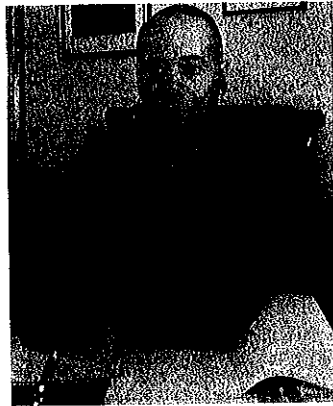


12 Separate but Unequal



"A lawyer's either a social engineer," said Howard University's law-school dean Charles Houston in 1935, "or he's a parasite on society."

Black lawyers like Charlie Houston couldn't join the American Bar Association. Does that mean they couldn't get a drink? No, it doesn't. A bar association is a lawyer's organization. *Bar* is another word for the law. The word comes from the railing that encloses the part of the courtroom where the judges and lawyers sit and witnesses are heard.

Back near the end of the 19th century, Homer Plessy was arrested for sitting in a whites-only railroad car. Was it legal for the railroads to separate the races? What does the Constitution say?

The 14th Amendment says:

No State shall...abridge the privileges...of citizens of the United States...; nor deny to any person within its jurisdiction the equal protection of the laws.

Abridge the privileges—that means take away or limit the rights of citizens. *Equal protection of the laws*. That seems clear. Does keeping people separate on a train abridge privileges? Does it deny anyone equal protection of the laws?

Some Americans weren't sure about that, and they looked to the Supreme Court for guidance. Finally, in 1896, the Supreme Court gave them an answer when it decided Homer Plessy's case. It was an answer that would cause a lot of people a lot of grief. Justice Henry Billings Brown wrote the decision for the majority of the justices. He said that the 14th Amendment called for

the absolute equality of the two races before the law, but...it could not have been intended to abolish distinctions based upon color, or to enforce social...equality, or a commingling of the two races.

Do you understand that? The races were equal before the law, but laws could prevent them from mingling.

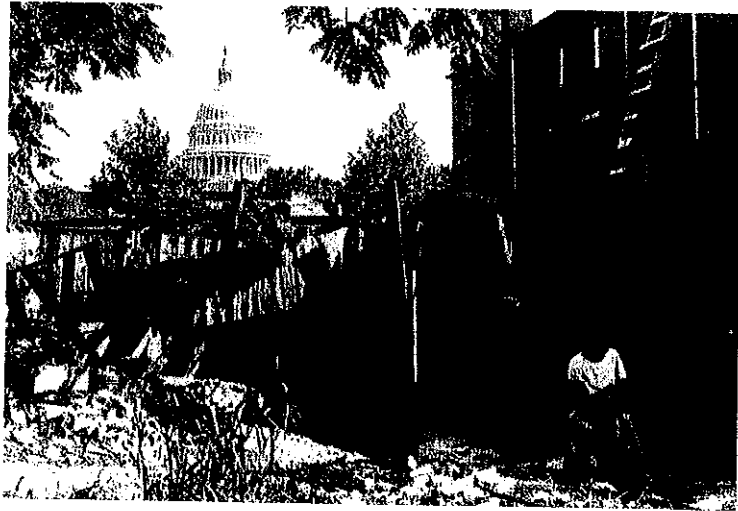
Justice John Marshall Harlan disagreed with the majority decision. Supreme Court justices often disagree with each other. The majority rules, but those who don't agree can write their *dissenting opinions*. In that famous 1896 decision, Justice Harlan wrote:

In view of the Constitution, in the eye of the law, there is...no superior,

dominant ruling class of citizens...Our Constitution is color-blind, and neither knows nor tolerates classes among citizens.

But the majority opinion was the one that counted. The Supreme Court said that if facilities were equal they could be separate. The *Plessy v. Ferguson* decision made segregation legal in schools, restaurants, hotels, and public places in the southern states. Jim Crow had won the approval of the highest court. Separate but equal was the law.

Some people thought the Supreme Court had made a mistake. Some people thought the decision showed that the justices didn't understand the law of the Constitution. They agreed with Justice Harlan that "our Constitution is color-blind." One of those people was Charles Hamilton Houston. Houston graduated from Amherst College in 1915. He was an officer in World War I. After that, he went to Harvard Law School and got a law degree. Then he got still another college degree: a Ph.D. Even with all those degrees, Charlie Houston knew he had no chance of getting a job with a big law firm. His skin color would be held against him.



In 1963, more than 40 percent of Washington, D.C.'s families were African Americans living within sight of the Capitol—and below the poverty line.

But Houston had no intention of working in a big law firm. He had studied law because he wanted to help his people. He believed Jim Crow should be tried, sentenced, convicted, and hanged—and that the courts should do it. So Houston decided that he would become an expert in the law of the Constitution and then train other black lawyers to be experts, too. And that is exactly what he did. He became dean of Howard University's law school. He was a very tough dean.

"He was so tough we used to call him 'Iron Shoes' and 'Cement Pants' and a few other names that don't bear repeating," said a student. "But he was a sweet man once you saw what he was up to."

What he was up to was making sure that his law students were as good as any lawyers anywhere.

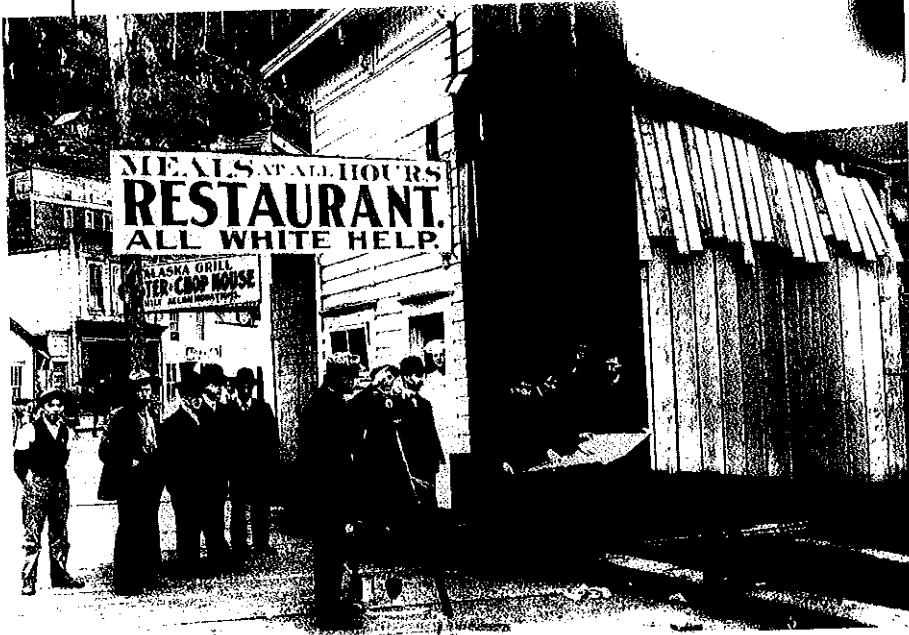
"In all our classes," said another of Houston's students, "stress was placed on learning what our rights were under the Constitution...our rights as worded and regardless of how they had been interpreted to that time. Charlie's view was that we had to get the courts to change."

"He made it clear to all of us that when we were done we were expected to go out and do something with our lives," said Thurgood Marshall. Marshall was one of Charlie Houston's best students. He did something with his life—something important.



"Like an eating cancer," said Thurgood Marshall, "segregation destroys the morale of our citizens and disfigures our country throughout the world."

Jim Crow in the Far North



This restaurant in Juneau didn't just prevent Native Alaskans and Eskimos from eating within its precincts. It made sure they didn't work there, either.

Jim Crow, who stands for legal segregation, had a big residence in the South, but that miserable weasel (who kept a smile on his face to fool people) managed to settle in lots of other places, too.

Alaska was one of them. Alaska? Yes. It was Jim who helped post signs there that said NO NATIVES ALLOWED on restaurants and hotels. And it was Jim who saw that schools were segregated. Whites sent their children to whites-only schools. Eskimos, Native Alaskans (Indians), and Aleuts went to other schools (although sometimes there were no other schools). Lots of nonwhite children just didn't get educated. They were illiterate, which means they couldn't read or write.

And then, because they couldn't read or write, the bigots said they were ignorant, "not civilized," and not fit to be with whites. You can see how frustrating this was for all decent people.

Back in 1905, an Aleut girl, a Miss Jones, wanted to go to the American public school in Sitka. Her father was white. But, since she went fishing with her Aleut grandmother, the judge said Miss Jones was "not civilized," and couldn't go to school.

Congress granted citizenship to all Native Americans in 1924, but that didn't integrate schools or end prejudice in Alaska. Then, during World War II, Americans everywhere began to look at prejudice

with opening eyes. It was hard to condemn Hitler's racist policies and accept racism at home. A reporter who visited Alaska in 1943 said that the social position of Indians and Eskimos was "equivalent to that of a Negro in Georgia or Mississippi."

In Nome, the Dream movie theater was segregated. Whites sat in one section, Native Alaskans and Eskimos in another. Alberta Schenck was an usher at the Dream. Her mother was Inupiaq, her father was white, and she hated the idea of segregation. But when she said something about it she was fired from her job. Alberta wrote a school essay about her feelings. She said:

I believe we Americans and also our Allies are fighting for the purpose of freedom. I myself am part Eskimo and Irish and so are many others. I only truthfully know that I am one of God's children regardless of race, color, or creed.... What has hurt us constantly is that we are not able to go to



Despite the cold, foggy weather some Aleut children go barefoot, even to school.

a public theater and sit where we wish, yet we pay the same price as anyone else and our money is gladly received.

"That," said Alberta, was "following the steps of Hitlerism."

A few weeks later, Alberta had a date with a white sergeant from a nearby army base. They went to the movies. They sat in the whites-only section. The manager ordered her to move. "Get over there with the Eskimos!" he yelled.



Native Alaskan and civil rights fighter Elizabeth Peratrovich

"Don't move," the sergeant said. "You're my guest." The manager called the Nome chief of police. The chief grabbed Alberta, pulled her down the aisle, and took her to jail. Alberta Schenck spent the night in the Nome city

jail.

Then she wrote Governor Ernest Gruening. She said, "My father was a soldier in World War I. I have two brothers in the army in this war." And she told him what had happened to her at the Dream theater.

The governor (a New Deal appointee) was furious. He said, "I consider it un-American... I deem it contrary to the spirit of our country and directly in conflict with the issues on which this great war is being fought."

Some Alaskans had been working hard to see segregation outlawed. Elizabeth Wanamaker Pera-

trovich and her husband, Roy, were two of those people. They moved to Juneau in the early 1940s, and found they could not buy a house in the part of town where they wanted to live. They were turned away because they were Alaskan natives. Elizabeth, a Tlingit,

was president of the Alaska Native Sisterhood. She was determined to get an anti-discrimination act passed. It would make segregation illegal. The bill was defeated when it first came before the legislature in 1943. In 1944, it was defeated again. That was the year that Alberta Schenck spent a night in jail.

Governor Gruening wrote to Alberta and said he would work to see that the anti-discrimination bill was passed in the next legislative session. "If it becomes law, you may be certain that the unpleasant experience which has been yours will not happen again to anyone in Alaska."

But some people were opposed to the bill. Senator Allen Shattuck of Juneau spoke out in the Senate and said:

Far from being brought closer together, which will result from this bill, the races should be kept apart. Who are these



Allen Shattuck, the senator with 5,000 years of civilization behind him

people, barely out of savagery, who want to associate with us whites with 5,000 years of recorded civilization behind us?

Elizabeth Peratrovich was sitting in the Senate gallery. She rose and, in firm tones, answered the senator:

I would not have expected that I, who am barely out of savagery, would have to remind the gentleman with 5,000 years of recorded civilization behind him of the Bill of Rights.

The bill passed the Senate and the governor signed it on February 16, 1945. In Alaska today, that date is celebrated as Elizabeth Peratrovich Day.



Governor Gruening signs Alaska's Anti-Discrimination Act in 1945; Elizabeth Peratrovich is on his right.