

the J.R.
Clifford
project



Grade 11

US/W 20th - 21st

Centuries

The Writing Team
Gayla May – Boone County

 **WEST VIRGINIA
HUMANITIES COUNCIL**

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Remembering the Past – To Inspire the Future.

J.R. Clifford Lesson Plan

Title: Equality in a segregated nation

Grade Level/Subject: 11th Grade US/W 20th-21st Centuries

WV Content Standard(s) and Objectives:

SS.O.11.01.02 Analyze and evaluate the influence of citizen action on public policy and law making.

SS.O.11.01.07 Research and explain the importance of the personal and political responsibilities, privileges and rights of citizens.

SS.O.11.01.08 Explain the concept of civil disobedience, provide examples and evaluate its use.

SS.O.11.01.09 Explain concerns, issues and conflicts categorized as universal human rights.

SS.O.11.05.11 Research, compare and contrast the progress of civil rights in the United States with civil rights in other regions of the world and conclude what the contributions were of significant civil rights leaders.

SS.O.11.05.15 Compare and evaluate the impact of stereotyping, conformity, acts of altruism and other behaviors on individuals and groups.

SS.S.11.06 Reading

Essential Question: When is separate but equal – equal?

Strategy to Activate Prior Knowledge:

The year is 1898 and you are a young student attending school in West Virginia during the time of segregated schools. Imagine that you are writing to a friend in Canada telling him of your experiences. Explain the conditions existing in your school/community due to the Jim Crow laws and other discriminatory behaviors. Put as much detail into the letter as you can as he has no reference regarding this issue. In order to complete

this assignment you will need to examine vocabulary that is pertinent to the lesson in order to better understand what was happening in 1898. Letter rubric is attached.

Vocabulary Development:

W.E.B DuBois

Discrimination

Niagara Movement

Segregation

Booker T. Washington

Ida B. Wells

Jim Crow laws

Eugene Debs

Debs v. United States v. United States (1919)

Pioneer Press

Schenck v. United States (1919)

Classroom Management/Organization:

Reader's Theater – class is divided into 2-4 groups to create the production.

Vocabulary will be discussed as total group to insure a comprehension.

Students will work independently on letters and editorials.

Instructional Strategies:

Groups: One will research *Plessy v. Ferguson* and the second will research *Williams v. Board of Education of Fairfax District*.

Time for research will be set aside in the computer lab for designated members of the group to conduct research.

Each group will prepare a reader's theater to illustrate the facts behind the two court cases. Members of each group will take parts in the production to be presented to the other section of the class and vice versa.

Some members of the class may be judges, members of the jury, etc.

Rubric attached for reader's theater.

Format for reader's theater attached.

Exit Strategies (summarize and analyze new information; evaluate relevance):

Students are to write an editorial in the Pioneer Press expressing their reaction to the court case of *Williams v. Board of Education*. In these editorials, the students are to bring to the attention of the public the inequality of the educational opportunities accorded to the African American students. Writing rubric attached.

Material List (books, maps, markers, chart paper, etc.):

***Plessy v. Ferguson* (1896), *Williams v. Board of Education of Fairfax District* (1898), reader's theater format.**

Resources (primary sources, electronic, non-electronic including guest speakers): Segregation and Discrimination web sites for background material and teacher resources, transcript of *Williams* case, *Plessy v. Ferguson*, Rubrics.

Duration of the lesson: 4 - 5 days

File Attachments:

- **Worksheets**
- **Tables or Charts**
- **Background information – C. Rice – WVU**
- **Web sites for additional background information**
- **Assessments (formative and/or summative) students will be assessed by the clarity and content of their letters based on rubric. A rubric will also be used to evaluate their presentation of the readers' theater.**
- **Rubrics: letter, reader's theater (2) and editorial.**
- **Reader's theater directions.**

LETTER RUBRIC

Name: _____

Date: _____

Grade: _____

Teacher: _____

	Criteria				Value
	1	2	3	4	
Organization	Sequence of information is difficult to follow.	Reader has difficulty following work because student jumps around.	Student presents information in logical sequence which reader can follow.	Information in logical, interesting sequence which reader can follow.	_____
Content Knowledge	Student does not have grasp of information; student cannot answer questions about subject.	Student is uncomfortable with content and is able to demonstrate basic concepts.	Student is at ease with content, but fails to elaborate.	Student demonstrates full knowledge (more than required).	_____
Grammar and Spelling	Work has four or more spelling errors and/or grammatical errors.	Presentation has three misspellings and/or grammatical errors.	Presentation has no more than two misspellings and/or grammatical errors.	Presentation has no misspellings or grammatical errors.	_____
Neatness	Work is illegible.	Work has three or four areas that are not neatly done.	Work has one or two areas that are not neatly done.	Work is neatly done.	_____
References	Work displays no references.	Work does not have the appropriate number of required references.	Reference section was completed incorrectly.	Work displays the correct number of references, written correctly.	_____
				Total:-----	_____

TEACHER COMMENTS

EDITORIAL RUBRIC

Name: _____

Date: _____

Grade: _____

Teacher: _____

	Criteria				Value
	1	2	3	4	
Lead-In	This editorial is written with a stale lead that does not engage the reader.	This editorial is written with an average lead that does not engage the reader.	This editorial is written with an above average lead that engages the reader.	This editorial is written with a dynamic lead that engages the reader throughout the entire piece.	_____
Background	This story contains no background information on the issue presented.	This story contains little background information on the issue presented.	This story contains an average amount of background information on the issue presented.	This story contains detailed well-written background information on the issue.	_____
Statement of Opinion	The writer does not make his/her opinion on the issue clear.	The writer makes his/her opinion on the issue known, but does not take the time to develop it.	The writer makes his/her opinion on the issue known and takes the time to develop it.	The writer makes his/her opinion clear and concise. The opinion is backed up with facts.	_____
Audience Analysis	Intended audience is not clearly targeted.	Intended audience is inconsistently targeted.	Intended audience is targeted consistently.	Intended audience is targeted in a unique manner.	_____
Closure	The work does not give any clear recommendations for the reader to take action.	The work makes minimal recommendations for the reader to take action.	The work makes a number of satisfactory recommendations for the reader to take action.	The work makes a number of unique and vivid recommendations for the reader to take action.	_____
Grammar and Spelling	The article contains more than 5 grammar and spelling mistakes.	The article contains 3-5 grammar and spelling mistakes.	The article contains 1-2 grammar and spelling mistakes.	The article contains no grammar and spelling mistakes.	_____
				Total:-----	_____

TEACHER COMMENTS

READER'S THEATER DIRECTIONS

- *Make a copy of script for each student in class.**
- *Decide how to assign roles. If you have more students than roles, students can share the role, with each performing half of the part.**
- *Provide time for students to practice at home or in class. Avoid “cold” readings.**
- **students who do not have roles can make scene signs or backgrounds.**

Scripting Reader's Theater

- I. Identify a scene in the case that has these features**
 - A. several characters that interact**
 - B. lots of dialogue or indirect speech to turn into direct speech**
 - C. key events that occur in a short space of time**
 - D. characters' personalities show development**

- II. Identify roles**
 - A. Narrators tell story**
 - B. Characters are in the story**

Presenting Reader's Theater in the Classroom

- I. Make copies of the script for each actor, plus several “replacement” copies.**
- II. Copies for the rest of the class are not suggested.**
- III. Bind scripts between two sheets of colored construction paper.**
- IV. Highlight each character's speaking parts with different color highlighter pens. This helps students track their parts easily.**
- V. Emphasize that a reader's theatre performance does not require memorization of the script. Interpretation and performance are what counts. Allow students who have parts time to practice reading aloud their scripts. Decide where students should be placed and where they move.**
 - A. Readers typically sit on stools or stand during the performance.**
 - B. The main character is placed in the middle front of the staging area.**
 - C. Lesser characters are stage right, stage left, or toward the rear.**
 - D. Typically, all characters stay on stage during the whole performance without exiting or entering.**
 - E. Consider making simple signs with the name of each character to hang around the neck of each actor. Students without roles can make these.**
 - F. Costumes can be suggested by hats, scarves, aprons, etc.**
 - G. Encourage students to look up from their scripts and interact with other actors and the audience.**

After the Presentation

- A. Discuss how the script enhanced or altered the original story.**
- B. Invite students to suggest other characters who could be added to the script.**
- C. Encourage students to suggest different dialogue or settings**
- D. Seek students' reactions to the play.**
- E. Discuss what they learned from the play.**

READER'S THEATER

Name: _____

Date: _____

Grade: _____

Teacher: _____

	Criteria				Value
	1	2	3	4	
Voice: skit was clear, concise and well articulated. Easy to understand.	None of the Time	Some of the Time	Most of the Time	All of the Time	_____
Volume: The volume of the skit fits the scenes appropriately.	None of the Time	Some of the Time	Most of the Time	All of the Time	_____
Prop Appearance: Props were recognizable & properly constructed.	None of the Time	Some of the Time	Most of the Time	All of the Time	_____
Use of Props: Props were used effectively to enhance skit.	None of the Time	Some of the Time	Most of the Time	All of the Time	_____
Originality: Students added new levels of realness and enthusiasm to skit.	None of the Time	Some of the Time	Most of the Time	All of the Time	_____
				Total:-----	_____

TEACHER COMMENTS

Rubric for Reader's Theater

AREA	Below Average	Average	Above Average	Excellent
Interpretation	Students were not exactly correct in interpretation of the story, but mistake is understandable.	Students were on the right track to understanding the story but were slightly off.	Correctly interpreted the scene.	Correctly interpreted the scene and added insights about text through their acting.
Knowledge	Students interpret the story literally, but superficially.	Interprets the story literally and appropriately.	Interprets the story imaginatively and appropriately.	Interprets the story creatively and with depth.
Presentation	Students do not seem to be aware of what they should be doing at all.	Students are reading lines off of a piece of paper and do not appear confident about what they are doing.	Students appear to be fairly prepared.	Group is well prepared and delivers piece in an understandable manner.
Voice	None of the skit was clear, concise, or well articulated. Hard to understand.	Parts of skit were clear, concise, and well articulated.	Entire skit was clear, concise, and well articulated. Easy to understand.	Entire skit was clear, concise, and well articulated. All students used great inflection in acting.
Projection	Most of the skit did not fit the scenes appropriately. (Used no expression or inappropriate expression.)	Some sections of the skit fit the scenes appropriately. (Used some expression in their voices.)	Volume of their voices was used appropriately. (Used expression in their voices, loud and soft.)	Volume of their voices was used appropriately. (Used expression in their voices, loud and soft.)
Overall Performance	Students did not follow story and had little or no enthusiasm for performing.	Students partially followed the sequence and showed some enthusiasm about performing.	Students followed sequence of story and were enthusiastic about performing.	Students followed sequence of story, were enthusiastic about performing, and demonstrated great group effort.

Rubric for Reader's Theater Skits



Voice Clarity

- 3 Entire skit was clear, concise and well articulated. Easy to understand.
- 2 Parts of skit were clear, concise and well articulated.
- 1 None of the skit was clear, concise or well articulated. Hard to understand.

Volume

- 3 The volume of the entire skit fit the scenes appropriately. (Used expression in their voices, loud and soft.)
- 2 Some sections of the skit fit the scenes appropriately. (Used some expression in their voices.)
- 1 Most of the skit did not fit the scenes appropriately. (Used no expression or inappropriate expression.)

Props (Visual)

- 3 Props were easy to see (colorful, attractive, etc), and recognizable.
- 2 Some props were recognizable.
- 1 Props were poorly constructed, not easy to see or recognizable.

Props (Usage)

- 3 Props were used effectively to enhance skit.
- 2 Some props were used effectively.
- 1 No props used or used ineffectively.

Originality

- 3 The skit is based on the story but students have brought their own actions or props into the acting out of the story.
- 2 The skit is based on the story and students use a few of their own ideas and props.
- 1 The skit is based on the story and the students have not used props or expressed the meaning of the skit through their actions.

Over all Presentation

- 3 Sequence of the story is followed and the students were enthusiastic about performing.
- 2 Sequence was partially followed and the students showed some enthusiasm about performing.
- 1 Sequence was not followed and the students had little or no enthusiasm for performing.

“DON’T FLINCH OR YIELD AN INCH:”
J.R. Clifford and the Struggle for Equal Rights in the Age of Segregation
By
Connie Park Rice
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“Being a member of the National Bar Association doesn’t make a Negro any better or wiser, not certain that it helps cure the caste disease—better for them to work hard to meet and outstrip white lawyers—‘especially those who ‘don’t like a Nigger.’”¹

Historian Paul Finkleman maintains that “every black defendant in the South faced all-white juries, white judges who often called him ‘nigger’ or otherwise treated him with disrespect, and a system of justice skewed against him.”² The same thing can be said about the black lawyers who challenged the status quo in an attempt to defend those clients. Black attorneys faced incredible obstacles in their quest for admission to the bar and once admitted, were often met with racism and discrimination so virulent that black lawyers were “assaulted, run out of town, or even killed” for practicing in the South.³ Finkleman describes early African-American lawyers as “social engineers,” men who promoted social change and aided in the struggle for equality, consciously or unconsciously, through their determination to practice law despite intense prejudice and discrimination.⁴ Newspapers and journals of the era recognized the problems confronting black attorneys as they struggled to practice in America’s courtrooms as well as the dangers the black community faced in the legal system without their presence. An article in the *African Methodist Episcopal Church Review* stated, “Admittedly, the Negro lawyer is at a serious disadvantage in practicing in the Courts in the Southern States and many places in the North. He cannot come into court and stand up as an advocate defending his cause and

¹ *Pioneer Press* 14 September 1912, 2; See J. Clay Smith, Jr., *Emancipation: The Making of the Black Lawyer* (1993), 544. According to Smith, the first African-American lawyer from West Virginia admitted to the National Bar Association was Thomas G. Nutter in 1929. Smith reported that Nutter was an extremely successful lawyer and that the group probably admitted Nutter despite its ban on black members because it was “not likely that the association was aware he was black.”

² Paul Finkleman, “Not Only the Judges Robes Were Black: African American Lawyers as Social Engineers,” *Stanford Law Review* 47: 161 (November 1994): 18.

³ *Ibid.*, 19-20.

⁴ *Ibid.*, 1-5.

exercising freely the prerogatives to which his admission to the bar entitles him.” Indeed, as an educated, intelligent, black man challenging the legal system in defense of his client, his very presence threatened the established social order.⁵ When J.R. Clifford passed the West Virginia bar exam in 1887, he became one of only 440 African American lawyers in the United States, the majority of whom practiced in the North. Thirteen years after earning his law degree, Clifford was still one of only fourteen black lawyers in West Virginia; including several who had never practiced law.⁶

As J.R. Clifford began his effort to break down legal barriers to racial equality, he encountered numerous social, economic, and legal difficulties. Yet his traducers, and their repeated attempts to bribe, imprison, financially ruin, and physically harm him, only increased his determination to succeed. By 1890, Clifford lost all of his associate editors from across the state who wrote for his weekly newspaper, the *Pioneer Press*. Due to the lack of extant issues from this decade, it is unclear if their departure was due to other commitments, a mutual decision between Clifford and the men, or a consequence of the surging Republican Party under the direction of Stephen B. Elkins that afforded benefits to *loyal* black leaders and, therefore, led to an abandonment of the radical and independent editor. Clifford, suffering financially from continued attacks on both him and the *Pioneer Press* and busy working to establish his law office, eventually named his friend and associate John W. Cromwell as co-proprietor and co-editor of the paper for the first few years of the decade.⁷

In addition to his personal struggles, the 1890s became a turning point for African Americans across the nation, particularly for those who lived south of the Mason-Dixon Line

⁵ Ibid.; *African Methodist Episcopal Church Review* 29: 2 (October 1912): 140.

⁶ J. Clay Smith, Jr., *Emancipation: The Making of the Black Lawyer* (Philadelphia: University of Pennsylvania Press, 1993), 625. Some African Americans in West Virginia, although admitted to the bar, never practiced law in the state. At least two worked as teachers or professors. On the other hand, Clifford, arguably the best-known lawyer in the state, listed his occupation as editor rather than attorney in the 1900 census.

⁷ *Pioneer Press* 16 January 1892, 2.

who faced increasing attempts from local and state officials to legalize racial segregation. In 1883, the Republican dominated United States Supreme Court declared the Civil Rights Acts of 1875 designed to provide equal access to public facilities unconstitutional. Although the Republicans gained control of both the House of Representatives and the Senate in the 1888 election, Congress failed to pass the Henry Cabot Lodge's "Force Bill" providing federal regulation of southern elections and protection for African-American voters. The "party of emancipation, equal rights, and free labor," as historian George M. Fredrickson points out, "was on its way to becoming the party of high tariffs, hard money, and big business."⁸ Although the Republican Party continued to protest against violence and intimidation against blacks at the polls during elections and reward a few prominent African Americans with patronage jobs, Republicans no longer relied on the black vote to win elections and eagerly sought economic opportunities in the South. As a result, southern states devised "schemes to render the black vote ineffective" as the Republican Party increasingly abandoned its protection of black rights in the South. In addition to violence and intimidation, the south employed methods such as using alternate polling places, gerrymandering, poll taxes, confusing or complicated ballots, time restraints, and disqualification standards for those convicted of minor offences.⁹ In 1890, Mississippi revised its constitution and incorporated a suffrage amendment requiring a poll tax, disqualification for convicted "criminals," and the ability to read, understand, and interpret the state constitution, thereby eliminating the franchise for many poor and illiterate blacks. South Carolina added a similar amendment in 1895. In 1898, Louisiana enacted a new device called the "grandfather clause" into its constitution, allowing only those whose father and grandfather were eligible to vote as of January 1, 1867 to register as voters.¹⁰ Clifford adamantly opposed

⁸ George M. Fredrickson, *Black Liberation: A Comparative History of Black Ideologies in the United States and South Africa* (New York: Oxford University Press, 1995), 30.

⁹ John Hope Franklin and Alfred A. Moss, Jr., eds., *From Slavery to Freedom: A History of African Americans* (New York: McGraw Hill, Inc., 1994), 254-263.

¹⁰ *Ibid.*

the Louisiana law, stating “*This editor’s grandfather had no rights, but he fought for his, and it is not what his grandfather was then, but what he is now.*”¹¹

Along with the disfranchisement that occurred throughout the 1890s, the Supreme Court’s rejection of the Civil Rights Acts of 1875 led to the passage of numerous “Jim Crow” laws throughout the South. Although most southern states had laws restricting integrated schools and intermarriage, states began passing new laws requiring segregation in all aspects of public life, including railroad cars, hotels, restaurants, theaters, and streetcars. Attempts at white supremacy through legal segregation culminated in the United States Supreme Court decision *Plessy v. Ferguson* in 1896.¹²

In 1892, Homer Plessy, in a planned challenge to the 1890 Louisiana Separate Car Act, purchased a first-class ticket on the East Louisiana Railway in New Orleans knowing that the company only provided third-class cars to African Americans. Backed by a Committee of Citizens, a group of eighteen black professionals in New Orleans determined to overturn the act, Plessy refused to leave his seat in the designated “white” car. Arrested and fined, Plessy challenged the segregation law in the Louisiana District Court. After the court ruled that the Louisiana Constitution had the power to regulate railroads within its own boundaries and was, therefore, constitutional, Plessy appealed the case to both the Louisiana State Supreme Court and the United States Supreme Court. In May of 1896, the United States Supreme Court upheld the Louisiana mandate for “separate but equal” cars, a decision that justified legal segregation in America for the next fifty-eight years.¹³

¹¹ *Pioneer Press* May 1911, 2.

¹² *Ibid.* Segregation occurred in the antebellum North between blacks and whites and laws for racial segregation appeared early in the Reconstruction South as whites attempted to keep the races completely separate. After disappearing circa 1868, several southern states attempted to institute legal segregation as conservatives “redeemed” the South. Although many southern states passed laws against intermarriage and integrated schools, widespread attempts at legal segregation did not appear until the Supreme Court deemed the Civil Rights Acts of 1875 unconstitutional in 1883. With the creation of new constitutions in the 1890s, southern states also began trying to establish stringent segregation of the races that culminated in the Supreme Court decision *Plessy v. Ferguson* that upheld the doctrine of “separate but equal” in 1896. See Franklin and Moss, Chapter 13.

¹³ *Plessy v. Ferguson* 163 U.S. 537 (1896) No. 210; Keith Weldon Medley, *We As Freeman: Plessy v. Ferguson* (Gretna, La.: Pelican Publishing Company, Inc., 2003), 14.

Despite the deterioration in race relations and the growing discrimination against black Americans throughout the 1890s, it was in this decade that J. R. Clifford fought his most significant cases and made considerable strides in his reputation as a lawyer. Indeed, the election year of 1892, marked by Plessy's challenge to segregation, was a particularly busy year for Clifford. In addition to publishing the *Pioneer Press* and participating in political campaigns, the year marked the beginning of a series of contentious legal battles that led Storer College's newspaper, the *Storer Record*, to report in January of 1893 that Storer College alumni John R. Clifford was "winning laurels in the circuit courts of Berkeley County."¹⁴

In February of 1892, J.R. Clifford became the first African American to practice law before the Allegeny County Bar in Cumberland, Maryland when he defended Harry Green for the murder of Charles Ross at Westernport, Maryland.¹⁵ The jury found Green "not guilty" in the April term, a considerable victory for the first appearance of a black lawyer before the Allegeny County bench in defense of a black client. Clifford certainly recognized the significance. Earlier, the courts in nearby Hagerstown, Maryland only admitted friend and fellow Storer alumni John Frank Wheaton to the bar on the condition that he would not be allowed to practice there. Western Maryland did not have a reputation for its hospitality to African American lawyers.¹⁶ That spring, Shaw University in Raleigh, North Carolina, recognized Clifford's success as an editor, lawyer, and civil rights activist when it awarded him an Honorary Degree (A.B.).¹⁷

Yet despite his achievements, Clifford's battle for political and civil rights was just beginning. An election year, racial tension steadily increased during the year as West Virginia Democrats waged a bitter race campaign based on the threat of desegregated schools and the fear

¹⁴ "Among Former Pupils," *Storer Record* Winter Term 1893, 1.

¹⁵ *The Herald and Torch Light* 28 April 1892.

¹⁶ J.R. Clifford in the *Richmond Planet* 28 January 1899, 4. J. Frank Wheaton (1866-1938) moved to Minnesota in 1890 where he became the first African American elected to the Minnesota House of Representatives in 1898. Hagerstown, Maryland is less than twenty miles from Martinsburg, West Virginia.

¹⁷ *Catalogue of the Officers and Students of Shaw University, 1892-1893* (Raleigh: Shaw University Printing Department, 1893).

of “Negro domination.” Democrats targeted Hamilton Hatter, a black instructor at Storer College, who was a candidate on the Republican ticket for the legislature from Jefferson County. His chances of winning were “exceedingly bright,” a fact that led his opponents to circulate lithographs portraying an integrated schoolroom under the instruction of a “burly Negro.” The images of the black children, like their teacher, illustrated nineteenth century stereotypes of African Americans. In the poster, the teacher brutally chastised a beautiful white pupil as “Negro” pupils laughed with ghoulish glee. Intelligent white voters of Jefferson County were told to expect a similar state of affairs throughout the state if Hamilton Hatter were elected to the legislature.¹⁸

By cultivating an atmosphere of racial animosity, the Democratic campaign was a success. Not only did Hatter lose the election, Democrats maintained control of the state government. However, Berkeley County voters did elect a young white Republican named U.S.G. Pitzer as Prosecuting Attorney that fall. In October of 1892, Clifford, Hatter, and Pitzer were guest speakers at a Republican club in Jefferson County called the “Harrison, Reid, and Hatter” Club.¹⁹ Clifford was politically active throughout the election, but his mind and his heart were busy contemplating the discrimination black children faced in the state’s “separate and *unequal*” schools, a condition he believed disregarded their constitutional rights and caused immutable damage to African Americans. Years earlier, Clifford had doubts about integrated schools, claiming that some newspapers, such as the *Catholic Tribune*, “advocated ‘mixed schools’ a quarter of a century ahead of time” and that “thousands of people who depended on teaching for a living will not recover.” However, the discrepancies between black and white

¹⁸ *Charleston Advocate* 13 August 1908, 4.

¹⁹ *Wheeling Daily Intelligencer* 31 October 1892, 7. Pitzer worked with J. Nelson Wisner at the *Martinsburg Independent* and began studying law with Wisner in 1886.

schools and the lack of quality education available for black children altered his stance, and Clifford intended to challenge those disparities in a court of law.²⁰

In segregated schools, “inequities persisted and increased,” and marked African Americans with a “badge of inferiority” that was difficult to overcome.²¹ Circumstances, along with a little maneuvering on Clifford’s part, provided him with the perfect opportunity to contest the segregated school system in the fall of 1892. The Fairfax District Board of Education in nearby Tucker County, in an effort to cut costs, limited the black schoolhouse located in Coketon to a term of five months while allowing the white schools to maintain eight month terms. School boards throughout the south frequently attempted to slash funding to both black and white public schools, although expenditures were cut as far as possible in black schools long before the board turned to the white schools.²² Undeniably, the practice occurred so often in southern states that it is doubtful if Tucker County was the only place in West Virginia where this occurred, despite laws to the contrary.

Tucker County, a land of rugged and mountainous terrain situated on the Allegheny Plateau, was a focal point of the timber and coal industry in West Virginia. In 1899, the construction of the West Virginia Central and Pittsburgh Railway across the county, linking the timber and coal industries to the mainline of the Baltimore & Ohio Railroad, led to increased development and rapid economic expansion. Tucker County’s population more than doubled in ten years, from 6,459 people in 1890 to 13, 433 in 1900. Included in the influx of timber workers and coal miners were a number of African-American workers and their families who increased the black population from 183 to 253 within those same ten years.²³ The majority African Americans who came to Tucker County lived in Coketon, a small mining town on the

²⁰ *Pioneer Press* July 1887, 2.

²¹ John Hope Franklin, “Jim Crow Goes to School: The Genesis of Legal Segregation in Southern Schools, *South Atlantic Quarterly* 58:2 (Spring 1959): 225-235.

²² *Ibid.*; *Williams v. Board of Education of Fairfax District*, Tucker County.

²³ John Reuben Sheeler, “The Negro In West Virginia Before 1900 (Ph.D. dissertation, West Virginia University, 1954), 281-286.

outskirts of Thomas, West Virginia, ran by Davis Coal and Coke. In 1892, the Fairfax District School Board in Tucker County hired an African American school teacher named Carrie M. Williams to teach at the black school at Coketon. Williams, a twenty-six year old mother of two, was pregnant with her third child. Her husband, Abraham, was a coal miner.²⁴ Williams had taught for nearly ten years in Ohio and West Virginia, including the last several years at Coketon, without any problems from the local school board, parents, or pupils until the 1892-1893 school year. Carrie Williams was fully aware that all schools in Tucker County, black and white, normally ran for eight months; yet school officials expected her to tacitly accept the shorter five-month term.²⁵ Living in a company town, most of the board members probably assumed that the African American workers and their families, including Carrie Williams, would be too intimidated to protest the board's new policy. After all, the company that provided the schools and ran the school board also paid their wages and gave them housing, a situation that basically rendered them helpless against the board's new policy.²⁶

Still, Carrie Williams refused to be acquiescent. When presented with a teaching contract calling for a term of five months that fall, she refused to sign it. In court, Williams later testified, "I knew the white school term was eight months, and *I saw counsel* and went on."²⁷ The counsel was J.R. Clifford. Clifford now had a legal case against the segregated school system to take before the court, a courageous plaintiff who was willing to pursue it, and, in what was either a timely coincidence or a very well thought out plan, a sympathetic judge. The judge for the Third District Court of West Virginia was Martinsburg native and Storer College advocate, the Honorable Joseph T. Hoke.²⁸ Clifford advised Williams to teach the same number of months as

²⁴ Twelfth Census of Population 1900, Tucker County, West Virginia; Thirteenth Census of Population 1910, Tucker County, West Virginia.

²⁵ Minutes of the Fairfax District Board of Education 20 July 1892, Tucker County Board of Education, West Virginia.

²⁶ Paul I. Clifford, "Certain Dimensions of the Life and Times of J.R. Clifford," 24, PMWCP.

²⁷ *Williams v. Board of Education of Fairfax District* 45 W.Va. 199, 31 S.E. 985 (1898). Author's emphasis on "I saw counsel."

²⁸ *Williams v. Board of Education*.

the white schools, a full eight months. At the end of the school year, Williams was to present the board with a bill for the final three months' wages, \$120.00 dollars. If the board failed to pay Williams for her services, Clifford would then file a suit on her behalf on the basis of illegal discrimination.²⁹

Meanwhile, Clifford faced the new prosecuting attorney, U.S.G. Pitzer, twice in the January 1893 session of the Circuit Court. In the first case, Clifford defended William Redmond who was indicted for horse-stealing. The *Martinsburg Independent* described the trial as "hotly contested," with Clifford putting on a stubborn defense. After the attorneys presented their arguments, the jury failed to agree on a verdict. However, the court convicted and sentenced to Redmond to six years in the penitentiary after retrying the case the following week. In the second trial, Clifford and a white lawyer, F. Vernon Aler, represented Edward Murphy against the charge of perjury in a shooting case. Once again, the jury could not agree on a verdict and dismissed the case after "highly dramatic and sensational arguments"³⁰ Referring to Pitzer in the following issue of the *Pioneer Press*, Clifford stated, "There can be no fault found with the above county official for not discharging his whole duty in prosecuting crime. He is a hard student, a forcible speaker, and it will only require time for the state and nation to know and applaud."³¹ Clifford appeared both respectful and encouraging to the young attorney, a prominent member of the Berkeley County Republican "ring."

As it turned out, Clifford's first legal challenge against the segregated school system in West Virginia began on March 23, 1893 when he filed a petition and application for a writ of mandamus for Thomas Martin against the Board of Education and Trustees of Cacapon District, Sub-District No. 4, of Morgan County stating that the educational authorities had engaged in "direct violation of the 14th Amendment of the Constitution of the United States" which prohibits

²⁹ *Williams v. Board of Education.*

³⁰ "Trials in the Circuit Court," *Martinsburg Independent*, 28 January 1893, 3.

³¹ *Martinsburg Independent* 11 February 1893, 3.

the states from abridging the “privileges or immunities of citizens of the United States” or depriving “any person of life, liberty, or property without due process of law” or denying “any person “the equal protection of the laws.” Clifford claimed that the state of West Virginia had enacted an invalid law by prohibiting attendance of black and white children in the same school.³²

In this case, public school officials in Morgan County refused to admit the five children of Thomas and Louisiann Martin to the Camp Hill School located outside the town of Paw Paw, West Virginia. The teacher, (Mr.) M.A. Vanorsdale, turned away Samuel, Phillip, Fenton, Rachel and Nancy when they presented themselves at the schoolhouse on January 23, 1893 and “demanded admission and to be taught therein with the white children as they were and are of right entitled.”³³ Thomas Martin was a well-known resident of the township, a farmer who often took his produce to Cumberland, Maryland via the Chesapeake & Ohio Canal and always paid his taxes. A former Civil War veteran who rose to the rank of sergeant in the Union Army, Martin was self-educated and active in the community as a founder and trustee of the Mt. Olive Church as well as a member of both the Odd Fellows and the Masons.³⁴

Clifford argued the test case on May 5, 1893, before Judge E. Boyd Faulkner in Berkeley Springs, West Virginia. The opposing counsel was Clifford’s former adversary, W.H.H. Flick. Clifford, on behalf of Thomas Martin, asked the court to grant an order compelling the Morgan County Board of Education to admit black scholars to certain schools, particularly when districts failed to provide schools for African Americans. The case sparked widespread interest across the state, particularly after the previous election and the race baiting campaign based on “mixed schools.” Faulkner’s decision held that the constitution of West Virginia forbade mixed schools and that the state Constitution superseded the Fourteenth Amendment, a decision that was met

³² Petition to Hon, E.B. Faulkner, Judge of the Circuit Court of Morgan County State of West Virginia,” March 23, 1893, *Martin v. Board of Education*, 42 W.Va. 514, 26 S.E. 348 (1896).

³³ *Ibid.*

³⁴ *Martin vs. Board of Education.*

with general approbation among whites.³⁵ Faulkner, the descendant of an influential ante-bellum family and a former Captain in the Confederate Army, denied the request based on two reasons: the West Virginia Constitution and “for other reasons which it is unnecessary to mention.”³⁶

While Clifford argued the Martin case, Carrie Williams continued to teach at the black school in Coketon. When school ended in June, Williams presented the school board with a bill for her extra three months of service. As expected, the board refused to pay Williams, claiming that she continued to teach although she knew the contract presented to her called for a five month term. Clifford, however, insisted Williams had the right to be paid for all eight months and on June 30, 1893, he and A.G. Dayton, a prominent and influential Republican attorney in Tucker County, filed a lawsuit against the Fairfax District Board of Education on behalf of Williams.³⁷ It was common practice at that time for black lawyers to designate a white attorney as their associate, but Dayton did not actually participate in the case. In a letter to the court Clifford maintained that he “was the only attorney in the case” and in a postscript added, “Dayton’s name appears in the record only through an act of courtesy.”³⁸

On August 2, 1893, Clifford received a letter from H.J. Meyer, Secretary of the Tucker County Board of Education, written on Davis Coal and Coke Company stationary warning him against taking legal action in the Carrie Williams case: “If you undertake to prosecute her claim I would advise you to collect your fees in advance, for if you take it on commission it will very likely prove a losing investment.”³⁹ Although Meyer appeared to be pointing out the economic losses that Clifford would incur, the underlying threat was the power of Davis Coal and Coke as an opponent, a fact Meyer clearly hoped would intimidate Clifford. Clifford certainly was not afraid of a financial loss; he faced that prospect daily with the *Pioneer Press*. If Meyer intended

³⁵ “Mixed Schools in West Virginia,” *Martinsburg Independent* 6 May 1893, 2; “Judge Faulkner Against Mixed Schools,” 13 May 1893, 3; and *Martin v. Board of Education*.

³⁶ “Judge Faulkner Against Mixed Schools,” *Martinsburg Independent* 13 May 1893, 3.

³⁷ *Williams v. Board of Education*.

³⁸ *Ibid.*

³⁹ Letter from H.E. Meyer to J.R. Clifford, 2 August 1893. *Williams v. Board of Education*.

to use Davis Coal and Coke to deter Clifford from his cause it was a mistake; intimidation never worked on Clifford. In November of 1893, Clifford filed a lawsuit on behalf of Williams claiming the Fairfax District School Board owed Carrie Williams \$120.00 for teaching the colored school at Thomas for three months and one dollar that was withheld from her monthly wages for not making out a report.⁴⁰ However, Clifford and Williams would have to wait for two years before their case finally appeared before the circuit court.

In March of 1894, Clifford again faced U.S.G. Pitzer in a court of law. However, in this case Clifford was the plaintiff against Aaron Crim who, Clifford maintained, caused the death of his horse. Clifford asked for \$150.00 in damages. J. Nelson Wisner represented Clifford and Pitzer defended Crim. Clifford lost, but not without a fight; newspapers referred to the case as “a lively contest.”⁴¹ Despite a series of hotly contested legal battles with Pitzer and his animosity toward Republican leaders in Berkeley County, particularly George F. Evans and W.H.H. Flick, Clifford remained active in Republican Party politics. In doing so, Clifford often came face to face with his opponents. In a case of “politics make strange bedfellows,” in May of 1894 the Second Ward Republican Club of Martinsburg elected Clifford as an alternate to the Convention of Republican Clubs of West Virginia scheduled to meet in Fairmont in June 1894. Among the delegates elected to the convention were U.S.G. Pitzer and George F. Evans.⁴² Clifford was also among the sixty-nine delegates from Berkeley County elected to attend the District Congressional Convention in Elkins in September in which Clifford and Washington Corsey were the only two African Americans elected from the county. Among the other delegates, once again, were U.S.G. Pitzer, George F. Evans, and W.H.H. Flick.⁴³ Mrs. Stephen B. Elkins hosted a reception for the delegates, an occasion that sparked political conflict in Martinsburg. The *Martinsburg Herald* printed a list of delegates who attended the reception and omitted the names

⁴⁰ *Williams v. Board of Education.*

⁴¹ *Martinsburg Independent* 31 March 1894, 3.

⁴² *Martinsburg Independent* 31 May 1894, 3.

⁴³ *Martinsburg Independent* 11 August 11 1894, 2.

of Clifford and Corsey, leading the *Martinsburg World* to inquire if the “colored brothers who fight so nobly at the polls were ignored in the distribution of favors.” Their attempt to alienate blacks from the Republican Party failed when J. Nelson Wisner reported that both were invited to attend the affair and that although Corsey left with other delegates from Berkeley County, Clifford attended the reception and stayed over night as well.⁴⁴

In addition to running his paper, practicing law, and participating in political activities, the trustees of the Manassas Industrial School in Virginia elected Clifford as principle of the school in September of 1894. Clifford’s service at the school is unclear. R. Worth Peters states in *Secondary Education in Manassas, Virginia, 1890-1935* that Clifford was principal of the school from 1894 to 1900. He maintains that the trustees chose Dr. Elijah P. Clemens as the first principal, but that he withdrew from his contract before the school opened and never served.⁴⁵ However, in *Undaunted Faith: The Life Story of Jennie Dean*, Stephen Johnson Lewis claims Clifford, although listed as the first principal, never actually served. Lewis maintains Clemens took over the duty, although neither Clemens nor Clifford attended the dedication services.⁴⁶ According to John W. Cromwell, Clifford did serve as principle of the Manassas Industrial School, although he later resigned following “his contention for better water.”⁴⁷ Clearly, Clifford had very little time to accord to the school. Not only did Clifford continue to reside in Martinsburg, he was still actively engaged in the Martin and Williams cases.

On May 1, 1895, Clifford submitted his petition for a writ of error and supersedes from the Circuit Court of Morgan County on the Martin case. The West Virginia Supreme Court of Appeals agreed to hear the case and scheduled the hearing for a year and a half later on September 4, 1896. In his brief Clifford stated, “If the mere provision to set aside a fund for colored children means a ‘thorough and efficient system of free schools’ then the definition of

⁴⁴“Not Thusly,” *Martinsburg Independent* 16 September 1894, 3. Hallie Davis Elkins was the daughter of Henry Gassaway Davis who owned the Davis Coal and Coke Company.

⁴⁵ R. Worth Peters, *Secondary Education in Manassas, Virginia, 1890-1935*, 72, 158.

⁴⁶ Stephen Johnson Lewis, *Undaunted Faith: The Life Story of Jennie Dean*, 44.

⁴⁷ John W. Cromwell, “Communications,” *Journal of Negro History*, XIII No. 3 (July 1923), 338-340.

the words ‘thorough and efficient’ have lost their meaning as laid down by the benefactor of free schools, Noah Webster.” Clifford based the case on a violation of property and being deprived of the “due process of law.”⁴⁸ Clifford’s argument in the Martin case stemmed from his interpretation of the rights afforded to American citizens under the Fourteenth Amendment. A great admirer of attorney Roscoe Conkling who argued in 1882 that “Those who devised the 14th Amendment . . . builded not for a day, but for all time; not for a few, or for a race; but for *man*, they planted in the Constitution a monumental truth . . . that truth is but the golden rule, so entrenched as to curb the many, who would do to the few as they would not have the few do to them,” Clifford firmly believed that if the courts enforced the true intent of the Fourteenth Amendment, civil rights for all Americans would be protected.⁴⁹

Following his appeal to the West Virginia Supreme Court of Appeals in the Martin case, Clifford argued a case in the Berkeley County courtroom that September that ended not only in his contention for the right of African Americans to serve on juries, but for his life as well. Clifford’s actions went unnoticed that September, for the nation’s eyes were on another African American who grew up in West Virginia, Booker T. Washington. On September 18, 1895, Washington delivered a speech at the Cotton States and International Exposition held in Atlanta, Georgia intended to quell white fears of social equality. His speech, later described as the “Atlanta Compromise,” made Washington the preeminent black leader in America following the death of Fredrick Douglass in February of 1895. Washington called for African Americans and whites alike to “cast down their buckets where you are,” encouraging blacks to remain in the South and whites to look to their loyal black population as a labor force, while assuring his

⁴⁸ *Martin v. Board of Education*.

⁴⁹ “Roscoe Conkling,” *Pioneer Press* 30 April 1888, 2; and Oral Argument of Roscoe Conkling, *San Mateo County v. Southern Pacific Railroad*, 116 U.S. 138 (1882), 31-32.

predominantly white audience that in “all things purely social we can be as separate as the fingers.”⁵⁰

While Washington was in Atlanta, John Robert Clifford was standing in a courtroom in Martinsburg, West Virginia attempting to empanel African Americans on a jury. Although the 1879 Supreme Court decision *Strauder v. West Virginia* gave blacks in West Virginia the right to serve on juries, most counties in West Virginia still refused to let African Americans serve. Clifford’s stubborn and continued demand for black jurors in defense of his client’s rights frustrated Prosecuting Attorney U.S.G. Pitzer, who picked up weights from the bench and struck Clifford three times until his blood ran in his shoes and he fell to the floor. Pitzer then jumped on top of Clifford as the courtroom emptied and the two men wrestled until Clifford pinned Pitzer to the floor. At that point, an African American named Stephen Elam ran into the room and pulled Clifford off of Pitzer. Most likely, Elam feared that if Clifford killed Pitzer, he would be dangling from a tree.⁵¹ Following the altercation, Clifford rushed home, had his wounds dressed, changed his shirt, and returned to the courtroom to argue the case. Clifford succeeded in his contention for a mixed jury; however, he lost the case due to an arbitrary ruling of the court.⁵²

Clifford’s friend and fellow editor, John Mitchell, Jr., reported the physical attack in *Richmond Planet* stating, “We regretted to learn of the injury sustained by our brilliant legal friend, J.R. Clifford, Esq., editor of the Martinsburg, W.Va., Pioneer Press at the hands of the commonwealth’s attorney of Berkeley County. The failure of the Justice to protect Mr. Clifford is as mystifying as the attack itself. We presume the matter will not rest here and shall watch with interest the result of the controversy.” Although no mention of the attack or any legal or

⁵⁰ Booker T. Washington, *Up From Slavery: An Autobiography* (New York: Doubleday and Co., Inc., 1963), 157-160.

⁵¹ *Pioneer Press* 9 September 1911, 2. Elam was a fifty-seven year old day laborer from Martinsburg.

⁵² *Richmond Planet* 23 Nov. 1895, 1.

vocal reprimand of Pitzer appeared in the Martinsburg newspapers, Clifford had no intention of letting the matter rest; and he was willing to wait for the opportunity to apply justice.⁵³

That same fall, C.O. Strieby, attorney for the Fairfax District Board of Education, submitted arguments to the Circuit Court of Tucker County in lieu of a jury trial. On hearing the evidence, Judge Joseph T. Hoke ruled in favor of Carrie Williams and ordered the Board to pay Mrs. Williams \$139.00 plus legal fees. Although Strieby asked the court to set aside the findings and award his client a new trial, Judge Hoke overruled his motion, giving Clifford and Williams a long-awaited victory. Despite the hard work and the physical injuries he sustained in the process, Clifford succeeded in his effort to challenge both all white juries and segregated schools. However, Clifford's victory was short-lived; the Fairfax District Board of Education quickly appealed Judge Hoke's decision to the West Virginia State Supreme Court.⁵⁴

The following year, Clifford became the first African-American lawyer to appear before the West Virginia Supreme Court when he argued the case *Martin v. Board of Education* before the Court in September of 1896. In the Martin case, Clifford contended that "When a State Legislature enacts a law setting aside funds in proportion to the existing number of White and colored people, in which discrimination will give excellent school facilities to the Whites and inferior to the blacks, it is contrary to the 14th Amendment and void."⁵⁵ Although Clifford admitted that Article XII, Section 8 of the West Virginia Constitution of 1872 declaring that "white and colored persons shall not be taught in the same school" was settled law, he maintained that the Fairfax District Board of Education failed to provide equal facilities and that, therefore, the Martin children were entitled to attend the school provided for white children. The Martin case was the first legal attack on segregated public schools in West Virginia and certainly one, if not the first, legal challenges to segregated schools in the South. However, the West

⁵³ *Richmond Planet* 17 December 1898, 1. According to Clifford's pension file, he suffered permanent nerve damage from the blows to his head.

⁵⁴ *Williams v. Board of Education*.

⁵⁵ *Martin v. Board of Education*; also see Douglas c. Smith, "A West Virginia Dilemma: *Martin v. Board of Education*, 1896," *West Virginia History* Vol. 40, Number 2 (Winter 1979): 158-163.

Virginia Supreme Court of Appeals maintained that the West Virginia Constitution held dominance over the Fourteenth Amendment to the United States Constitution, and that to rule in Martin's favor would be "permitting the neglect of the legislature or board of education to abrogate the state Constitution, while it is the paramount duty of this Court to see that they obey it." The State Supreme Court upheld the lower court of Judge Faulkner and ruled against Martin. In doing so, Judge Marmaduke Dent opined, "Social equality cannot be enforced by law." Despite his failure to overturn the West Virginia law mandating blacks and whites must be taught in separate schools, Martin still managed to achieve a victory. The Morgan County Board of Education, after fighting a very public and costly case, built a school for African Americans.⁵⁶

Decided four months after the United States Supreme Court handed down its decision in *Plessy v. Ferguson*, it is not surprising that the West Virginia Supreme Court ruled against Clifford, just as the Louisiana State Supreme Court ruled against Albion Tourgee earlier in the Plessy case. Both cases questioned laws mandating racial segregation in their respective states, challenging each state's constitutional right to legislate and enforce segregation. In addition, both of the attorneys representing Plessy and Martin, Tourgee and Clifford, argued that the segregation laws placed into the state constitutions were unconstitutional infringements on their clients' privileges under the equal protection clauses of the Fourteenth Amendment to the Constitution.

However, in both cases, the courts ruled that the states remained within their constitutional boundaries and, therefore, upheld the states' segregation laws. Perhaps the earlier United States Supreme Court decision in *Plessy v. Ferguson* portended the outcome of *Martin v. Board of Education* for Clifford. One thing that the decision in *Plessy v. Ferguson* made perfectly clear

⁵⁶ Ibid.

was that if the West Virginia Supreme Court upheld the circuit court decision in *Martin v. Board of Education*, Clifford had no recourse for an appeal.⁵⁷

The point of law Clifford argued in *Martin v. Board of Education* would not be settled until fifty-eight years later on May 17, 1954, when the United States Supreme court handed down their ruling in *Brown v. Board of Education of Topeka*, thereby overturning the 1896 decision in *Plessy v. Ferguson*. Although Clifford did not use the same words, his legal concepts and conclusions were remarkably similar to those used in the *Brown* case. As in *Brown v. Board of Education*, Clifford argued that despite the concept of “separate but equal,” separate was never equal. Judge Earl Warren of the United States Supreme Court arrived at the same conclusion in the *Brown v. Board of Education* ruling when he wrote, “Separate education facilities are inherently unequal” and that they deprived citizens of the “equal protection of the laws guaranteed by the Fourteenth Amendment.” Judge Warren maintained that “To separate children from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that many affect their hearts and minds in a way unlikely ever to be undone,” a sentiment similar to the one Clifford expressed in 1892.⁵⁸

Despite Clifford’s loss, John Mitchell, Jr., later reported in the *Richmond Planet* that Clifford “certainly makes himself heard.” Although Mitchell felt the Republican Party should recognize and honor Clifford’s with a political appointment for his service to his people as well as the party, he recognized the improbability of that occurring. Claiming “Mr. Clifford is too independent” and “far better off as a poverty-stricken, but free mountaineer, [rather] than a well clad slavish office-holder, with no hope for the future beyond the monthly allowance from the national crib,” Mitchell predicted “his day of recognition will yet come.”⁵⁹

⁵⁷ *Ibid.*; *Plessy v. Ferguson*. Segregated schools in West Virginia were not challenged again until 1913 when African-American attorney James Graham, Jr. of Wheeling, W.V. argued the case *Steele v. Board of Education of Hancock County*. Graham lost the case in circuit court and there is no record of an appeal.

⁵⁸ *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

⁵⁹ *Richmond Planet* 6 February 1897, 2.

The following year, on June 11, 1898, Clifford submitted his brief in the *Williams v. Fairfax District Board of Education* before the West Virginia Supreme Court. Once again, he found himself before Judge Marmaduke Dent, the justice who handed down the State Supreme Court's decision against him in *Martin v. Board of Education*. Clifford argued that Judge Hoke's original ruling in the Circuit Court of Tucker County should stand. Claiming, by law, boards of education could waive a written contract with a teacher, and that if it chose to do so, and still received the benefit of their teaching, the board was required to pay for their services even without a contract. Indeed, the law justified Carrie Williams' decision *not* to sign a contract that violated the purpose and intent of the West Virginia Constitution calling for "separate but equal" schools. In opposition, C.C. Strieby, arguing for the Fairfax District Board of Education, stressed three major points: Carrie Williams had no written contract; that there can be no implied contract under state law; and that the three months pay Williams was seeking was not owed to her since she voluntarily taught school for those months.⁶⁰

Justice, as well as the recognition that Mitchell predicted, finally came in the fall of 1898. In a move calculated to irritate Pitzer who was running on the Republican ticket for Congress, in August of 1898 Clifford announced that he also was candidate for Congress.⁶¹ That fall, as election day came near, Clifford took the shirt he was wearing three years earlier when U.S.G. Pitzer attacked him in the courthouse and canvassed the county on his bicycle, waving the blood-stained shirt for everyone to see. The day before the election, Clifford spoke for an hour and twenty minutes from inside the band stand in the public square, once again criticizing Pitzer and waving the bloody shirt. Of course, Clifford did not win the election; but neither did Pitzer. Henry S. Cushwa, the democratic candidate, defeated Pitzer by more than 1300 votes—just as Clifford intended.⁶²

⁶⁰ *Williams v. Board of Education*.

⁶¹ *Martinsburg Herald* 20 August 1898, 2; *Richmond Planet* 3 September 18/98, 4.

⁶² *Pioneer Press* 9 September 1911, 2.

The Democratic *Martinsburg Statesman* reported that Pitzer waged a heroic fight, but a well organized Democratic Party along with “the odium of the Ring” and being “stabbed in the back in the house of his pretended friends” led to defeat. Claiming that the people administered “a rebuke to the arrogant court house ring and the colored people did their full share,” the *Statesman* declared that many blacks “have at last come to their senses and have decided to be free men, to vote like white people and to no longer be the tools and slaves of the white Republican bosses.”⁶³ Numerous blacks in the eastern panhandle did, in fact, oppose the local Republican “ring,” but it was Clifford who swayed the black vote and it had nothing to do with party politics. It was purely personal.

Following Pitzer’s defeat, Clifford reprinted the article that appeared in the *Richmond Planet* after Pitzer’s physically attacked him in 1895. Mitchell ended his column with statement “we shall watch with interest the result of the controversy.” Below the reprinted article, Clifford asked, “Brother Mitchell, have you watched and seen to your heart’s delight?”⁶⁴ Clifford had his justice . . . and he kept the bloody shirt as a souvenir.

While Clifford reveled in his blow to Pitzer’s political career, the West Virginia Supreme Court came to a decision in the Williams case. On Nov. 16, 1898, the West Virginia Supreme Court of Appeals upheld the Circuit Court’s decision in *Williams v. Board of Education*, ruling in favor of Carrie Williams. In doing so, Judge Marmaduke delivered the majority opinion. Dent’s language was surprising. He dismissed the board’s argument based on the absence of a written contract stating:

“After the service has been rendered in a satisfactory manner to the patrons of the school, and the board has recognized and approved it by receiving her monthly reports, and paying her five months’ salary, it is too late for them to object that her appointment was not in writing.”⁶⁵

⁶³ *Martinsburg Statesman* 9 November 1898, 4.

⁶⁴ “We Have Watched,” *Pioneer Press* from the *Richmond Planet* 17 December 1898 p.1.

⁶⁵ *Williams v. Board of Education*.

Addressing the Fairfax District Board of Education's attempt to impose an arbitrary five month term on black pupils while funding eight months of education for white students, Dent wrote, "This distinction on the part of the board, being clearly illegal, and a discrimination made merely on account of color, should be treated as a nullity, as being contrary to public policy and good morals."⁶⁶ In what appears to be a liberal statement for a state south of the Mason-Dixon Line in 1898, and contrary to the rising tide of racism, discrimination, violence, and segregation aimed at African Americans, Dent maintained:

"If any discrimination as to education should be made, it should be favorable to, and not against, the colored people. Held in the bondage of slavery, and continued in a low moral and intellectual condition, for a long period of years, and then clothed at once, without preparation, with full citizenship, in this great republic, and the power to control and guide its destinies, the future welfare, prosperity and peace of our people demand that this benighted race should be elevated by education, both morally and intellectually, that they may become exemplary citizens; otherwise the perpetuity of our free institutions may be greatly endangered."⁶⁷

Dent's statement, while open-minded and contrary to the opinion of most southern whites, was also a reflection of the times. For it reflects the "white man's burden," the moral obligation and social responsibility of those of high rank or birth (whites) to elevate those of lower status (blacks). Paternalistic at best, Clifford must have found the statement condescending; nevertheless, it afforded him a victory in his fight for equality in public schools. While the decision did not overturn West Virginia's law for the separation of black and white children in state's schools, it did require that the schools be equal according to West Virginia law. Clifford's victory forced school boards to provide equal school terms and equal pay for teachers regardless of color. These provisions not only attracted many black migrants from the south to the coalfields of West Virginia with the promise of a better education for their children, but also drew well-educated and well-qualified black teachers into the state, forcing surrounding states to provide better pay as well. At the same time, the law failed to provide equality for black

⁶⁶ Ibid.

⁶⁷ Ibid.

pupils in the quality and quantity of facilities, materials, and administrative supervision given to white pupils. In numerous ways, West Virginia schools were never “separate but equal.”⁶⁸

However, when the West Virginia Supreme Court declared that “discrimination against the colored people, because of color alone, as to privileges, immunities, and equal legal protection, is contrary to public policy and the law of the land,” *Williams v. Board of Education* became a landmark decision in the history of civil rights and equality before the law in West Virginia.⁶⁹ Indeed, Paul Finkleman described the case as “as one of the few civil rights victories in a southern state’s highest court before the turn of the century.”⁷⁰ Following the end of Reconstruction, attempts to end segregated schools based on Fourteenth Amendment rights were, just as *Martin v. Board of Education of Morgan County*, generally unsuccessful. However, cases filed between 1830 and 1903 that relied on state constitutions or legislative statutes in arguing for integrated schools were often successful, although the success rate dropped after 1880. The majority of these cases occurred in the North, in states that did not have legally mandated school segregation and where it was much safer for both the plaintiffs and their lawyers to challenge segregated schools. That does not mean that black southerners accepted segregated or failed to protest segregated schools. In the 1870s and early 1880s, Kentucky blacks challenged state legislation requiring citizens to pay taxes for schools of their own race, legislation that severely limited funds for black schools and left them substantially unequal to the white schools. Their litigation led to a repeal of the law. In addition, black leaders in Louisiana challenged, but failed to end, the re-establishment of segregated schools in 1878. Southern resistance to segregated schools, although limited, did occur.⁷¹ Overshadowed by the earlier

⁶⁸ Connie L. Rice, “The ‘Separate but Equal’ Schools of Monongalia County, West Virginia” *Journal of Appalachian Studies* Vol. 2, No. 2 (Fall 1996): 323-335.

⁶⁹ *Williams v. Board of Education*.

⁷⁰ Finkleman, “Not Only the Judges’ Robes Were Black,” 18.

⁷¹ Donald Nieman, “The Language of Liberation: African-Americans and Equalitarian Constitutionalism, 1830-1950.” *Black Southerners and the Law, 1865-1900* (African-American Life in the Post Emancipation South, Vol. 12) (New York: Garland Press, 1994), 262-263. The first known challenge to segregated schools occurred in Boston, Massachusetts in 1849 (*Roberts v. The City of Boston*). In a community action similar to *Brown v. Board of*

United States Supreme Court decision *Plessy v. Ferguson*, the Williams case provided southern blacks with a rare victory . . . and a small beacon of light in what historian Rayford W. Logan has described as the “nadir” of African-American history.⁷²

In an attempt to halt the growing discrimination and violence against African Americans, Clifford attended a meeting of the National Afro-American Council held at the Metropolitan Baptist Church in Washington, D.C. on December 29, 1898. Formed for “the purpose of ameliorating the condition of the colored people of the country,” the Council sent a group of prominent African Americans to visit with President William McKinley in the ante-room of the White House on December 31, 1898. Those who met with McKinley included Bishop Alexander Walters; Bishop B.W. Arnett; Judson W. Lyons (Register of the Treasury); H.P. Cheatham (Recorder of Deeds); George H. White (Congressman from North Carolina); J.W. Thompson, New York; John Mitchell, Jr., Virginia; Rev. W.L. Taylor, Virginia.; John C. Dancey, North Carolina; Cyrus F. Adams, Illinois; William A. Pledger, Georgia; and J.R. Clifford.⁷³ Clifford later wrote that McKinley’s policy on the lynching question would bring “good results” if it were

Education, parents, led by Benjamin Roberts, wanted their children to be able to attend any schools in Boston. Paying taxes to support white schools that their children could not attend, they petitioned the court unsuccessfully for three consecutive years before going to court in 1849. The plaintiffs lost the case when the court ruled “special provisions” had been made for a “colored” school. Between 1881 and 1949, eleven cases went before the Kansas Supreme Court challenging segregated schools. Among the early cases (*Tinnon v. Board of Education of Ottawa*, 1876; *Knox v. Board of Education of Independence*, 1891; *Reynolds v. Board of Education of Topeka*, 1903; *Richardson v. Board of Education of Kansas City*, 1906; *Cartwright v. Board of Education of Coffeyville*, 1906; *Rowles v. Board of Education of Wichita*, 1907; and *Williams v. Board of Education of Parsons*, 1908), five of the seven plaintiffs won their cases. The court ruled against the plaintiffs in *Reynolds v. Board of Education of Topeka* and *Richardson v. Board of Education of Kansas City*. In the Reynolds case, the court ruled that Fourteenth Amendment to the U.S. Constitution did **not** supersede Kansas Law and in the Richardson case, the court upheld the constitutionality of special legislation in Kansas. Neither state, Massachusetts or Kansas, had laws segregating blacks and whites in schools in their Constitutions, nor did they adopt segregation laws immediately after the Civil War. Indeed, the majority of the cases challenging segregated schools occurred outside the south. In addition to *Williams v. Board of Education of Fairfax District*, which resulted in a victory for Clifford 1898, two years after the landmark case *Plessy v. Ferguson*, there was also a challenge to Georgia’s segregated school system in 1899. In a case remarkably similar to the Williams case, in *Cummings v. Board of Education of Richmond County, Georgia*, the plaintiff challenged a local school board’s decision to close a black school for monetary purposes while it continued to operate two white schools. The Georgia Supreme Court, as well as the United States Supreme Court, upheld the school board’s decision, claiming there was no evidence that the board based its decision on racial discrimination and that school officials had the authority to allocate school funds at their discretion. See J. Morgan Kousser, “Separate but *Not* Equal: The Supreme Court’s First Decision on Racial Discrimination in Schools” in Nieman’s *Black Southerners and the Law* (1994), 189-216.

⁷² Rayford W. Logan, *The Betrayal of the Negro from Rutherford B. Hayes to Woodrow Wilson* (New York: DeCapo Press, 1997), 52-53.

⁷³ *Richmond Planet* 7 January 1899, 1,5.

carried out, but added “the flavor is sweet but we hope it is not sugar-coated pills to catch Negro votes.”⁷⁴ In the future, Clifford would move further in national politics and organizations, joining with like-minded men in the hope of achieving his goals.

As the decade of the 1890s came to a close, Clifford delivered one of his most eloquent speeches before the Afro-American Council at a meeting held in August of 1899 in Chicago, Illinois. In an appropriate and prophetic presentation titled “The Races—Mutual Relations,” Clifford argued that America would never achieve its promise of a free and democratic society until it provided men and women of all races with the rights and privileges guaranteed to them under the United States Constitution.⁷⁵ Generations later, men and women of vision would still be pursuing the same goal.

⁷⁴ “Fears Sugar Coated Pills,” *Pioneer Press* printed in the *Richmond Planet* 16 December 1899, 1.

⁷⁵ Paul I. Clifford, “Certain Dimensions of the Life and Times of J.R. Clifford,” 30.

“The time was, when we thought it impossible to be independent in politics, but ‘wise men change, fools never!’ Now, we not only consider it wise in the extreme, but consider its increasing strength, indicative of honesty, good sense, and will be the salvation of this government. Hereafter, so long as we live in the State of West Virginia, so long will we be the slave of no political party. When a boy, we enlisted to fight for this Union and the freedom of the slaves; and for the past sixteen years, we have spent our time and means, to advance the interests of a party in this State, that has showed no respect whatever for the Negro, more than to get his vote. The only honors given colored men in this State have been conventional, and most of them of an alternate character. To the Irishman, the German and the Jew courtesies are shown and to the Negro, demands are made. A few disappointed office-seekers may step down and out of a party and then, for a purpose, threaten its destruction, dictate nominations, even a Governor, and this Simon-pure Republican party buries its principles and goes over to them; or in other words, ‘The tail wags the dog.’ When, and before, nominations are to be made, the Greenback party, the Prohibition party and the Knights of Labor are consulted, committee and conventional honors given and nominations agreed upon to suit all factions. But just let colored men dare intimate a dissatisfaction, and they are at once told that the party can get along without them, i.e. you are their political slaves and are afraid to risk your chances in any other party. There is no party in existence that can do less, but some, we believe, will do more. However, this much is true; so long as you scrape and bow at the shrine of one party, and swear by Him that ruleth that you will remain therein, in spite of insults and moonlight promises, so long will you be treated as you have been. You are the balance of power in this State and you are fools if you don’t use it in the interests of the race. Some years ago, when the brave and brainy ‘old man eloquent,’ Robt. W. Simmons, Geo. T. Jones, and other able men organized a ‘State Executive Committee’ I was antagonistic to it. I now see its wisdom. Let us revive it and show to the world that we are

men. When you talk independently to they tell you they freed you. It is false. The persons to whom we allude, if they were soldiers, belong to that class who threw down their arms when you enlisted and marched to the front to battle for this Union and your freedom; and had it not been for you, it would have been shattered and the shackles still on your hands. Your bayonets and bullets brought about your freedom, and for it, you are obligated to no party, as much as you are to yourselves. Then let us with as much manliness protect it with the ballot. The Democratic party has done little or nothing for you until within the last two years. They claim they have not had, what they ask for, an opportunity. We do not ask the colored men of this State to be democrats—but we do ask them to be independent men—a thing impossible by cursing all other parties and sticking to a party that curses you.”



Public Square and County Courthouse, Martinsburg, WV

CLIFFORD QUOTES

“The editor of this paper never believed in the theory that to go to heaven, after a fellow smacks one cheek, he must lamb-like turn the other. Strike back and hard at that, is his policy, and if it keeps him out, he has had some consolation here.”

“What a curse to cultivate, and see grow, is lynching. Just think of it a moment. And in a country whose million church spires deck the sky, and whose constitution vouches to every man the sacred right of a trial by a jury. Yet, all we have named above are disregarded, and all classes follow resort to murder, not for the protection of society, but for the satisfaction of their beastly natures—soaked with ‘moonshine rot-gut.’ And it is not as bad, though murder it be, as for the church people, state and especially the national law makers to condone it. Can’t the trend of it be seen? And what will the end be? Foreigners are pupils in this school of human butchery, and in the past week a few have gotten diplomas—one Chinamen in the South, and in West Virginia this week, a hoard of drunken Italians with ropes ran one of their kin for twenty-five miles and would have lynched him, had not official aid prevented. Unless the lynchers are weeded out, this will be one of the worst countries on God’s earth, while on the other hand, it could and should be one of the best, and could be so made by obeying the laws of God and man.”

“We shall boldly advocate our thoughts, and never swerve an inch in the full defense of the rights of our race.”

THE PIONEER PRESS

Has the LARGEST city circulation—

The LARGEST Foreign circulation—

The LARGEST domestic and general circulation—

The LARGEST county and rural circulation of any Negro newspaper in the United States—

Has the LARGEST Anglo Saxon circulation—

WHY

IS THE ABOVE SO?

BECAUSE it is the pioneer of this section in blazing the way for truth, honesty, piety and frugality and all other requisites that are necessary for the making of manly men and womanly women of all races.

BECAUSE it merits support and gets it is proof positive that people know a good thing when they see it.

BECAUSE of its unique and original qualities the PIONEER PRESS has a noticeable exclusiveness enjoyed by no other paper in the class wherein it circulates.

The Pioneer Press

With its generally large and intelligent circulation will bring

ABUNDANT

AND

PROFITABLE

RETURNS

TO ITS ADVERTISERS.

The Pioneer Press

AN INDEPENDENT WEEKLY NEWSPAPER
DEVOTED TO THE MORAL, RELIGIOUS AND
FINANCIAL DEVELOPMENT OF HUMAN-
ITY.

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J. R. Sanford, Editor & Proprietor
Drawer 869, and Bell Phone, 60K. Mar-
tinsburg, W. Va.

SATURDAY, SEPTEMBER 24, 1911

The Pioneer Pro

"HERE SHALL THE PRESS, THE PEOPLE'S RIGHTS MAINTAIN, UNAWED BY INFLUENCE AND UNBRIBED BY

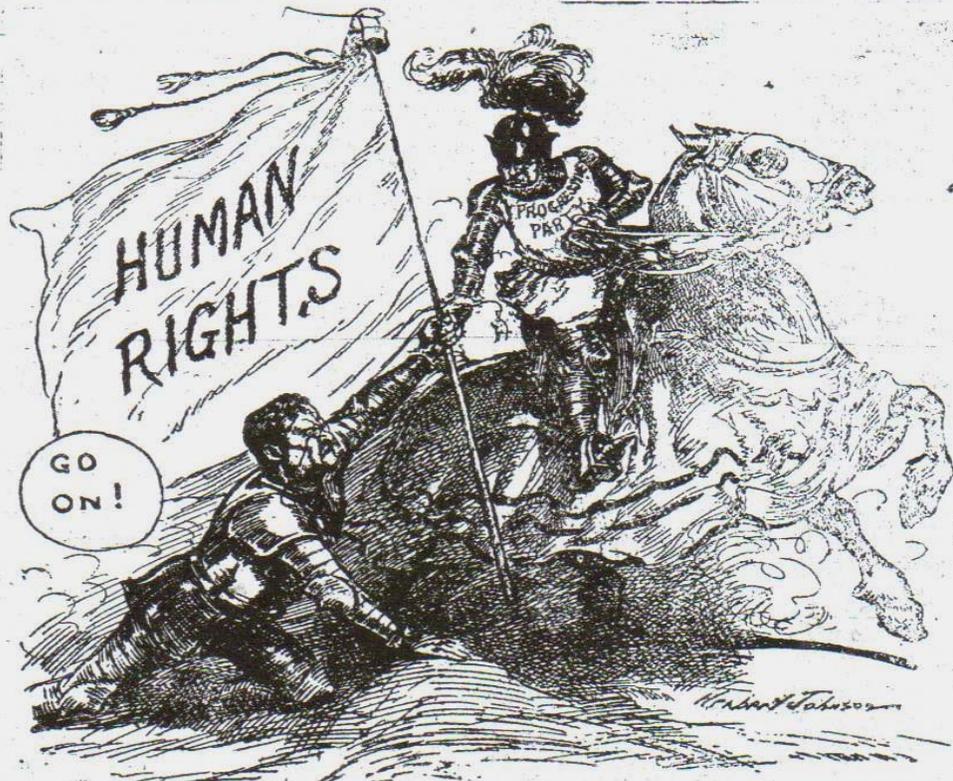
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MARTINSBURG, W. VA., SATURDAY, OCTOBER 26, 1912.

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"Friends, I tell you I am not thinking of my own success; I am not thinking of my life. I believe in the Progressive movement. I am absorbed in the success of the movement."

THEODORE ROOSEVELT.

(In his speech at Milwaukee after he was shot.)

THE NIAGARA MOVEMENT.

THE first year's work of the Niagara Movement draws to its close. It is today an incorporated body with 170 members distributed in 34 states.

During the year about 25 meetings have been held, 10,750 pamphlets, tracts and circulars distributed. From the General Secretary's office 1653 letters have been sent out, besides postal cards, telegrams, and packages. The records of the state secretaries will largely increase these figures.

Our chief activities this year have been as follows:

1. Organization.
2. Meetings.
3. Cooperation with certain movements:
 - (a) Constitutional League in New York, Philadelphia and Washington meetings.
 - (b) Georgia Equal Rights Convention.
 - (c) Anti-Jamestown Fair agitation.
 - (d) Anti-Jim Crow amendment to Rate Bill agitation.
 - (e) Celebration of Garrison's birthday.

Our total year's income will be \$850.

Twelve interstate committees have been appointed. Six of these have begun actual work.

The next annual meeting will be held at Harper's Ferry, W. Va., on the grounds of Storer College, beginning Wednesday, August 15, and closing Saturday, August 18, 1906.

A rate of 1-1-3 fares round trip can probably be obtained, or any excursion to Washington, D. C. will bring visitors near enough. The meeting place is cool, attractive, and teeming with historic interest. The meeting will fitly celebrate the 100th anniversary of John Brown's birth, and the 50th jubilee of the battle of Ossawatimie. Rates for board, etc., will not exceed \$1 per day. More exact information will follow later. You and your wife, children and friends are cordially invited to meet with us. Our business sessions will be private, but public exercises and entertainments will be provided.

The outlook for vigorous growth and work is excellent. Let us strive for a great meeting.

Yours for Freedom.



J. R. CLIFFORD.



Clifford on the left, standing. Du Bois sitting. 1906 Niagara Meeting at Harpers Ferry

File attachments: <http://www.jrclifford.org/TrialRecord.htm>
<http://www.jrclifford.org/The%20Williams%20Ruling.htm>
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