

# INTRODUCTION

By EDWARD C. MADDOX, JR.

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**T**HE FINE AND DELICATE BALANCE OF POWER, the nexus of which is seemingly beyond our grasp when Justice hangs in the balance, has been shaken loose from its moorings of Racism and Discrimination and moved on occasion in the direction of Humaneness and Fairness. In the legal world, the fulcrum on which the shaft of Justice oscillates is the court system. At the apex of that hinge sits the court of penultimacy: the Supreme Court.

When the structures of Power are moved from the Right to the Left, from Exclusion to Inclusion, or from Deafness to Openness, many of us have come to realize that it is not as a result of some mysterious osmosian process whereby the sensibilities of life seep into the chambers of the Supreme Court and emerge as a victorious "landmark." Neither does it seem to be because the forces of Regression and Oppression are any weaker than they were in the days when the Black man was a human nullity before the "blind" eyes of the Court. When the balance of power moves one iota, it is more likely because a sturdy lever has forced its motion. Such has been the effect of the work of the brilliant Black attorneys who have been and continue to be the advocates of change on behalf of the Black community in the forum of the Supreme Court.

The Board of Editors of the BLACK LAW JOURNAL has selected six outstanding Black attorneys who are advocates of this unique genre as subjects for the profiles in this issue. These "power brokers" by no means represent the long list of Black attorneys who have argued cases or have otherwise been involved in Supreme Court litigation, but they are hopefully representative of the cross-section of lawyers who are the champions of the Black community at the Supreme Court level.

Our selections for this issue are the distinguished Robert L. Carter who was just recently honored by the National Conference of Black Lawyers for his contributions over the last 25 years; Julius Le Vonne Chambers who argued the recent school desegregation cases; William T. Coleman who attained an international reputation for his work in the field of human rights; Edward A. Dawley who along with his partner Len W. Holt battled against arbitrary courtroom procedures that have been used against Black attorneys defending unpopular cases; and Conrad K. Harper who has achieved major desegregation breakthroughs in Arkansas and other areas of the South.



On September 28, 1972, at age 55, ROBERT L. CARTER took the oath of a United States District Court Judge, an appointee to the Southern District of New York State. The appointment came as a surprise to him, and he expressed concern, not only over a possible narrow role legally as a judge, but also over the multitudinous problems facing the Southern District of New York. A look at the legal history of this courageous and competent lawyer-jurist, however, convinces one that the judgeship is merely another means for this Black man to continue his fight for dignity and justice through the law.

Robert L. Carter was born the youngest of nine children. His father died when he was one-year old, and he gives credit to an ambitious mother who inspired his confidence for much of his achievement. He attended high school in East Orange, New Jersey, and graduated from Lincoln University in 1937, *magna cum laude*. He was awarded a scholarship to the Howard University School of Law, from which he graduated in 1940, also *magna cum laude*. The Rosenwald Fellowship of Columbia University enabled him to receive the Master of Laws degree in 1941. Drafted shortly thereafter, he became an officer candidate and later an officer in the Army Air Corp. His term with the Army concluded in 1944; he took the New York Bar Examination, and joined Thurgood Marshall's expanding staff as a legal research assistant for the NAACP Legal Defense Fund. By 1948, he was Assistant Special Counsel, and in that year he took a leave to accept the directorship of Veteran Affairs of the American Veterans' Committee. One year later he returned to the Legal Defense Fund to participate in some of the most important legal decisions of the century. During his years as an advocate for the NAACP, with such now-distinguished jurists as Constance Baker Motley and Thurgood Marshall, he made legal and social history arguing such cases as *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449; *NAACP v. Alabama ex rel. Flowers*, 377 U.S. 288; *Bates v. Little Rock*, 361 U.S. 516; and *Brown v. Board of Education*, 349 U.S. 294, which he argued three times in the Supreme Court. He recalls of 27 cases litigated in the United States Supreme Court, 26 victories.

In retrospect, he describes the NAACP years as "fascinating" times. He recalls the excitement and fulfillment he felt while he and his colleagues used their minds collectively and called upon their ingenuity and creativity in developing innovative legal theories which to combat racism. Judge Carter and his peers accepted a unique challenge of the times, a chance to forge new legal theories and use their skills in pursuit of political, social, and economic change. Robert Carter helped write an unforgettable chapter in the legal history of the United States, and the precedents he set remain controversial and relevant to current legal battles.

Appointed General Counsel of the NAACP in 1956, he remained with the organization until 1961, when he took a leave of absence for 7 months to work with the special United States Attorney's office. While on this leave, the Prince Edward County School crisis broke in Maryland, and after declining to accept a government offer to work on the case, he heeded the NAACP request for assistance there. Carter remained with the Association until 1968.

An even more divergent career developed for Carter, with his appointment as Fellow of the Columbia University Law School in August of 1969. In September of the same year, he accepted a partnership in a major New York law firm, Poletti, Freidin, Prashken, Feldman, and Gartner, becoming one of the few Blacks ever to hold such a position. He terminated that relationship when he was appointed to the District Court.

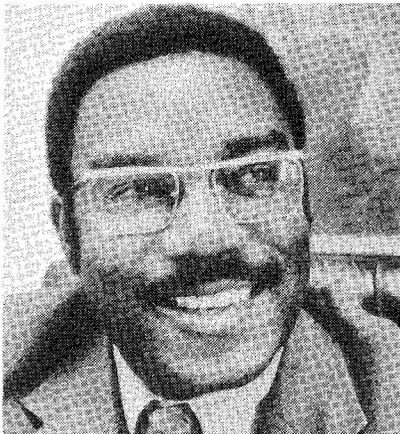
In addition to the Columbia appointment of 1969, he was UCLA Regents' Lecturer at the UCLA Law School on segregation and other topics (1969), and an adjunct professor at the New York University Law School. His articles have appeared in the Michigan, Western, and University of Illinois Law Reviews, and in Equality Magazine.

Judge Carter has always been a participant in his community's activities. Long involved in Bar Association activities, he is now co-chairman of the New York headquartered National Conference of Black Lawyers. A member of the National Committee Against Discrimination in the Law, he was recently appointed to the New

York State Special Commission on Attica, a nine-member commission appointed to study thoroughly and report comprehensively on the tragedy at Attica Prison last year.

The record on which Robert Carter accepts appointment to the bench of the Southern District speaks loudly of the respect this principled freedom fighter earned during a distinguished career in the law. Joining his former colleague Constance Baker Motley at the bench, a prospective record of excellence seems a *fait accompli*. Yet, his past dynamism and legal activism is all the more reason to keep watch on this proven champion of human rights. He sees his appointment as a new pathway, at the same time operating as an extension of his past career before the bench. Reflecting, he thought "[t]he appointment could be a new vehicle for the transformation of constitutional law." He shaped his present ambition in these terms: "to master the work of a district court judge."

If past achievements are even a small indication, the judiciary has received a lawyer-jurist *par excellence*. More importantly, as a tested champion of freedom and justice, Judge Robert L. Carter has gained but another forum in which to weave his heightened sense of legal and social conscience into the fabric of the law.

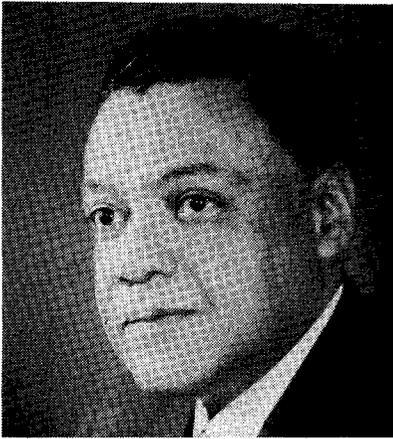


JULIUS LE VONNE CHAMBERS of the law firm of Chambers, Stein, Ferguson, and Lanning of Charlotte, North Carolina was born in Montgomery County, North Carolina some thirty-six years ago. He earned his B.A. in 1958 from North Carolina Central University and a year later received his M.A. from the University of Michigan. Then, in 1962, from the University of North Carolina, he earned his LL.B and achieved the honor of being named to the Order of the Coif. Mr. Chambers thereafter received his M.L. in 1963 from Columbia University, and is now a member of the North Carolina State Bar and of the North Carolina and American Bar Associations.

There is, however, a great deal more to Mr. Chambers than that which is portrayed by his educational credentials. He is a tireless young Black attorney. As the dynamic counsel for the interests of equal education for Blacks, he argued the case of *Charlotte-Mecklenberg Bd. of Education v. Swann*, 402 U.S. 1, to victory before the Supreme Court in 1971. Mr. Chambers feels that the situation in this country is a desperate one; and it was the out-growth of this despair which propelled Mr. Chambers into the field of law. As a result of childhood experiences wherein his father was unable to obtain legal counsel, Mr. Chambers decided on law as a career. At that early stage he "felt the need for lawyers to help Black people." Now that he himself is an attorney, Mr. Chambers finds that his constant involvement in the legal struggles which are very much a part of the Black community, has caused him to realize "the complexities of the Black situation are worse than he had really thought."

Mr. Chambers recognizes the need for more Blacks to turn to the study of law. In speaking of the need for more Black attorneys Mr. Chambers addressed the issue of minority admissions' programs which enable more Blacks to gain entry to law schools. In so doing, he alluded to *Defunis v. Odegarrd*, dock. no. 741, 727 Wash. Sup. Ct., Sept. 22, 1971, 40 L.W. 2211. Of that case Mr. Chambers says: "The court was insensitive to the problem. Blacks have been excluded overtly and covertly from law schools, and if the situation were equal there would be no need for special admissions; but, the situation is not equal, and it is asinine to say that Blacks have not been discriminated against. Courts have recognized this invidious discrimination in other areas, why not recognize it in the instance of law schools?"

Mr. Chambers is anxious to see more Blacks in law, and he cautions the neophyte lawyer that one needs to be prepared to practice. It is essential to know the law. One has to know not only the law, but how to present it. One needs to be patient; but above all," reiterates Mr. Chambers, "one has to be prepared, for Blacks have too long been saddled with inadequate counsel."



The law career of WILLIAM T. COLEMAN, JR., reflects one of the most noteworthy endeavors of any contemporary Afro-American lawyer. A native of Philadelphia, he graduated from the University of Pennsylvania in 1941 *summa cum laude* with major honors in political science and government. He subsequently entered Harvard Law School, gathering more honors as winner of the Joseph E. Beale Prize and designation as a Langdell Fellow. After serving on the Board of Editors of the Harvard Law Review and graduating *magna cum laude*, he entered the Harvard Business School.

Mr. Coleman's embarkment upon a professional career began with his serving as a Law Secretary to Judge Herbert F. Goodrich, United States Court of Appeals for the Third Circuit, and later to Mr. Justice Felix Frankfurter, Associate Justice of the United States Supreme Court. Following this he served as an Associate with the New York firm of Paul, Weiss, Rifkind, Wharton, & Garrison. Several years later he joined the Philadelphia firm of Dilworth, Paxson, Kalish, Levy & Coleman becoming a partner in 1956. From 1952 to 1963, Mr. Coleman assumed the responsibilities of Special Counsel for City of Philadelphia for Transit Matters and was also retained by Governor Scranton to represent the Attorney General of Pennsylvania and Commonwealth of Pennsylvania in litigation to remove racial restrictions at Girard College.

Mr. Coleman's business and professional affiliations are so extensive that they can only be capsulated here. He is or has been a Director of Pan American World Airways, Inc., Penn Mutual Life Insurance Company and First Pennsylvania Banking & Trust Co. His professional alliances include designation as Fellow, American College of Trial Lawyers; Member, Council on Foreign Relations; Council, American Law Institute, and former Chairman, Judiciary Committee of the Philadelphia Bar Association.

His public service record is equally laudable. In 1969 he was a member of the United States Delegation to the 24th Session of the United Nations General Assembly, he was Commissioner of the Price Commission (1971-72), and a public member of the President's National Commission on Productivity. From January, 1963, to the present, Mr. Coleman served as a Consultant and Assistant Counsel to the President's Commission on the Assassination of President Kennedy and a member of the Legal Advisory Committee to Council on Environmental Quality. He has also been on the Executive Committee and President of the NAACP Legal Defense and Education Fund, Inc.

Mr. Coleman's continuing legal scholarship is reflected in a number of legal writings including *Corporate Dividends and the Conflict of Laws*, 63 Harv. L. Rev. 443 (1950); *Pennsylvania Marital Communities and Common Law Neighbors*, 96 U. P. L. Rev. 1 (1947) (co-author); *Present Frontiers in Constitutional Law*, 12 Vill. L. Rev. 223 (1967) *inter alia*.



Civil rights, legal research, and community mobilization are among the diverse interests of EDWARD A. DAWLEY. A senior member of the Berkeley, California, law firm of Dawley, George and Holt, Mr. Dawley has had considerable exposure to the workings of the Supreme Court. The major portion of this exposure has focused on civil rights issues in Virginia, particularly sit-in demonstrations, eight of which were decided by memoranda. Other cases involved challenges to policies both within the courtroom (alleged contempt of court in violation of due process, *Holt v. Virginia*, 381 U.S. 131 (1964), and with (examination of the restrictive elements of the poll tax, *Butts v. Harrison*, 383 U.S. 663.

Attorney Dawley completed his legal training at the University of Michigan in 1952. After fourteen years of practice in Virginia, he moved to California to work as a legal editor and research attorney for Bancroft-Witney Legal Publishers. Shortly thereafter, he secured a similar position with the Continuing Education of the Bar (CEB) and served as editor of the National Lawyer's Guild Practitioner.

In reflecting upon his research and writing experiences, Mr. Dawley feels that he gained much by the opportunity to fully explore certain legal questions. These experiences enabled him to acquire additional insight into the inadequacies and limitations of various publications. Some of these same publications are still being used in law schools and courts across the country.

Recently, attorney Dawley served as chief counsel with the Hunter's Point Office of the San Francisco Legal Assistance Foundation. He worked fervently in his attempts to foster greater community involvement, both politically and economically. An indirect result of his efforts was the increased number of Black police officers assigned to that community.

Although it is less rare today for Black lawyers to argue cases before the Supreme Court, Mr. Dawley is under no illusions as to the standing of Blacks in the legal profession. But, he looks optimistically to the future as a period in which Blacks will become more influential in the legal arena. He attributes this forthcoming development to the incessant drive by all Blacks to attain a measure of constructive power in this society. Black lawyers, he believes, are acutely aware of the reality of power, having to confront it daily in their professional lives.

"Law is the agent of power and the servant of power. People with power make the law, change it, interpret it, enforce it, and, can ignore it." Attorney Dawley is one among many Black lawyers attempting to deal with this reality.



CONRAD K. HARPER received his Bachelor of Arts degree from Howard University in 1962. When he entered Harvard Law School he was the only Black student in his class. There were only five Black students in the entire law school, making this a somewhat different experience from Howard. By the time of his graduation in 1965 the Black population at Harvard Law School had increased to more than thirty students. He entered Harvard during a period when the sit-ins were still in the headlines. Mr. Harper was disturbed by the almost total lack of attention being given to subjects that were of vital importance to students who were interested in effecting meaningful social change. Gradually, in terms of the curriculum, he noted that more courses started to appear that dealt with the rights of the dispossessed and consumer protection in general.

Mr. Harper is not the only member of his family involved in the legal profession. His father is a practicing attorney, he has a brother attending law school at the University of Michigan, and his wife is the Executive Director of the Westchester County Civil Liberties Union.

During his second and third years in law school he worked with the Legal Defense Fund and continued working with this group for more than five years after graduation. He describes his work in that capacity as "extremely rewarding," having had the opportunity to become involved in cases dealing with school desegregation, public accommodations and many other areas crucial to the Black community. In 1969 he made a most impressive argument before the Supreme Court in the case of *Daniel v. Paul*, 395 U.S. 298 (1969). This was a class action in Arkansas to enjoin the owners of a recreational area from denying admission to Blacks solely on racial grounds, the plaintiff's asserting that the area was a "place of public accommodation" subject to the provisions of Title II of the Civil Rights Act of 1964. The complaint had previously been dismissed by the District Court and the Court of Appeals for the Eighth Circuit had affirmed the ruling. Mr. Harper entered the suit at this stage and on *certiorari*, the Supreme Court of the United States reversed the decision.

Attorney Harper is currently an associate in the firm of Simpson, Thacher and Bartlett in New York City. He is presently engaged in a case in Humphreys County, Mississippi, in which citizens are challenging the representation of Black voters in the November, 1971, election. This action is being pursued as part of a program in conjunction with the Lawyer's Committee for Civil Rights Under the Law. The firm is also representing a local Black schoolteacher in Albany, N.Y., who is claiming that her discharge was racially motivated. The firm is cooperating with the NAACP Legal Defense and Educational Fund in this action.

When asked what should be the focus of Black law students, Mr. Harper responded, "I am very aware of the degree to which it would have been to my interest to have taken a lot of business regulation courses. This is the way the country operates. It is important for us Blacks to have real awareness of how the economic aspects of our country really function. It is also important to pursue civil liberties issues, but this should not be the exclusive focus. We have to know more."



LEN W. HOLT, 44, the author of two powerfully written books on the Civil Rights Movement of the 60's: *The Act of Conscience* and *The Summer That Didn't End*, was born in the backwoods of Alabama. While still a very young boy, his family moved to Chicago, Illinois.

Mr. Holt's fight against the inequities inherent in the socio-economic structure of this country did not begin with his career as a lawyer. While a young boy, it manifested itself in gang membership. As a young adult, he fought to combat the efforts of urban renewal movements and helped to organize rent strikes. He left Chicago in 1953 and with very little money and with no undergraduate degree entered Howard University, School of Law. While at Howard, Mr. Holt was

influenced by the intense dedication of the professors' push for the needs of Black people in the areas of civil rights, voter reforms and integration. After receiving his law degree in 1956, Mr. Holt and his family moved south to Norfolk, Virginia.

Mr. Holt points out the necessity of understanding how Supreme Court Justices are selected. The only apparent requirements are that a person be a lawyer and that he have some political friends. He further notes that the purpose of the Supreme Court is to preserve that which is and to give people hope. If people, Black people in particular, do not have hope, they will resort to acts of desperation.

Two significant cases which Mr. Holt has argued before the Supreme Court are *Holt v. Virginia*, 381 U.S. 131 (1965), and *Butts v. Harrison*, 382 U.S. 806 (1965). *Holt v. Virginia* was a nonsensical case involving a \$50.00 fine for contempt of court. The contempt was cited against Mr. Holt as he sought to represent his law partner, Mr. Dawley, on contempt charges arising out of the trial of *Hopewell News v. Curtis Harris*. Judge Carlton Halladay, Federal District Court of Virginia, found the language in a motion for a change in venue contemptuous, but refused to indicate what specific elements were in contempt. *Butts v. Harrison* was a case in which a state poll tax was found unconstitutional. The purpose in rendering this decision was to foster the notion that there is no distinction between the poor and the rich and to develop uniformity within the law.

Mr. Holt believes that the term "Supreme Court," is a misnomer for two reasons: first, the court is inaccessible to most people such that of the 4,000 to 5,000 cases appealed, less than 10% are heard; second, if Black people are ever to get justice in this country, given their status and providing they survive the drawn pistol of the man in blue, there is no guarantee that they will get it there.

Upon leaving the South in 1968, Mr. Holt moved to Berkeley, California. He is presently a partner in the law firm of Dawley, George, and Holt. His advice to the young Black law student is to read the book *Who Needs the Negro?*, by Sidney M. Wilhelm. In addition, it is incumbent upon Black law students to seek to increase their number in law school and to continually confront the law school curriculum with the realities of Black people.

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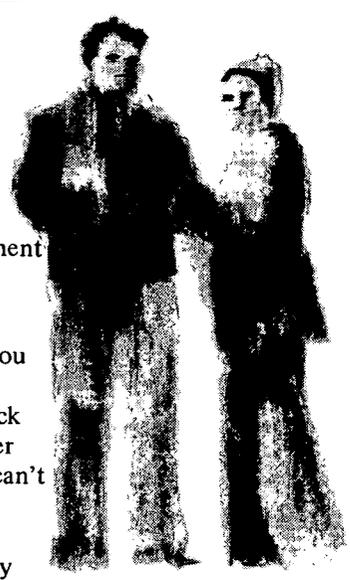
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