slavery in public education, answered the question with these words: "with all deliberate speed." Brown v. Board of Education of Topeka, 349 U.S. 294 (1955). See, A.P. Blaustein and C.C. Ferguson, Desegregation and the Law (Vintage Book 1962).

As the years past, the concept of "with all deliberate speed" began to mean "right now" to black Americans and "when we can get to it" to some white communities. The Brown opinions had declared that segregation in public education was unconstitutional. The American citizens living within the several states had to functionally carry out the court's mandate.

The Brown decision sought to bring the people together. In some states, integration was achieved without a blink of an eye; in other states, integration was achieved by the barrel of a gun and with the assistance of Federal troops. Who would have thought that a human right like public education would cause President Dwight D. Eisenhower to exercise his role as Commander-in-Chief of the armed forces to enforce a court order in Little Rock, Arkansas so that black children could get a decent education. Who would have thought, and what will historians say on the fiftieth and

and one hundredth anniversary of the Brown decision when they look at the vicious faces of the men and women, the old and young, the mothers, fathers and grandparents who were screaming indignities to nine little black children that bravely walked through a mob of American citizens attempting to keep them out of a publically supported educational institution in Little Rock, Arkansas. J. Williams, "The 25th Anniversary," Washington Post, May 17, 1979, at A-19, col. 3. See, Symposium Commemorating The 25th Anniversary of Brown v. Board of Education, 23 How. L.J. 1-133 (1980). These episodes in American history will be reported with shame and regret -- for there is no other way that they can be remembered.

* → The legal battles to fully implement the mandate of the Brown decisions continue today. Indeed, the terms "busing" and "pupil imbalance" are no longer educational in nature, but political agendas. The mandates of the Brown decisions remain the supreme law of the land; the implementation of the Brown decisions remain unfulfilled. In fact, while integration has clearly become the theme of our national consciousness, the school systems in many parts of our nation are more segregated today than they were in 1954. The accusations being made today by civil rights groups are repetitive of yesteryear. For example, on April 1, 1984, the Washington Post reported that the following accusations are being made in the Sumter County schools in Georgia:

"The level of tax support for the schools has been slashed by two-thirds since the schools were desegregated in 1970.

°Blacks, 43 percent of the country's population, have been kept off the school board by a discriminatory election system.

°Poor support for the country schools has helped cause Sumter County students to place 177th out of 187 districts in Georgia on basic skills tests.

°Some school officials are more enthusiastic about all-white private academics than the public schools."

[See, Rick Atkinson, "Segregation Rises Again In Many Southern Schools," Washington Post, April 1, 1984, at 1, col. 2.]

Indeed, it has been written by Professor Herbert O. Reid, Sr., and Frankie Foster-Davis, that the "final question inherent in the judicial handbag of the school segregation dilemma is the duration of desegregation and the possibility of resegregation." Reid and Davis, "State of Art: The Law and Education Since 1954," 52 J. of Negro Ed. 234, 243 (1983). Resegregation is a real possibility at this writing. The clouds of resegregation have begun to form. These clouds will roll away if you who read and listen to these words commit yourselves to the cause that Charles Hamilton Houston and those who preceded him set out to achieve -- equal justice for all under law.

Before concluding I would want to leave you with a few words that were given to me by my mother before I left Omaha, Nebraska to attend Howard Law School. She said, "Spread the word: equip yourself with the greatest weapon known to humankind -- knowledge. Drink no water until you thirst so deeply for knowledge that when it is offered to you that you will drown yourself with the water of

knowledge. Abstain from eating until you feel the pains of hunger that pain you so that you will reach out and grab the figs of knowledge." To you I say -- spread the word!

In conclusion, I want to say that you have a debt to pay: that debt is to black and white, and other Americans who paved the way for you to be here today. You owe a debt. You are obliged to learn all that you are capable of learning here at Howard University so that when your day comes, you will be able to execute the mandate and understand that "with all deliberate speed" means now!