

2-2004

## Museletter: February 2004

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# Museletter

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## Spring 2004 Regular Library Hours

**Sunday**  
10:00 a.m. - Midnight

**Mon.-Thurs.**  
7:30 a.m. - Midnight

**Friday**  
7:30 a.m.- 9:00 p.m.

**Saturday**  
9:00 a.m. - 9:00 p.m.

## Spring Break

(Fri—Sat. March 5 –13)

**Friday, March 5**  
7:30 a.m.—6:00 p.m.

**Saturday, March 6 &  
Sunday, March 7—Closed**

**Monday, March 8—  
Friday, March 12**  
7:30 a.m.—6:00 p.m.

**Sat., March 13**  
1:00 p.m.—5:00 p.m.

## **BROWN AT 50: PRINCE EDWARD COUNTY, VIRGINIA** by John R. Barden, Head, Reference & Research Services

By April 1951 Barbara Johns had had enough. The sixteen-year-old girl was tired of attending Robert R. Moton High School, the only black high school in Prince Edward County, Virginia. It wasn't that she didn't want an education--she did. But her school, designed for 180 pupils, now held 450. Classes overflowed into tar-paper buildings in the back yard and a school bus in the parking lot. The building had no gymnasium or cafeteria. Worn-out school buses carried black children to Moton, while new buses ferried white students to Farmville High School in the county's racially segregated school system. The inequities between the two schools was blatant, but the all-white county school board was slow to respond to pleas for a new school.

By April 23 Barbara Johns had a plan. After luring Moton's principal away from the school by a telephone call, she convened an unauthorized assembly and called for a strike by students until conditions at Moton were improved. The response was immediate and enthusiastic. Within two days, Barbara and the other student leaders and their parents were in touch with Richmond attorneys Oliver Hill and Spottswood Robinson, then working with the NAACP. Hill and Robinson examined the situation and agreed to represent the Moton students in a lawsuit against the school board, but on one condition: the objective was to be the complete desegregation of the county's schools.

Section 140 of the Virginia Constitution of 1902 provided that "white and colored children shall not be taught in the same school." This policy, which supposedly accorded with the U.S. Supreme Court's decision in *Plessy v. Ferguson*, 163 U.S. 537 (1896), was not seriously challenged in Virginia for nearly fifty years. See *Harrison v. Day*, 200 Va. 439, 458 (Miller, J., dissenting). There was often wide disparity in the quality of facilities and funding provided for white and black education, but white-controlled school boards usually responded like the Prince Edward County School Board did to the Moton strike, by taking steps to improve black schools without upsetting the segregated system. Hill and Robinson had been looking for a case that would allow them to attack the segregated system at its root, not just on the grounds of unequal treatment, and they believed that Prince Edward County was the one.

The Prince Edward County case was brought in the name of Dorothy E. Davis and 116 other Moton students. The complaint, filed on May 21, 1951 in the U.S. District Court for the District of Eastern Virginia, demanded injunctive relief to undo Virginia's discriminatory laws, averring that "Negro children of public school age . . . can obtain equality of public secondary education opportunities, advantages and facilities in said County only if no distinction be made on the basis of race or color. . . ." Complaint at 10, *Davis v. County Sch. Bd. of Prince Edward County*, 103 F. Supp. 337 (E.D. Va. 1952) (Civ. A. No.

(Continued from page 1)

1333) (available, with other pleadings in the case, at <http://www.vcdh.virginia.edu/vahistory/massive.resistance/documents.html>). The School Board answered that they were taking steps to “equalize” the facilities at Moton and that they were in full compliance with Virginia law. Answer at 2-3, Davis (Civ. A. No. 1333).

The case was heard in February 1952 before a specially constituted three-judge panel required by Federal law when the relief sought was an injunction against a state statute. 28 U.S.C. § 2281 (1952). All three judges were white Virginians. Two were in their fifties; one was over seventy. The panel members were content with the legal cards they were dealt: “Federal courts . . . have refused to decree that segregation be abolished incontinently. We accept these decisions as apt and able precedent.” Davis, 103 F. Supp. at 339. But the judges did not stop there. They delved into old laws to support the contention that even Virginia’s Reconstruction-period legislature had never intended a mixed-race school system. Id. They cited selected statistics demonstrating that in some counties “colored” schools were equal or superior to white facilities. Id. at 340. They incorporated expert testimony to the effect that abandonment of the segregated system would “severely lessen the interest of the people of the State in the public schools, lessen the financial support, and so injure both races.” Id. Their conclusions: “Separation of white and colored ‘children’ in the public schools of Virginia has for generations been a part of the mores of her people. To have separate schools has been their use and wont. . . . We have found no hurt or harm to either race.” Id. at 339-40.

Acting under 28 U.S.C. § 1253 (1952), the Davis plaintiffs appealed directly to the U.S. Supreme Court from the three-judge panel. While the case was pending, Virginia authorities sought to sidestep the issue by rushing a new Moton High School to completion; it opened in 1953. However, “separate but equal” was no longer the goal. At the Supreme Court, the Davis case was consolidated with similar cases from South Carolina, Delaware, Kansas, and the District of Columbia. Oral arguments in the Davis case were held on December 10, 1952, with Spottswood Robinson representing the appellants. T. Justin Moore of the Richmond firm Hunton Williams represented the School Board and Attorney General J. Lindsay Almond, Jr., argued the state’s position. The Court, led by Chief Justice Fred Vinson, questioned both sides closely, pushing Robinson to state precisely the constitutional rights at stake and critiquing Moore’s dismissal of the sociological studies that supported the Davis claim. See Argument: The Oral Argument Before the Supreme Court in Brown v. Board of Education of Topeka, 1952-55 69-107 (Leon Friedman, ed., 1969).

In the months that followed, the Court seemed reluctant to come to a decision. In June, the justices called for re-argument on the question of what effect the Fourteenth Amendment was intended to have on school segregation by the Congress and state legislatures that passed and ratified it in the 1860s, and, alternatively, what the Court should do should that intention prove indiscernible. Brown v. Bd. of Educ. of Topeka, 345 U.S. 972 (1953). On September 8, Chief Justice Vinson died, and California Governor Earl Warren was given a recess appointment to replace him, effective October 2. Warren presided over the re-argument in December and then moved quickly to bring the Court to a consensus. A unanimous decision was announced May 17, 1954: “Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other ‘tangible’ factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.” Brown v. Bd. of Educ. of Topeka, 347 U.S. 483, 493 (1954). The Court distinguished earlier cases, discarded Plessy as a precedent in the field of public education, declared itself unable to determine the original intent of the Fourteenth Amendment, and then cast aside one of the basic premises that the Prince Edward County School Board and the Commonwealth of Virginia had relied on: “separate but equal” schools were inherently unequal because of the “feeling of inferiority” they engendered in the less advantaged members of the community. Id. at 494. The Court called for further argument on the details of the decrees to issue in the cases, id. at 495-96, but the die had been cast.

Dorothy Davis and the other children of Moton High School had won the right to an integrated school system in Prince Edward County. Enforcing that right would prove to be the next challenge.

Next: Massive Resistance

## DATA SOURCES

### What's New with Lexis and Westlaw? Highlights of Selected Fourth Quarter Changes

#### Lexis/Nexis:

The *history* function has been expanded to include a more comprehensive archive feature. Searches run with in the past thirty days are stored and accessible using the "Archived Activity Link." By selecting such link you can identify and retrieve searches and the corresponding results.

Lexis has expanded their database capacity to include Al-Jazeera, Chinalawinfo, Restatement of the Law, Third, WTO Reporter, Moore's Federal Practice Update, Drugs in Litigation: Damage Awards Involving Prescription and Non-prescription Drugs, Tribal Law Journal, EDGAR Online, HIPAA, Jury Instructions on Medical Issues, Procedures for Trials by Military Commissions of Certain Non-United States Citizens in the War Against Terrorism, INS Manuals, Xinhua News Agency.

#### Westlaw:

Westlaw has also expanded its databases. Two of the most notable expansions deal with briefs and records and business materials. The CTA-Brief database (United States Court of Appeals Briefs) now contains selected coverage of briefs filed in the United States Courts of Appeals beginning in 1997. Westlaw anticipates continued expansion of this database by the addition of approximately 30,000 briefs every month. Also added to the SCT-Petition database are writs of certiorari with coverage for granted petitions. Coverage for granted petitions begins in 1990 and coverage for petitions denied begins in 2000. Accessibility of business materials is also improved due to the creation of a partnership between West and Factiva (owned by Dow Jones & Reuters). Researchers will be able to access more than 6,500 news and business databases.

#### Custom Id:

If you're like me the last thing you can remember is the string of unrelated numbers and letters which make up your Lexis or Westlaw password. Now you can create your own personal and hopefully memorable Lexis and Westlaw ids. The custom id feature is available from the sign-on page for each service. If you choose to customize your id, please write it down as you and Lexis or Westlaw, as the case may be, are the only ones with access to your new customized password. —C.L.O.

#### PER YOUR REQUEST

You asked and we responded. Recently a suggestion was made that the library acquire and place on reserve copies of the required text books for the present semester. After due consideration, the decision to purchase the requested materials was approved. The required texts are available from the reserve materials behind the circulation desk.

*Please  
Remember . . .*

*Your voice carries.  
The library staff  
has heard  
rumblings from  
students about the  
noise in the rear  
stairwell. Please  
be considerate of  
your fellow  
classmates.*

## BRIDGE THE GAP BETWEEN LAW SCHOOL AND WORK

If you feel that your legal research skills need fine tuning or refreshing so that you might make the best impression as a summer associate, we have the answer for you. Join the legal research instructors and their guests who will provide some inside tips on making your summer employment successful.

The morning will include a review of research strategies and sources necessary to complete research projects typically assigned to summer associates. Both print and online sources will be discussed as well as tips on Virginia practice oriented materials. Joyce Janto and John Barden will walk you through several research scenarios to provide a variety of examples of research techniques. Ms. Janto will also provide some ethical reminders for your firm experience

The program will feature two outside speakers. Lisa Hudson, a recent graduate currently employed at Sands Anderson will offer advice to students on what to look for when considering a firm. The other speaker is a recruitment director for a local law firm. He will advise students on what behaviors will maximize the chances of obtaining an offer for permanent employment.

Breakfast and lunch will be provided. Advance Registration is required. Please stop by the reference desk to register. A don't miss for summer success.

**Saturday  
March 20,  
2004 —  
8:30 am to  
3:00 pm.**



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