

## Amos N. Jones

Visiting Scholar, University of Melbourne Law School

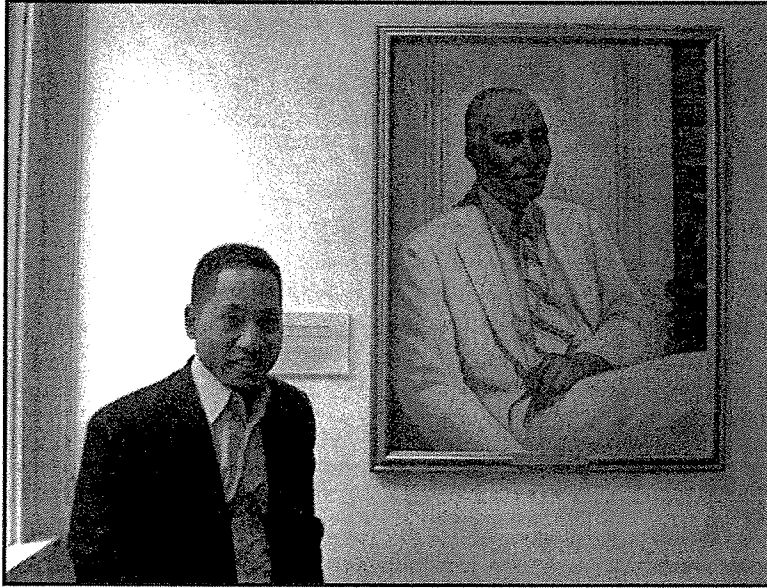
### Setting Aside the Will of the Plaintiffs

TIMED FOR PUBLICATION as the Supreme Court of the United States revisits school-desegregation cases in Seattle, Washington, and Louisville, Kentucky, Amos Jones's "Setting Aside the Will of the Plaintiffs: How and Why the 1950s School-Desegregation Strategy Marginalized Experiences of Black Self-Determination in Unequal Schools and Examples of Black Self-Sufficiency in Equalization Plans That Had Worked Well," 23 GA. ST. U. L. REV. 237 (2006), re-examines the decision to move the civil rights struggle in education from pursuing equalization measures to pursuing desegregation programs. The article contextualizes within the transforming legal strategy that culminated in the Brown vs. Board of Education decision of 1954 the lived experiences of ordinary black students of the period, a named plaintiff, and the intellectual architect of school-desegregation litigation, Dr. Charles Hamilton Houston.

The author generally argues in support of Professor Derrick Bell's apologetic declarations of thirty years ago. Drawing on primary sources archived at the Library of Congress and Howard University in Washington, D.C., Jones revisits the clients' stated objectives as to the school-equality problems of the mid Twentieth Century, surveying historical perspectives of the clients who protested inferior schools, as well as those of particular non-plaintiff members of the class from his hometown of Lexington, Kentucky. Personally informed and affected by what happened during those days, what many leading blacks of the period clearly wanted, and what those blacks achieved when they succeeded at school equalization rather than integration, Jones argues that the black lawyers and their cooperating white counsel assumed an elitist professional posture that typifies practicing lawyers today — an orientation from which they set aside the real experiences of affected blacks, socially engineering an outcome that has not effected educational uplift for the black masses relative to whites. But he balances this observation within the context of the NAACP's decision to attack segregation itself in education, revisiting the personal experiences of chief counsel Charles Hamilton Houston and affirming his vision of what was required to topple Jim Crow altogether.

While affirming the extraneous outcomes of Brown and thereby taking a generally favorable view of its broadest result, Jones nonetheless concludes that the kind of social engineering Brown realized — that which proceeds by overruling populist-based political objectives and progress — was bound to have spurred malfunctions of the kind that have left a substantial portion of black American high school graduates in 2006 unable to read. He thus separates the effect that NAACP lawyers have had in education from the progressive and helpful outcomes they have fostered in society at large. It is Jones's belief, in light of the primary documents and interviews with former students who rose through particular segregated schools, that if the cause lawyers who entered the scene during the 1940s and 1950s had better appreciated examples of black self-sufficiency in school-equalization plans that had worked well, then these lawyers at some point would have pursued proven remedies and the vast majority of black children today would be learning more in public schools, which remain segregated in fact in much of the country. Thus, the article is primarily intended to call the attentions of contemporary lawyers and policymakers to the opinions of the affected masses, whose lived experiences often are dramatic, complex, and instructive. Consistent with Justice Oliver Wendell Holmes's famous legal aphorism "[u]pon this point a page of history is worth a volume of logic," the article is secondarily intended to record the historical perspectives of a number of black people who have lived on both sides of the Brown decision and stand ambivalent about its impact on the education of black schoolchildren.

Scheduled for the December 2006 issue of the Georgia State University Law Review, "Setting Aside the Will of the Plaintiffs" takes its place in the emerging genre of legal scholarship known as the essay, as described by the Yale Law Journal. It opens novel areas of discussion and presses established academic boundaries, outlining new parameters of discussion and engaging in a highly focused analysis of a little-noticed problem. Containing a detailed introduction, a nuanced conclusion, and an intermittently personal narrative, it experiments with style and presentation and attempts to launch fresh conversations.



Published on July 3, 2006 at 2:24 am



The URI to TrackBack this entry is: <http://amosjones.wordpress.com/about/trackback/>

[RSS feed for comments on this post.](#)

## Leave a Comment

You must be [logged in](#) to post a comment.

December 2007

S M T W T F S

1

2 3 4 5 6 7 8

9 10 11 12 13 14 15

16 17 18 19 20 21 22

23 24 25 26 27 28 29

30 31

• [« Mar](#)

• [Pages](#)

# GEORGIA STATE UNIVERSITY LAW REVIEW

Setting Aside the Will of the Plaintiffs: How and  
Why the 1950s School-Desegregation Strategy  
Marginalized Experiences of Black Self-Determination in  
Unequal Schools and Examples of Black  
Self-Sufficiency in Equalization Plans

*Amos N. Jones*

---

---

VOLUME 23

NUMBER 2

WINTER 2006

---

---

SETTING ASIDE THE WILL OF THE PLAINTIFFS:  
HOW AND WHY THE 1950S  
SCHOOL-DESEGREGATION STRATEGY  
MARGINALIZED EXPERIENCES OF BLACK  
SELF-DETERMINATION IN UNEQUAL SCHOOLS  
AND EXAMPLES OF BLACK SELF-SUFFICIENCY  
IN EQUALIZATION PLANS

Amos N. Jones\*

*"[W]e have got to renounce a program that always involves humiliating self-stultifying scrambling to crawl somewhere where we are not wanted; where we crouch panting like a whipped dog . . . No, by God, stand erect in a mud-puddle and tell the white world to go to hell, rather than lick boots in a parlor."<sup>1</sup>*

INTRODUCTION

In April of 2006, the Omaha, Nebraska, school system attracted international attention after the state legislature approved a plan to divide the system into three districts that seemed to leave black students racially segregated from the rest of the system's students.<sup>2</sup>

---

\* Fulbright Visiting Scholar, Centre for Comparative Constitutional Studies, University of Melbourne Law School. J.D., Harvard Law School, 2006. M.S., Columbia University Graduate School of Journalism, 2003. I thank Professor Lani Guinier, Professor Kenneth W. Mack, and Professor Charles J. Ogletree, Jr., for engaging me in projects relevant to this study and for introducing to the world thought-provoking commentary on *Brown v. Board of Education*, 347 U.S. 483 (1954). For their indefatigable sharing, I thank the outstanding librarians and other custodians of resources at Howard University and the Library of Congress, especially Joellen El Bashir, Curator of Manuscripts at Howard's Moorland-Spingarn Research Center.

1. W.E.B. Du Bois, Editorial, *The Anti-Segregation Campaign*, THE CRISIS, June 1934, at 182. By 1934, Du Bois was undergoing growing pessimism as segregation remained despite the work of the NAACP, and in January of that year, he opined that Negroes should face the fact that they would die segregated, in spite of their best efforts: "to hate segregation was inevitably to hate themselves," he argued, and it therefore would be "far better to embrace voluntary segregation in schools, colleges, [and] businesses—both for reasons of psychic well-being and to build concentrated strength for later fights." TAYLOR BRANCH, PARTING THE WATERS: AMERICA IN THE KING YEARS 1954-63, at 51 (1988).

2. See Sam Dillon, *Law to Segregate Omaha Schools Divides Nebraska*, N.Y. TIMES, Apr. 15, 2006, at A9 ("Civil rights scholars call the legislation the most blatant recent effort in the nation to

