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## Groundwork: Charles Hamilton Houston and the Struggle for Civil Rights

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At the ceremony, it was noted that most of those in the audience knew little or nothing about the man in whose name the medallions were being awarded. This is true, unfortunately, even for many in the Howard community — even though the building housing the university's law school is named Houston Hall and the school has a chair in Houston's honor.

Why this brilliant and stunningly successful giant of American legal history

person whose positive reach extends far beyond the measure of his years, his way of being in the world is worthy of attention."

Her work is more than a mere chronicle and characterization of Houston's life and accomplishments. Her research goes beyond Houston's personal and professional papers and correspondence. She reviewed voluminous records of organizations with which Houston was affiliated, papers of people who knew him, and has interviewed his family, friends, colleagues, critics and admirers.

The depth of her research provides profound insight into Houston's thoughts, triumphs, trials and errors. Thus, through McNeil's biography, Houston speaks to us about "the lines along which he decided to live his life, the questions he felt compelled to answer, the choices made and the paths taken."

The portrait that emerges from McNeil's account is that of a truly remarkable man whose unsung achievements are of great importance not only to Black Americans but to the legal history of this nation. How Charles Houston came to devote his life to lifting the stigma of inferiority from himself and his people began with a family philosophy that held: if one were ever to achieve anything, one would have to act as one's own claimant. Next was Houston's commitment to excellence as he set about preparing for the role he ultimately carved out for himself.

He was Phi Beta Kappa and one of several class valedictorians at Amherst College. After a four-year stint as an army officer in World War I, he enrolled at Harvard Law School, where he earned an honor average and was elected to the editorial board of the *Harvard Law Review*. As a result, he was awarded scholarships which he used to earn the Doctor of Juridical Science from Harvard and the Doctor of Civil Law from the University of Madrid.

McNeil shows that the graduate work was part of Houston's design — not mere happenstance. The approach and methods Houston applied to his work were those of a philosopher-scholar reflecting his deep legal and general learning. After all, he had been bathed in the great intellectual currents of the day (Pound, Frankfurter and Brandeis were among

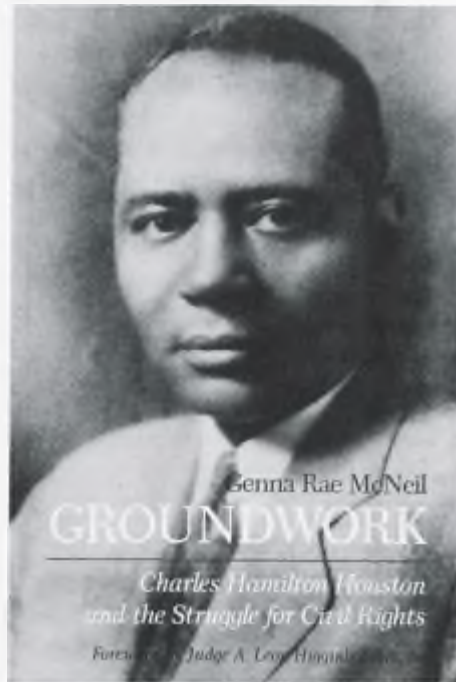
## Books

# Groundwork: Charles Hamilton Houston and the Struggle for Civil Rights

By Genna Rae McNeil  
University of Pennsylvania Press, 1983, 308 pp.  
Reviewed by Warner Lawson, Jr.

In 1976, during the celebration of the 50th Anniversary of the Washington Bar Association, the first Charles Hamilton Houston Medallions of Merit were awarded. Several of the recipients (Thurgood Marshall, William H. Hastie, Spottswood W. Robinson, III and James M. Nabrit, Jr.) were well-known to the audience for their sterling contributions to the strategy, tactics and litigation of the cases culminating in *Brown v. Board of Education*, the seminal 1954 Supreme Court decision which found segregation in public schools unconstitutional.

Charles H. Houston, a former dean and professor at Howard Law School who died in 1950, was revered by the honorees and the senior members of the audience. For during his lifetime, Houston was considered the best "Negro" lawyer in America and had argued or masterminded every major lawsuit for Black rights during the '30s and '40s. Indeed, Judge Hastie had called Houston "the Moses of the journey through the legal wilderness of second class citizenship," while Justice Marshall once had declared that not he but Houston (his teacher and mentor) should be considered "the First Mr. Civil Rights Lawyer."



remained relatively uncelebrated is partially explained by the fact that he was self-effacing, caring little about personal recognition. He did not set out to build a monument to himself. Another reason for his relative obscurity is that although his groundwork resulted in the dismantling of much of the structure of "Jim Crow," his untimely death cheated him of front row participation in *Brown*, the most dramatic and well-publicized dismantling.

It is precisely for these reasons that Genna Rae McNeil's outstanding biography, the first thorough treatment of Houston and his contributions, is so valuable. Indeed, it qualifies as a tangible monument to Charles Hamilton Houston.

McNeil explains that she embarked on her study, which took 12 years to complete, because of her recognition of Houston's uniqueness and her belief that "whenever there appears in history a

his teachers) and he had developed into a thinker with a deep sense of dedication. But the fire he would later apply to his unyielding assault on American racism had been ignited by his bitterness over the pure, unvarnished racial insults, humiliations and crass injustices he and other Blacks had experienced in the army.

Houston joined the Howard law faculty in 1924 and five years later was appointed, by then President Mordecai W. Johnson, to head the law school. By 1931, under his leadership, the school had won full accreditation from the American Bar Association and the Association of American Law Schools. McNeil reviews the tactics Houston used to accomplish this important feat: he boldly changed the school's program from night to day; installed a new curriculum; replaced most of the old teachers with a younger and better-trained faculty; and recruited better-credentialed students who thrived on the intellectual demands made of them.

Also, he refined and defined the law school's special mission, preaching and advocating that the lawyer's basic duty must be social engineering. "Discrimination . . . on the basis of race and a background of slavery," he explained to his students, "could be challenged within the context of the Constitution if it were creatively, innovatively interpreted and used." The moral obligation of Black lawyers, Houston believed, entailed duties to "guide antagonistic and group forces into channels where they will not clash" and ensure that "the course of change is orderly with a minimum of human loss and suffering." He often told his students: "A lawyer's either a social engineer or he's a parasite on society."

Believing that the history of Black people was a "record of doing the impossible," as he expressed it, Houston envisioned decades of difficult civil rights litigation that called for lawyers of exceptional skill and dedication, lawyers willing and able to attack old concepts and set legal precedents. He knew that the fight "for all the rights which whites take for granted" would be bitter and would require "first rate people with first rate training."

Not surprisingly, as a teacher and dean, Houston was a demanding taskmaster

who had no patience for and would not indulge mediocrity. His formula worked: the Howard law school gained a national reputation as a place of serious intellectual inquiry and social concern. And Dean Houston served as a personal inspiration to many of the brilliant, dedicated Black lawyers who emerged from the school's doors — such as Thurgood Marshall, Spottswood W. Robinson, III, William B. Bryant, Oliver W. Hill, Joseph C. Waddy . . .

If Houston's transformation of the law school could be considered his first revolution, 1935 could be seen as the marker for the beginning of his second revolution. That was the year he took leave from Howard to accept the newly created post of special counsel to the NAACP. As McNeil demonstrates in her book, Houston had the chance to implement his theory of social engineering. She skillfully recreates the climate in which he pursued this work: a time when American racism was gaining in virulence and unreasoned prejudice was intensifying because of the Depression; a time when years of contrived and erroneous interpretations of the Constitution had left the 13th, 14th and 15th Amendments with holes just big enough for Blacks to fall through into a widening pit of indignity and violence.

Indeed, noted Houston, despite these Amendments, cases decided by the Supreme Court and other governmental actions painted a picture of "slavery unwilling to die." Notwithstanding the widespread segregation and discrimination in practice in the nation, Houston translated into reality his belief that "the written Constitution and inertia against amendment give the lawyer wide room for experimentation and enable [Black people] to force reforms where they could have no chance through politics."

McNeil cites the three-pronged strategy Houston designed as chief architect of the NAACP's planned litigation campaigns: "selecting cases that presented clear legal issues and building strong records in those cases; overturning negative legal decisions by invalidating gradually or attacking directly the controlling precedents, and developing a sustaining community or mass interest in each case."

In recognizing that Black people faced a

protracted struggle, Houston stressed the importance of arousing and strengthening the will of local communities to demand and fight for their civil rights, McNeil shows. Thus he provided local communities with model procedures from actual tests in the courtroom so that they could pursue similar cases on their own. By taking an active part in the fight against segregation and discrimination, Houston believed Blacks would feel a new sense of importance and would recognize their own power while at the same time effecting "a gradual erosion of resistance" with "a minimum sacrifice to the peace of the community."

His emphasis on community involvement as an adjunct to legal strategy anticipated the approach used by civil rights activists in the '60s. He had a similar concern with transforming the hostile or indifferent press into a vehicle for educating whites "to a sympathetic understanding of the constitutional rights of Negroes." Writes McNeil: "He made the civil rights struggle news by proceeding with meeting after meeting and case after case that the media would have to cover because it involved elected or appointed officials."

McNeil also points out how Houston's program of litigation, which spanned 15 years, was consciously conducted on a step-by-step process. He believed this approach would have greater and lasting impact because he saw elected officials as "servants of the class which places them in office and maintains them there" and he believed courts will not "go against the established and crystallized social customs, when to do so would mean professional and political suicide." Thus, Houston's first steps involved laying a foundation for *subsequent* frontal attacks against racial discrimination and segregation.

The following examples, drawn from areas of education, employment and housing, illustrate the sweep of what Houston accomplished through this strategy:

In *Missouri ex rel. Gaines v. Canada*, the Supreme Court decided in 1938 that Missouri had denied Lloyd L. Gaines equal protection by excluding him from the law school of the tax-supported state university for no other reason than his race and that the out-of-state schol-