

CRADLED IN THE DECLARATION OF INDEPENDENCE

Reviewing ROBERT J. BLAKELY WITH MARCUS SHEPARD, EARL B. DICKERSON: A VOICE
FOR FREEDOM AND EQUALITY (Northwestern University Press 2006), 259 pp.

by Jay Tidmarsh*

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*Brown v. Board of Education*¹ is a watershed in American law and society. It affects our understanding of race, of constitutionalism, and of equality. It also affects our understanding of what happened before *Brown*. Our knowledge of how things turned out tinges our view of the struggles for civil rights before 1954, and we are understandably wont to focus on the events and people that shaped *Brown* as we consider civil-rights lawyering in the decades between World War I and World War II.

In an important contribution to the history of the civil-rights movement, Kenneth Mack argues that the standard account of African-American civil-rights lawyering in the decades before *Brown* is wrong.² So are the standard revisionist accounts. According to Mack's historiography, the dominant "legal liberal" account of *Brown* tells a story of a band of civil-rights lawyers who spent a generation crafting a litigation strategy and orchestrating a series of cases ultimately intended to overthrow *de jure* segregation in public institutions.³ African-American civil-rights lawyers followed Charles Hamilton Houston's plan to use the courts to "socially engineer" an equal society. Further, their idealistic commitment to institutional change

¹ 347 U.S. 483 (1954) (declaring *de jure* school segregation unconstitutional); *see also* *Brown v. Bd. of Educ.*, 349 U.S. 294 (1955) (determining an appropriate remedy).

² Kenneth W. Mack, *Rethinking Civil Rights Lawyering and Politics in the Era Before Brown*, 115 *YALE L.J.* 236 (2005).

³ Mack, *supra* note 2, at 258. For an insider's description of the cases and strategy that resulted in *Brown*, see JACK GREENBERG, *CRUSADERS IN THE COURTS* 3-224 (rev. ed. 2004).

through formal, judicially recognized legal rights separated them from the legal realism academically fashionable in the decades after World War I.⁴ The revisionist critiques of the “legal liberal” thesis accept the claimed ideological commitments of African-American civil-rights lawyers to the strategy of using courts to alter discriminatory public institutions. They contend, however, that the limitations of courts as effective agents for achieving racial equality either doomed the “legal liberal” project to failure in the long run, or wasted time and energy better spent agitating for true changes in the status quo.⁵

Mack intervenes with a new thesis: In the years between the First and Second World Wars, African-American civil-rights lawyers were not primarily engaged in, nor committed to, a court-based strategy to end segregation in public institutions. Their ideas for achieving civil rights and racial equality focused on methods other than the litigation campaign which yielded *Brown*, and on goals other than eliminating public segregation. Instead, “race uplift” was the dominant goal. Race uplift had two components. The first was “voluntarism,” which Mack describes as an attempt to provide a legal foundation beneath black institutions that were established to replicate white institutions in the African-American communities of the North.⁶ The second was “legalism,” which involved making “moral and legal claims directed to the

⁴ Mack, *supra* note 2, at 299-301.

⁵ *Id.* at 259-62. Mack labels the first revisionist claim – the limitations of courts as agents of change — the “neo-institutionalist critique,” and the second claim — the failure of formal legal rights to effect true social change — the “leftist critique.” Mack dates the revisionist reaction to the mid-1970s, and claims that by the fiftieth anniversary of *Brown* in 2004, neo-institutionalist and leftist critiques had become accepted in the mainstream.

⁶ Mack, *supra* note 2, at 277-80.

larger white majority.”⁷ Although African-American lawyers remained “cognizant of the discrimination and segregation that hemmed them in,”⁸ voluntarism was the dominant strategy. The principal role of black lawyers was to assist black professionals and black entrepreneurs establish enterprises that would employ black workers and service black communities; in turn, black employees would amass property and be able to climb the employment ladders previously reserved for whites. In the 1930s, the legal strategy shifted to some degree from voluntarism — but not yet toward litigation. New influences — especially rising exasperation with discrimination in private employment, Marxism, and a belief in collective, race-based actions such as boycotts⁹ — caused a shift in the understanding of what black lawyers might do to enable racial progress. Unlike the post-World War II *Brown* strategy, however, the Depression-era litigation strategy focused primarily on private rather than public institutions. Mack also goes to some lengths to prove argue that the intellectual commitments of the interwar civil-rights lawyers was — contrary to the standard “legal liberal” and revisionist views — decidedly realist in its mien.¹⁰

Mack’s claim is a universal one about civil-rights lawyering. But his proof is particular. He focuses on the ideas and strategies of a small band of lawyers who plied their trade along the eastern seaboard, from Cambridge to New York, and from Philadelphia to Baltimore to Washington, D.C. The principal lawyers in his narrative are Charles Hamilton Houston and the

⁷ Mack, *supra* note 2, at 280.

⁸ *Id.*

⁹ *Id.* at 302-08.

¹⁰ *Id.* at 308-18.

cadre of disciples who followed him to Harvard Law School for their initial or advanced law degrees, including William Henry Hastie and Leon Ransom.¹¹ The husband-and-wife team of Randolph Pace Alexander and Sadie Tanner Mossell Alexander also features prominently.¹² Two of Houston's foremost disciples, Thurgood Marshall and James Nabrit, Jr., receive scant treatment (perhaps because they never studied at Harvard, and thus could not be shown to have fallen under the realist influences of Pound and Frankfurter¹³). Mack's focus is understandable; Hamilton and his band of lawyers ultimately engineered the victory in *Brown*, so studying their strategies in the interwar years helps to debunk the "legal liberal" storyline of an inexorable march to overturn *Plessy v. Ferguson*.¹⁴ But the claim that African-American civil-rights lawyers generally ascribed to the interwar strategies that Mack attributes to Houston's circle rests on an inference.

Oblivious to the terms of this debate, *Earl B. Dickerson: A Voice for Freedom and*

¹¹ *Id.* at 284-87, 291-92, 308-18.

¹² *Id.* at 283, 290-95. Randolph Alexander had also attended Harvard Law School. *Id.* at 318. Loren Miller of Los Angeles also receives some attention, in part because Mack credits him with helping to create the "legal liberal" myth of interwar civil-rights lawyering in the 1960s. Mack shows that, in the 1930s, Miller did not act or believe in a way consistent with his later reminiscences. *Id.* at 269-70. See also Kenneth W. Mack, *A Social History of Everyday Practice: Sadie T.M. Alexander and the Incorporation of Black Women into the American Legal Profession, 1925-1960*, 87 CORNELL L. REV. 1405 (2002) (providing fuller treatment of the Alexanders).

¹³ Mack uses the classes taken by Houston, Hastie, and Ransom from Pound and Frankfurter, as well as a few other contacts between Pound and Houston, as evidence of the progressive-realist influence on Houston and his Harvard-trained disciples. Mack, *supra* note 2, at 308-18. Although it is not certain how much of a realist Pound was, especially by the late 1920s and 1930s, see Jay Tidmarsh, *Pound's Century, and Ours*, 81 NOTRE DAME L. REV. 513, 519-20 & n. 19, 527 & n. 78, both Pound and Frankfurter saw law as an instrument of progress.

¹⁴ 163 U.S. 537 (1896) (establishing the "separate but equal" doctrine).

*Equality*¹⁵ marches straight into the controversy. *Dickerson* is a flattering biography of Earl Burrus Dickerson, Chicago's leading African-American lawyer between the World Wars. To some extent, *Dickerson*'s failure to locate Earl Dickerson within the larger story of African-American civil-rights lawyering is excusable. Drafted by Robert Blakely, a Chicago journalist and writer, *Dickerson* began as an oral history project intended to memorialize the lives of noted Chicago residents. Although fleshed out with the reminiscences of Dickerson's admirers, its principal source is hours of taped conversations between Blakely and Dickerson conducted in 1983, just three years before Dickerson's death at the age of ninety-five. Blakely himself died in 1994, and his manuscript languished for years. Len Rubinowitz of Northwestern Law School discovered the manuscript and kept it alive; freelance writer Marcus Shepard did the final polishing.

The book brims with the *ex post* inevitability and justness of the civil-rights cause,¹⁶ and at times relies too uncritically on the sometimes faulty memory of an aged and atypical warrior.¹⁷ Nonetheless, *Dickerson* is a critical book for understanding the role of African-American civil-rights lawyers in the two decades between the World Wars. Dickerson's career provides considerable support for Mack's thesis, but also poses some significant challenges that might require refinements. The inability to cabin Dickerson neatly into Mack's intellectual categories is in large part due to the messiness of human life — especially a life lived as greatly as

¹⁵ ROBERT J. BLAKELY WITH MARCUS SHEPARD, EARL B. DICKERSON: A VOICE FOR FREEDOM AND EQUALITY (2006) (hereinafter *Dickerson*).

¹⁶ See, e.g., *id.* at 108 (calling the racial violence following Dickerson's victory in *Hansberry v. Lee*, 311 U.S. 32 (1940), "a necessary if painful step toward the final defeat of legal segregation in the United States").

¹⁷ See, e.g., *infra* notes 27, 128 and accompanying text.

Dickerson lived his. But the “legal liberal” account, its revisions, and Mack’s thesis suffer from a common flaw. They assume that African-American civil-rights lawyers had as their principal focus the cause of African-American equality. For Dickerson, civil-rights lawyering was more personal than that: It was a piece of the struggle for his own dignity and that of other African-Americans living under deplorable conditions in America’s cities. He used all the means available to him — legal, economic, and political — to break the color line in as many places as he could. In many instances he led the way, becoming the first to step across the line.

Dickerson chronicles this extraordinary life. It focuses especially on his successes and failures during the years between 1937 and 1943 — for good reason. On the verge of America’s entry into World War II, Dickerson had arguably become the nation’s most prominent and powerful African-American lawyer. Any discussion of civil-rights lawyering in the years between the World Wars must, therefore, account for Earl Dickerson.¹⁸

I

In the years between 1920 and 1943, Dickerson rose to become the “dean of Chicago’s black lawyers.”¹⁹ This was no mean feat. Swollen by the ranks of the Great Migration, Chicago during these years contained the second largest African-American population in the country, and

¹⁸ Mack briefly refers to Dickerson at three points in his article, *see* Mack, *supra* note 2, at 282, 288, 345, but does not fully explore the effects of Dickerson’s career on his thesis.

¹⁹ See Jay Tidmarsh, *The Story of Hansberry: The Foundation for Modern Class Actions*, in CIVIL PROCEDURE STORIES 217, 242 (Kevin M. Clermont ed. 2004).

the largest number of African-American lawyers.²⁰ The bar contained such notables such as C. Francis Stradford, for whom the National Bar Association's highest award is named,²¹ and Irwin Mollison, who became the first African-American appointed to a life-tenured federal judgeship in 1945.²² Yet Dickerson stood clearly at their head — a fact proven by Dickerson's role in his most famous civil-rights case, *Hansberry v. Lee*,²³ in which Stradford, Mollison, and two other civil-rights lawyers played supporting roles to Dickerson's lead.²⁴ In 1941, Dickerson was a Chicago alderman, a member of the NAACP's Board of Directors, and a member of Franklin Roosevelt's Federal Employment Practices Committee (FEPC), which was the federal government's most significant effort to deal with racial discrimination in employment before Title VII of the Civil Rights Act of 1964.²⁵ By 1942 Dickerson had become its acting chairman.

²⁰ ST. CLAIR DRAKE & HORACE R. CAYTON, *BLACK METROPOLIS: A STUDY OF NEGRO LIFE IN A NORTHERN CITY* 12 (1945); Mack, *supra* note 2, at 267.

²¹ *See* Tidmarsh, *supra* note 19, at 266.

²² *Id.* at 267.

²³ 311 U.S. 32 (1940).

²⁴ I have read the entire trial transcript in *Hansberry*, as well as the pleadings, briefs, and other papers filed in the case. Each lawyer was active in filing pleadings on behalf of his client or clients. Representing two of the six defendants, Dickerson took the lead once the case hit the courtroom. At trial Dickerson handled some of the cross-examinations and most of the direct examinations. He also argued the case in both the Illinois Supreme Court and the United States Supreme Court.

The two other civil-rights lawyers in *Hansberry* were Loring Moore and Truman Gibson, Jr. Among his other accomplishments, Moore would go on to litigate numerous cases seeking to strike down racially restrictive covenants, including the case that put a legal end to the covenants in Illinois. *Tovey v. Levy*, 82 N.E. 2d 441 (Ill. 1948). Truman Gibson, Jr. would go on to become a member of Harry Truman's "black cabinet" and had a role on the commission whose report led Truman to integrate the armed forces in 1948. *See* Tidmarsh, *supra* note 19, at 266; Richard Goldstein, *Truman Gibson, 93, Dies; Fought Army Segregation*, N.Y. TIMES, Jan. 2, 2006, at B7.

²⁵ *See infra* notes 52, 56-60 and accompanying text.

Little in Dickerson's background suggested that he was destined for such greatness. "Earl. B," as his friends called him (or "Silk Stocking Earl," as his detractors called him),²⁶ was born in 1891 in Canton, Mississippi. He was tall, handsome, inquisitive, of mixed race — although the racial mores of the time put him on the Negro side of the color line.²⁷ As a boy he saw his brother-in-law shot and permanently disabled for no greater a matter than jostling a white man who was carrying packages.²⁸ His family valued education, and his mother slipped Pullman porters a few dollars so that he could jump trains to New Orleans and then Chicago in order to obtain a high school education.²⁹ He was one of the million African-Americans who flowed North in the early decades of the twentieth century, one of 200,000 who found their way to Chicago.³⁰ He left "feudal Mississippi," he recalled late in his life, "clothed with little else than a burning sense of outrage and a driving resolve, cradled in the Declaration of Independence, not to be bullied, browbeaten, or held hostage, in fact or in spirit — ever again."³¹ Whether or not an accurate description of his mindset as he jumped the train to Chicago, the

²⁶ Interview with Michael Flug, Curator of Vivian G. Harsh Research Collection of Afro-American History and Literature, in Chicago, Ill. (June 28, 2006), ; see *Dickerson*, *supra* note 15, at 87, 90 (describing references to the "silk stocking alderman").

²⁷ *Dickerson*, *supra* note 15, at 3-9; One of the intriguing claims made in *Dickerson* is his ancestry, which might trace back to a governor of Mississippi who had numerous children by his slaves. One of those slaves was Dickerson's grandmother. The book does not, however, substantiate the claim beyond Dickerson's memory and speculation. *Id.* at xvi-xvii.

²⁸ *Dickerson*, *supra* note 15, at 10.

²⁹ *Id.* at 11-12.

³⁰ See KEVIN BOYLE, *ARC OF JUSTICE* 2-6 (2004); DRAKE & CAYTON, *supra* note 20, at 8; see also *Important Cities in Black History*, <http://www.factmonster.com/spot/bhmcities1.html> (visited Oct. 2, 2006).

³¹ *Dickerson*, *supra* note 15, at 12-13.

statement is emblematic of the Dickerson portrayed in the biography — driven, fearless, and intolerant of racial injustice.

Dickerson matriculated from Northwestern, and graduated from the University of Illinois. After spending a year teaching at Tuskegee Institute with Booker T. Washington and another year as a principal in a black school in Indiana, he enrolled at the University of Chicago Law School in 1915.³² After his second year, he joined the Army and served in France as an officer of a black regiment in World War I — nearly refusing his commission when he realized that black and white units would be segregated.³³ While stationed in France after the war, Dickerson ran into a white officer who invited him to a meeting to discuss the establishment of a veterans' organization — thus making Dickerson the only African-American founder of the American Legion.³⁴ He returned to Chicago and earned his law degree in 1920 — thus making Dickerson the first African-American graduate of the University of Chicago Law School.³⁵

The Chicago to which Dickerson returned after the war teemed with racial tension. Between July, 1917 and July, 1919, twenty four bombs were thrown at the homes of African Americans and those who sold or leased to them. Other acts of violence, a recurring lack of police protection, horrid housing conditions, and exclusion from decent schools and jobs finally boiled over into the Chicago Riots of 1919, whose precipitating cause was the stoning death of

³² *Id.* at 22-24.

³³ *Id.* at 25-28.

³⁴ *Id.* at 32-33, 38-39.

³⁵ *Id.* at 39. Today the University of Chicago Law School's chapter of the Black Law Students Association is named in Dickerson's honor. See <http://blsa.echicago.edu> (visited Oct. 2, 2006).

an African-American boy who had inadvertently floated across the imaginary color line at a Lake Michigan beach. The Chicago Riots left thirty-eight people dead, 537 injured, and 1,000 homeless and destitute.³⁶ In the ensuing two decades, Chicagoans did little to ameliorate racial divisions and much to enhance them. Realtors introduced racial covenants in the 1920s in most of the neighborhoods surrounding Chicago's Black Belt, thus constricting a swelling African-American population to a limited number of housing units.³⁷ In the 1930s, Chicago engaged in an ill-fated (and arguably racially motivated) urban-renewal project that leveled as much as ten percent of the housing stock available to African Americans.³⁸

Unable to find work at several of Chicago's leading law firms despite sterling recommendations from James Parker Hall and Ernest Freund of the University of Chicago,³⁹ Dickerson too felt the effects of discrimination. Without other options, he accepted a job as

³⁶ CHICAGO COMM'N ON RACE RELATIONS, *THE NEGRO IN CHICAGO* 1 (1922); *see generally* THOMAS A. GUGLIELMO, *WHITE ON ARRIVAL* (2004) (describing racial milieu in Chicago from Chicago Riots until World War II).

³⁷ After the Supreme Court held racial zoning ordinances unconstitutional, *see Buchanan v. Worley*, 245 U.S. 60 (1917), racially restrictive covenant quickly sprang up in Chicago and around the country to enforce exclusionary residential living patterns. *See Tidmarsh, supra* note 19, at 220-21; Wendy Plotkin, *Deeds of Mistrust: Race, Housing, and Restrictive Covenants in Chicago, 1900-53* 13-32 (1999) (unpublished Ph.D dissertation, University of Illinois at Chicago) (on file with author). The best estimates are that 75% to 85% of the private residential property in Chicago contained these covenants, leaving only the areas west and south of the Loop available to African Americans. *See Allen R. Kamp, The History Behind Hansberry v. Lee*, 20 U.C. DAVIS L. REV. 481, 484 (1987); Richard R.W. Brooks, *Covenants & Conventions* 1-2, 20 & n.70 (Sep. 2002), at www.law.berkeley.edu/institutes/csrls/covenant.pdf. *See also* Plotkin, *supra*, at 21-32 (discussing various studies on extent of covenants).

³⁸ Testimony of John P. Edelin, *Lee v. Hansberry*, No. 37 C 6804 (Cook Cty. Cir. Ct.) (copy on file with author); Testimony of Howard D. Gould, *id.*; THOMAS LEE PHILPOTT, *THE SLUM AND THE GHETTO* 181-200 (1978); *Dickerson, supra* note 15, at 77-78.

³⁹ *Dickerson, supra* note 15, at 40.

general counsel at Liberty Life Insurance Company, a fledgling black-owned corporation at which Dickerson had done some clerking before he graduated.⁴⁰ Liberty Life sold life insurance, mortgages, and other financial products to African-Americans, who had previously needed to rely on the vagaries of the few white financial institutions who would serve them.⁴¹ In one capacity or another, Dickerson worked at Liberty Life — which changed its name to Supreme Liberty Life Insurance Company when it merged with two other African-American life-insurance companies in 1929 — until 1971.⁴² After the merger, Supreme Liberty grew into one of the largest African-American businesses in the country, and remained in the top ten such businesses into the 1990s.⁴³ Supreme Liberty’s growth, and its very survival during bleak years in the 1930s and 1950s, owed a great deal to Dickerson’s legal and business acumen.⁴⁴ Somehow Dickerson also managed to maintain a private law practice, and, on top of that, he worked at times in the 1920s and 1930s as an assistant corporation counsel for the City of Chicago or an assistant attorney general for the State of Illinois.⁴⁵

Dickerson’s legal star blazed as he emerged victorious from *Hansberry* in 1940. In 1937,

⁴⁰ *Id.* at 43.

⁴¹ *Id.* at 168; DRAKE & CAYTON, *supra* note 20, at 463.

⁴² *Dickerson*, *supra* note 15, at 42-43, 166-88. *See* DRAKE & CAYTON, *supra* note 20, at 462 (implicitly referring to Supreme Liberty as the largest African-American insurance company in the country).

⁴³ *See Earl Burrus Dickerson*, in JOHN N. INGHAM & LYNNE B. FELDMAN, AFRICAN-AMERICAN BUSINESS LEADERS 205-11 (1994) (hereinafter *Earl Dickerson*); *Harry Herbert Pace*, *in id.* at 501-17.

⁴⁴ *Earl Dickerson*, *supra* note 43, at 205-11; *Dickerson*, *supra* note 15, at 171-85.

⁴⁵ *Dickerson*, *supra* note 15, at 43-49, 168-69.

he had helped to found the National Lawyers Guild, the nation's first integrated bar association.⁴⁶ In 1939 he helped found the NAACP Legal Defense and Education Fund, and became president of the Chicago chapter of the Urban League.⁴⁷ That same year he won election to the Chicago City Council, one of two African-Americans to serve as aldermen.⁴⁸ Dickerson ran as a Democrat; he had been one of the first African Americans to abandon the party of Lincoln when he stumped across the northern states in 1924 to swing black voters to the Democratic ticket.⁴⁹ Just four months after his victory in *Hansberry*, Dickerson was a platform guest at Franklin Delano Roosevelt's third inauguration.⁵⁰ Later in 1941, Walter White, the NAACP's executive secretary, helped to secure Dickerson's election to the NAACP's Board of Directors.⁵¹ Also in 1941 and also on White's recommendation, Roosevelt appointed Dickerson to the FEPC as one

⁴⁶ *Id.* at 142-49.

⁴⁷ *Id.* at 152-57; *Earl B. Dickerson*, <http://blsa.uchicago.edu/edickerson.html> (visited Oct. 2, 2006); 2 JACK SALZMAN ET AL., *ENCYCLOPEDIA OF AFRICAN AMERICAN CULTURE AND HISTORY* 763 (1995). Interestingly, *Dickerson* never mentions Dickerson's role in helping to establish the NAACP Legal Defense and Education Fund. It is an event frequently noted in other short biographies of Dickerson.

⁴⁸ The other African-American alderman at the time was Benjamin Grant. *Dickerson*, *supra* note 15, at 66-70.

⁴⁹ *Id.* at 61-65.

⁵⁰ *Id.* at 84.

⁵¹ Unfortunately, *Dickerson* does not explore how Dickerson and White came to know each other. It might have been while Dickerson served on the executive committee of the Chicago chapter of the NAACP in the 1930s. Undoubtedly White was impressed by Dickerson's victory in *Hansberry*, which effectively led to the invalidation of a racially restrictive covenant on Chicago's South Side. Such victories were few and far between, and the campaign against these covenants was an issue dear to White, who had shrewdly used a campaign against racially restrictive covenants to buoy a failing NAACP in the 1920s. *See* BOYLE, *supra* note 30, at 201-14, 219-27.

of its two African-American members.⁵²

By 1943, however, Dickerson had tumbled from power. Although he was charming and unflinchingly courteous, Dickerson's other traits — such as blunt intolerance of discrimination, unyielding sense of justice, and dogged determination — undermined him politically. As an alderman, he was a constant agitator for the fair treatment of African Americans in education, housing, and employment. He had some successes. He achieved greater funding for schools to educate black children, and even blocked an appropriation until the Council agreed to integrate a trade school. He forced the companies who operated Chicago's bus system to integrate their workforce and hire a few black drivers. He tried to improve health care, and to alleviate overcrowding in the African-American neighborhoods on the South Side.⁵³ But Dickerson wasn't interested in power for its own sake, and didn't like to play political games. He didn't have the common touch with his constituents. He frequently angered the mayor with his outspokenness and his refusal to go along. In the Democratic primary for Congress in 1942, he chose to run against the machine's hand-picked candidate and lost a nasty election decisively. In 1943, while he was traveling across the country as a member of FEPC, the local Democratic machine decided to endorse an apprentice firefighter to run for Dickerson's aldermanic seat. Dickerson returned just in time to attend the meeting at which he lost the party's endorsement.⁵⁴ Dickerson then left the Democratic Party; and, except for a failed primary bid for the Republican nomination for Congress in 1944 and a predictably disastrous run for Congress as the leftist

⁵² *Dickerson*, *supra* note 15, at 109-16.

⁵³ *Id.* at 73-84.

⁵⁴ *Id.* at 68, 70, 86-92.

Progressive Party's candidate in 1948,⁵⁵ he was never again a legislative force.

Similar things happened on FEPC. Roosevelt had constituted the committee because discriminatory practices among defense contractors were causing labor unrest and nationwide protests among African-Americans just as America's war engine was revving up.⁵⁶ Whether or not Roosevelt expected the committee to do anything, Dickerson saw in the committee an opportunity to work against racial discrimination in employment. Although it had little legal power to do anything, the committee could hold hearings and issue findings. At its hearings around the country, FEPC frequently found instances of discrimination, and the testimony it elicited put governmental and contractor practices in a poor light.⁵⁷ Dickerson, who was elected as acting chairman for crucial hearings that the chairman was unable to attend, was a bulldozer. He examined dissembling contractors forcefully. He knocked heads with government bureaucrats who saw FEPC as a threat to the war effort and, on one occasion, even crossed swords with Roosevelt.⁵⁸ Dickerson's relentless pursuit of discrimination earned him a quick trip to the sidelines. When FEPC was reconstituted in 1943, Roosevelt re-appointed every still-serving member of the original FEPC but Dickerson.⁵⁹ In 1944 Roosevelt appointed another,

⁵⁵ *Id.* at 141-43.

⁵⁶ Exec. Order No. 8802, 3 C.F.R. 957 (1938-43); Exec. Order No. 8823, 3 C.F.R. 968 (1938-43); see Lester B. Granger, *Barriers to Negro War Employment*, in 4 DOCUMENTARY HISTORY OF THE NEGRO PEOPLE IN THE UNITED STATES 406, 415 (Herbert Aptheker ed. 1974) (Carol Publishing Group ed. 1992); MERL E. REED, SEEDTIME FOR THE MODERN CIVIL RIGHTS MOVEMENT: THE PRESIDENT'S COMMITTEE ON FAIR EMPLOYMENT PRACTICE, 1941-46 (1991).

⁵⁷ *Dickerson*, *supra* note 15, at 118-32.

⁵⁸ *Id.* at 129.

⁵⁹ See Exec. Order No. 9346, 3 C.F.R. 1280 (1938-43); *Dickerson*, *supra* note 15, at 132.

probably safer African-American to FEPC: Charles Hamilton Houston.⁶⁰

Roosevelt's decision to sack Dickerson brought an end to Dickerson's years of government service. A generation later, in 1961, southern Senators blocked John F. Kennedy's plan to nominate Dickerson as an Assistant Secretary of Commerce.⁶¹ Later that same year, the Illinois State Senate refused to approve Dickerson's nomination to a fair-employment-practices committee modeled after FEPC.⁶²

The 1940s also marked a turn in Dickerson's career, as he moved away from the law and toward business. (One of the limitations of the biography is its failure to explore whether this shift resulted from Dickerson's political implosion or marked a change in his thinking about civil rights, law, and business that was unrelated to his fall from power.) In 1942 he assumed supervisory control of Supreme Liberty's mortgage and investments.⁶³ Around the same time he started a real-estate development company that marketed its homes to African-Americans.⁶⁴

He kept his hand in the law. In 1945, he was elected president of the National Bar Association, the African-American bar association that was started in 1925 as a result of the American Bar Association's discriminatory practices. Anticipating the litigation strategy that led to *Brown*, his acceptance speech called for a challenge to the "separate but equal" doctrine in

⁶⁰ Mack, *supra* note 2, at 345. The reconstituted FEPC was reasonably effective, and enjoyed Roosevelt's support. Dickerson, *supra* note 15, at 133.

⁶¹ *Id.* at 193-94.

⁶² *Id.* at 189-93.

⁶³ *Id.* at 176.

⁶⁴ *Id.* at 178-79.

education.⁶⁵ In the same year, he (along with two of his co-counsel in *Hansberry*) broke the color barrier in the Chicago Bar Association.⁶⁶ Dickerson also maintained an appellate and Supreme Court practice in a few civil-rights cases. On behalf of the National Lawyers Guild, he co-authored an amicus brief in *Shelley v. Kramer*,⁶⁷ which achieved what he did not in *Hansberry* — the end of the legal enforceability of racially restrictive covenants. He co-authored a successful petitioned the Supreme Court for a writ of certiorari in *Dennis v. United States*, which arose from the activities of the communist-hunting House Committee on Un-American Activities.⁶⁸ He was also on the briefs in the lower courts and on the unsuccessful petitions for writs of certiorari in cases arising from the activities of the National Lawyers Guild during its defense of members of the Communist Party⁶⁹ and from a case finding Glen Hearst Taylor, a United States Senator, guilty of violating a local ordinance when he proposed to use the

⁶⁵ *Id.* at 149.

⁶⁶ *Id.* at 143-47.

⁶⁷ Motion for Leave to File and Brief for the National Bar Ass'n as Amicus Curiae, *Shelley v. Kraemer*, 334 U.S. 1 (1948) (Nos. 72, 87, 290, & 291).

⁶⁸ Petition for Writ of Certiorari to the United States Court of Appeals, District of Columbia Circuit, and Brief in Support Thereof, *Dennis v. United States*, 339 U.S. 162 (1950) (No. 14). Dickerson did not appear on the petitioner's principal brief, but then reappeared as a co-author on the reply. Petitioner's Reply Brief, *Dennis v. United States*, 339 U.S. 162 (1950) (No. 14). Dickerson also appeared as co-author on an *amicus* brief in a far more well-known companion case, in which he unsuccessfully sought rehearing from the Court's decision. *See* Petition for Leave to File and Memorandum of *Amici Curiae* in Support of Petition for Rehearing, 341 U.S. 491 (1951) (No. 336); *Dennis v. United States*, 342 U.S. 842 (1951).

⁶⁹ One of the cases arose out of a contempt citation issued against the lawyers defending Eugene Dennis for his efforts to build the Communist Party. *See United States v. Sacher*, 182 F.2d 416 (2d Cir. 1950), *cert. denied*, 341 U.S. 952 (1951); Petitioner's Brief, *Sacher v. United States*, 341 U.S. 952 (1951) (No. 201). Another involved a failed effort to obtain an injunction against a hearing at which the Attorney General proposed to list the National Lawyers Guild as a Communist organization. *See Nat'l Lawyers Guild v. Brownell*, 225 F.2d 552 (D.C. Cir. 1955), *cert. denied*, 351 U.S. 927 (1956),

“coloreds only” entrance at a Birmingham church in order to address an African-American gathering.⁷⁰ The first African-American elected to lead an integrated national bar organization, Dickerson served as president of the National Lawyers Guild from 1951 to 1954; he guided it through an especially difficult period in which the Attorney General accused it of being a subversive organization.⁷¹

Just as the litigation campaign to overturn *Plessy* reached its apotheosis in *Brown*, Dickerson left the law behind. In 1955 he stepped into the role as president of Supreme Liberty, serving until 1971 and again leading the venerable company back from the brink of disaster to financial stability.⁷² In 1971, when he retired from Supreme Liberty and also stepped down from the NAACP’s Board of Directors, he was eighty years old. He had become a businessman, a banker, and a civic leader — one of the very people that, according to Mack’s thesis, African-American civil-rights lawyers like Dickerson had tried to lift up in the years before World War II. By 1971, however, civil-rights lawyering had taken on a different cast.

II

Because Dickerson began his legal career just after World War I, was winding it down by

⁷⁰ *Taylor v. City of Birmingham*, 45 So.2d 53 (Ala. App.), *cert. denied*, 45 So.2d 60 (Ala.), *cert. denied*, 340 U.S. 832 (1950).

⁷¹ *Dickerson*, *supra* note 15, at 149-52. Dickerson was dogged throughout his later life by accusations that he was a communist. His most effective reply occurred at a hearing on his admission to the Chicago Bar Association. After indicating that he had amassed some property and wealth in his life, he remarked, “[I]f any one of you were to undertake to deprive me of my property, you would find out whether I am a communist.” *Id.* at 146.

⁷² *Id.* at 180-88; *Earl Dickerson*, *supra* note 43, at 205-11.

the end of World War II, and had essentially left the profession by the time that *Brown* was decided, he seems to present an ideal study of African-American civil-rights lawyering in the years before *Brown*. First, however, one crucial issue must be addressed: Whether Dickerson's legal practice supports the claim that he was a leading African-American civil-rights lawyer. A leading African-American lawyer, without doubt. But a leading *civil-rights* lawyer?

At first blush, the objection has force. Most of Dickerson's legal work for Supreme Liberty was routine and mundane; he spent hours in the meetings at which the Supreme Liberty's executive committee would decide, application by individual application, whether to approve mortgage requests.⁷³ The same might be said of his other legal work. In the 1920s and 1930s, Dickerson's lawyering for Supreme Liberty, the City and State, and private clients ran the gamut of civil work, with an occasional criminal matter thrown in. Judging by the reported decisions, he was a good lawyer, losing a few more cases than he won.⁷⁴ Aside from *Hansberry*,

⁷³ *Dickerson*, *supra* note 15, at 168. For instance, the minutes of the meetings at which mortgages at issue in *Hansberry* showed Dickerson in attendance. The minutes reflected that numerous potential mortgages were discussed, and voted on, by Supreme Liberty's executive board at these weekly meetings. See Defendants' Exhibits 8 & 9, *Lee v. Hansberry*, No. 37 C 6804 (Cook Cty. Cir. Ct.) (copies on file with author); Testimony of Harry Herbert Pace at 96-100, *id.* (Copy on file with author).

⁷⁴ A Westlaw search for "earl /2 dickerson" in the IL-CS-ALL file revealed a total of forty-nine citations, a few of which referred to another Earl Dickerson. Aside from *Hansberry v. Lee* and the other cases already mentioned, Dickerson was listed as counsel or co-counsel in thirty-four decisions in the Illinois Supreme Court or the Illinois appellate courts. Nearly all arose in his capacity as a government lawyer; a couple were matters from private practice, and a few involved Supreme Liberty. Counting only results of decisions, twelve were wins, twenty-one were losses, and one was a tie (a vacated judgment). But that record is somewhat deceptive. Some of the losses arose from multiple decisions in the same or related cases; some were on preliminary procedural or jurisdictional points; and his work for the City of Chicago, which principally involved fact-laden slip-and-falls in which the City had already lost at trial, padded the loss column significantly. Aside from *Hansberry* and his other cases in the Supreme Court, little in the reported decisions is noteworthy. The cases ranged from a couple of criminal matters to real estate to licensing or disbarment proceedings to tax matters. Perhaps the most interesting cases involved Dickerson's representation of the *Chicago Defender*, the venerable African-

none of the reported cases in which he appeared would today be regarded as a “civil rights” case. Indeed, even his best-known civil-rights case, *Hansberry*, was a push. Despite his efforts to use the case as the vehicle to invalidate racially restrictive covenants, Dickerson won the case on a procedural ground that turned out to be far more important to the law of class actions than to the civil-rights movement.⁷⁵ The ultimate victory on the issue of racially restrictive covenants went to Thurgood Marshall in *Shelley v. Kraemer*,⁷⁶ in which Dickerson’s only role was to file an amicus brief.⁷⁷

Moreover, even in *Hansberry*, Dickerson’s civil-rights credentials might be questioned. Stradford, not Dickerson, represented Carl and Nannie Hansberry, the home buyers whose

American newspaper, against libel charges, and his defense of the deacon of a Baptist deacon who was alleged to be taking steps to oust the pastor. *Cobbs v. Chicago Defender*, 31 N.E.2d 323 (Ill. 1941); *Coleman v. Swanson*, 11 N.E.2d 840 (Ill. App. 1937). The *Defender* and the churches were, of course, pillars of the African-American community.

One question is whether Dickerson might have been a better lawyer than his record — in other words, whether the color of his skin mattered to a white judiciary. It is impossible to know the answer, but most of the cases in which he was involved were not racially charged. Nor was Chicago known for any open hostility to its African-American bar. See Plotkin, *supra* note 37, at 158-60. My review of the trial transcripts in *Hansberry* reveal some overt racism by one judge who heard a preliminary motion, see Tidmarsh, *supra* note 19, at 244, but none by the trial judge, who was from downstate Illinois.

⁷⁵ On the significance of *Hansberry* to the law of class actions, see Tidmarsh, *supra* note 19, at 268-77; Kamp, *supra* note 37; Richard A. Nagareda, *Administering Adequacy in Class Representation*, 82 TEX. L. REV. 287 (2003).

⁷⁶ 334 U.S. 1 (1948). Although his legal argument is often criticized as risky and dangerous, the eloquence at oral argument of another African-American lawyer in *Shelley*, George Vaughn, is sometimes credited with helping to sway the Supreme Court. See William B. Rubenstein, *Divided We Litigate: Addressing Disputes among Group Members and Lawyers in Civil Rights Campaigns*, 106 YALE L.J. 1623, 1630 (1997).

⁷⁷ See *supra* note 67.

purchase tested the covenants' validity.⁷⁸ Dickerson appeared on behalf of Supreme Liberty and its president, Harry Herbert Pace. Supreme Liberty held the mortgage to the Hansberrys' house and had reasonable prospects of holding many more if the covenants could be abolished. Thus, it might be said, he was protecting his clients' financial interests as much as he was vindicating a principle of racial equality.

Nor can Dickerson's legal work in *Hansberry* be called inspired. It was adequate. His pleadings were not as insightful as Mollison's, and his examinations were not as sharp as Stradford's.⁷⁹ He misjudged the strength of the due process argument that the United States Supreme Court ultimately accepted, placing it well down the list of arguments in his "shotgun" briefs in the Illinois courts.⁸⁰ Unfortunately, no transcripts of his arguments in the Illinois Supreme Court or the United States Supreme Court survive, but the transcript of the trial reveals the same passionate bulldozer who refused to sugarcoat things on the City Council and FEPC, and who nettled easily at the thinly veiled racism of opposing counsel.

It is true that the civil-rights credential which Dickerson most lacked was a single-

⁷⁸ Tidmarsh, *supra* note 19, at 241; Plotkin, *supra* note 37, at 154. A significant portion of the litigation expenses in *Hansberry* were defrayed by the Hansberry Foundation, which Carl Hansberry had established in 1936 with an initial endowment of \$10,000 and with a mission to "enforce legal action in cases of racial discrimination." Plotkin, *supra* note 37, at 142. Much of the remainder came from Supreme Liberty, although some also came from donation. See *Iron Ring in Housing*, 47 THE CRISIS 205 (July 1940).

⁷⁹ My review of all the pleadings and trial transcripts in *Hansberry* suggest that Mollison's final pleading best developed the arguments that would be successful in *Hansberry*, *Shelley*, and even *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409 (1968). See Amended Answer of Israel Katz, *Lee v. Hansberry*, No. 37 C 6804 (Cook Cty. Cir. Ct.), *reprinted in* Abstract of Record at 56-64, *Hansberry v. Lee*, 311 U.S. 32 (1940) (No. 29); Amended Rejoinder of Israel Katz, *Lee v. Hansberry*, No. 37 C 6804 (Cook Cty. Cir. Ct.), *reprinted in* Abstract of Record at 65-71, *Hansberry v. Lee*, 311 U.S. 32 (1940) (No. 29)

⁸⁰ See Brief and Argument for Appellants at 75-88, *Lee v. Hansberry*, 24 N.E.2d 37 (Ill. 1939) (No. 25116).

minded commitment to litigation as the vehicle for changing the racial dynamic in interwar America. As Mack's thesis argues, however, such a commitment was not typical of African-American civil-rights lawyers during this period, and should not be regarded as an essential attribute of civil-rights lawyering in the years between the World Wars. Instead, Mack claims, the principal strategy of African-American lawyers after World War I was race uplift. Part of the uplift strategy was "legalism" (the assertion of legal claims to obtain rights of equal citizenship), but a much larger part was "voluntarism" (the bolstering of African-American businesses and civic groups).⁸¹ These two strands merged into a "cultural-institutional pluralism" in which African-American lawyers both built up segregated African-American institutions and worked to desegregate majority institutions. These seemingly inconsistent goals in fact had a common aim: In proving the worth and ability of African-American to run their own businesses and professions, lawyers could disprove the argument that African-Americans were unsuited to participate in majority institutions.⁸² Thus, segregation would crumble.

By the 1930s, Mack contends, the dominance of the voluntarist component of this strategy was threatened to a degree by a new strategy of public agitation to combat discrimination. But this new agitation was not yet the *Brown* strategy. It did not focus on public institutions like schools, but rather on discrimination in the private workplace; and it did not use the lawsuit as its tool, but rather collective actions such as boycotts and protests.⁸³ Not until 1938, which Mack identifies as a watershed year in the direction of African-American civil-rights lawyering, did the idea of using litigation to end discrimination in the private labor market

⁸¹ Mack, *supra* note 2, at 280-81.

⁸² *Id.* at 277-79.

⁸³ *Id.* at 308.

achieve a strategic footing equivalent to voluntarism and collective action; at the same time, the idea of using litigation to end discrimination in public institutions gained at least a tenuous foothold.⁸⁴ The first mile of the long road to *Brown* had finally been paved, even though it was not yet the clear intent of the civil-rights bar to travel in *Brown*'s direction.

On the surface, Dickerson's career fits Mack's thesis hand-in-glove. Dickerson's principal work as a young lawyer in the 1920s was helping to establish, expand, and keep Supreme Liberty afloat — seemingly a classic voluntarist undertaking. Although real estate remained a principal focus, Dickerson too was shifting his attention toward employment discrimination by the end of the 1930s; his work in the early 1940s as an alderman to end discrimination among bus drivers, as president of the Chicago Urban League to mobilize a nationwide protest against discriminatory employment practices among defense contractors,⁸⁵ and as a member of FEPC to end discrimination among these contractors suggests that his own understanding of the significance of equal rights in employment was growing alongside that of other civil-rights lawyers. Furthermore, Dickerson viewed political and economic advancement, not litigation, as the principal tool to improve the lives of African-Americans.⁸⁶ His switch to the Democratic Party resulted from his frustration with the way in which Republicans took the black vote for granted, and his desire to spur both parties to compete for the vote by delivering

⁸⁴ *Id.* at 343.

⁸⁵ *Dickerson, supra* note 15, at 54. Dickerson had already begun to agitate for fair employment opportunities in 1937, when he became vice president of the Urban League. *Id.* *Dickerson* points out that Dickerson's call for a national protest antedated the similar call by A. Philip Randolph by more than two months. Randolph's call for a national march is usually credited as the precipitating cause of Roosevelt's executive order establishing FEPC. Granger, *supra* note 56, at 414-15.

⁸⁶ *Dickerson, supra* note 15, at 104, 201, 208.

the legislative goods.⁸⁷ Even as he was battling *Hansberry* in the courts, he was chairing the South Side Legislative Committee, which aimed to end racial covenants and other private discriminatory practices through legislation.⁸⁸

By the end of the 1930s, litigation was emerging in Dickerson's mind as an option. He had a role in establishing the Legal Defense Fund.⁸⁹ And of course there was *Hansberry*, which, in comparison to restrictive-covenant cases litigated earlier in the 1930s, was defended with a ferocity that evidences an increased willingness to use courts to recognize a legal claim for non-discriminatory treatment in the private housing market.⁹⁰ This too is consistent with Mack's thesis; although *Hansberry* had commenced in 1937, a year before Mack's watershed, it was principally litigated from 1938 to 1940. Moreover, in *Hansberry*, Dickerson included testimony from an economist, a demographer, and a realtor in order to prove both the dire overcrowding among Chicago's African-Americans and the lack of harm to property values from African-American neighbors⁹¹ — a decidedly realist approach that squares with Mack's assertion about

⁸⁷ *Dickerson*, *supra* note 15, at 47, 49, 61-65.

⁸⁸ *Id.* at 64-65.

⁸⁹ *See supra* note 47 and accompanying text.

⁹⁰ Four prior cases had in one fashion or another raised the validity of the covenants. In the first three, the African-American tenants never retained their own counsel to fight the suits — even though the tenant in one of the cases, *Burke v. Kleiman*, 277 Ill. App. 519 (1934), was James Lowell Hall, a doctor who one of the leading figures in the African-American community. Indeed, the weakness of the defense in *Burke* created the inadequacy-of-representation issue that Dickerson rode to victory in *Hansberry*. The fourth case, *Plath v. DeLaunty*, 7 N.E.2d 637 (Ill. App. 1937), predated *Lee v. Hansberry* by a year; the African-American tenant was Carl Hansberry, and his lawyer was C. Francis Stradford. *Hansberry* was willing to fight the issue, but the court decided the case against him on another ground. *See Tidmarsh, supra* note 19, at 225-32.

⁹¹ Testimony of John P. Edelin, *supra* note 38; Testimony of Howard D. Gould, *supra* note 38; Testimony of Wallace R. Anthon, *Lee v. Hansberry*, No. 37 C 6804 (Cook Cty. Cir. Ct.)

legal realism's influence on African-American civil-rights lawyers in this era.⁹²

Despite these points of convergence, however, Dickerson's interwar career exposes some gaps in Mack's thesis. To an extent, these gaps result from Dickerson's atypicality — he was the only African-American lawyer of his day to be a legislator, a member of a presidential committee, and a litigator in the Supreme Court. But Dickerson's very prominence in the African-American bar requires that a thesis about civil-rights lawyering conform to the evidence of Dickerson's life.

The first gap concerns the nature and origin of voluntarism. Mack traces the origins of voluntarism as a cohesive legal strategy to African-American lawyers who practiced law before World War I. In Mack's account, the idea of voluntarism was well understood by 1920; at various points, he refers to it as a "strategy"⁹³ or a "mission,"⁹⁴ implying that a blueprint for the professional work of African-American civil-rights lawyers existed and needed only to be followed by individual members of the bar. But the evidence for such a top-down plan is thin at least for the first decade after World War I. Mack draws some of his evidence about the voluntarist strategy from speeches given at the National Bar Association, which could have served as a central strategic clearinghouse; but the NBA was not founded until 1925, and many of the speeches Mack cites come from the late 1920s or early 1930s.⁹⁵ Houston, on whose work

(copy on file with author); Testimony of Fenton W. Harsh, Jr., *Lee v. Hansberry*, No. 37 C 6804 (Cook Cty. Cir. Ct.) (copy on file with author).

⁹² *See supra* notes 10, 13 and accompanying text.

⁹³ Mack, *supra* note 2, at 287, 294-95.

⁹⁴ *Id.* at 287.

⁹⁵ *Id.* at 282, 284.

Mack also draws, did not graduate from Harvard Law School until 1922; his well-known tract on the state of the African-American bar was not published until 1928; and his implementation of a business-oriented curriculum at Howard Law School, on which Mack relies to help prove the emergence of a voluntarist strategy, occurred in the early 1930s.⁹⁶ Mack does not point to any African-American lawyer of the stature of a Houston or a Dickerson nationally orchestrating a voluntarist strategy in the early 1920s. Indeed, not until 1930 is the evidence strong enough to suggest that voluntarism had developed into a nationally discussed, top-down strategy for the civil-rights bar, and by then voluntarism was, as Mack describes, already on the wane.⁹⁷

Dickerson's early career highlights the difficulty of connecting African-American lawyering in the early 1920s to a voluntarist strategy. Dickerson was the first African-American to graduate from the University of Chicago Law School, so he had no internal law-school network from which to learn about a voluntarist strategy or how to implement it. Nor were there any external networks into which he appears to have tapped. Dickerson was a member of Kappa Alpha Psi, the first fraternity of African-American college graduates whose alumni chapter he helped found in 1923,⁹⁸ but there is no suggestion that this fraternity served as a vehicle for disseminating civil-rights lawyering strategies. Dickerson would not necessarily have come into contact with any voluntarist strategy in his legal practice; he worked for the City of Chicago in an integrated law office, and in solo practice. Although Dickerson briefly formed a partnership

⁹⁶ *Id.* at 285-87.

⁹⁷ *Id.* at 303, 309. *See also* DRAKE & CAYTON, *supra* note 20, at 430-33, 436 (suggesting that the idea that African-Americans in Chicago should support African-American businesses — the soul of voluntarism — was “revivified” after some dormancy when the Depression hit in 1929).

⁹⁸ *Dickerson*, *supra* note 15, at 58-60.

with Edward Morris, then the dean of Chicago's black lawyers, in the mid-1920s, he and Morris were never close, nor is there any indication that Morris was the conduit for a strategy percolating within the entire African-American bar.⁹⁹ Dickerson's signal achievement to advance race uplift — the one which Mack cites¹⁰⁰ — was the incorporation of Liberty Life. But that occurred in 1920, and was the result of happenstance and available opportunity (recall that Dickerson had first sought employment in white firms before falling in with Liberty Life) rather than design.

Given his prominence, Dickerson might have been expected to assist in the development and implementation of a voluntarist strategy, but nothing in his biography or his surviving papers indicates that he did so in the early 1920s.¹⁰¹ Drake and Cayton's famous sociological study of Chicago, *Black Metropolis*, lays the voluntarist approach at the feet of African-American clergy and business leaders, not lawyers.¹⁰² *Dickerson* makes no mention of Dickerson's knowledge of a race-uplift strategy during the early years of his career, a fact which may not be surprising given the mixed meanings and non-strategic uses of the term for African Americans.¹⁰³ At most,

⁹⁹ Morris invited Dickerson into a partnership when Dickerson cleverly bested him in a probate matter. *Dickerson, supra* note 15, at 45-46. Morris receives no mention in Mack's article. Nor is it likely that Morris was a voluntarist in the sense that Mack describes. Mack associates voluntarism with Booker T. Washington and the Tuskegee Institute, *see infra* note 105 and accompanying text, but Morris was an "inveterate Tuskegee-hater." DAVID LEVERING LEWIS, *W.E.B. DUBOIS: BIOGRAPHY OF A RACE 1868 – 1919* 318 (1993).

¹⁰⁰ *See Mack, supra* note 2, at 288.

¹⁰¹ Unfortunately, few of Dickerson's papers have survived. The earliest papers in his collection date from 1935. *See Papers of Earl Dickerson* (on file with Chicago Historical Soc'y, Chicago Public Library, Chicago, Ill.).

¹⁰² DRAKE & CAYTON, *supra* note 20, at 430-37.

¹⁰³ *See KEVIN K. GAINES, UPLIFTING THE RACE 1-20* (1996). Gaines argues that the meaning of race uplift has differed across periods and between groups. One popular meaning

Dickerson suggests that Dickerson grew over time toward a complex view of race uplift — but one that he believed he was implementing principally as a businessman rather than as a lawyer.¹⁰⁴ One inference that can be drawn from the match-up between Dickerson’s early career and Mack’s thesis is that the dissemination of a voluntarist strategy to rising African-American lawyers like Dickerson must have occurred, and these lawyers must have consciously followed the plan. But another inference is equally possible — that African-American lawyers like Dickerson were bound by their practical realities and took the work that came in the door. That some of this work involved institution-building in the African-American communities is unsurprising: After all, who else would employ African-American lawyers and be able to pay their fees? On this view, voluntarism is useful only as a post-hoc description of what African-American lawyers like Dickerson did in a world with most legal opportunities closed to them. It was not initially an ideal that motivated their actions, and thus was not a part of a grand strategy of race uplift.

One way to choose between these contrasting views — voluntarism as a bold strategy of racial improvement or voluntarism as a sad reflection of racial suppression — is to bring civil-rights lawyering into contact with larger intellectual and political currents in African-American life during the early twentieth century. Put differently, even if there is no specific evidence that lawyers were acting according to a strategy of voluntarism crafted by the African-American bar, evidence that institution building was a priority among the African-American professional and

dating from “the antislavery folk religion of the slaves, speaks of a personal or collective spiritual — and potentially — transcendence for worldly oppression and misery.” *Id.* at 1. Gaines notes another connotation of uplift among black elites came to mean “an emphasis on self-help, racial solidarity, temperance, thrift, chastity, social purity, patriarchal authority, and the accumulation of wealth.” *Id.* at 2.

¹⁰⁴ *Dickerson*, *supra* note 15, at 174-75.

intellectual elite in the United States might lead to an inference that lawyers, undoubtedly attuned to such trends, understood their supporting roles.

Mack suggests that voluntarism's strongest proponent was Booker T. Washington.¹⁰⁵ But Washington seems an unlikely wellspring for a civil-rights lawyering strategy after World War I.¹⁰⁶ To begin with, Washington's influence within the African-American community had fallen significantly by the time of his death in 1915.¹⁰⁷ Moreover, Washington's view of race relations, forged from Southern agrarian conditions, was too modest to support the type of institution building in which Northern African-American lawyers were supposedly engaging.¹⁰⁸ In his famous Atlanta Compromise speech, Washington, the Great Accommodator, argued that, for the time being, African-Americans needed to forego political power, civil rights, and higher education in business and the liberal arts; in return, they should be allowed to make gradual progress in business and agriculture, prove their merit through diligence and moral character, gain economic power, and eventually earn equal rights.¹⁰⁹ He was one of the forces behind the Urban League, which perpetuated the Bookerite philosophy of sacrificing political rights for a

¹⁰⁵ See Mack, *supra* note 2, at 279-80; see *id.* at 292 (stating that Charles Hamilton Houston's 1928 report on African-American lawyers "would have made Booker T. Washington proud").

¹⁰⁶ Mack does not contend that Booker T. Washington was the original source of race uplift or its voluntarist branch; indeed, he suggests that the tradition of uplift stretches back as far as John Mercer Langston, an African-American lawyer at the time of the Civil War. *Id.* at 273-74. In examining Washington's views, I explore whether his influence underlay voluntarism; if not, one significant source of voluntarism as a legal strategy is removed.

¹⁰⁷ LEWIS, *supra* note 99, at 323-24, 408-34, 501-03.

¹⁰⁸ *Id.* at 290, 502.

¹⁰⁹ *Id.* at 174-75.

limited measure of economic stability.¹¹⁰ Some features that Mack ascribes to voluntarism, especially the anti-legalist acceptance of segregation and the focus on building economic power, find reflection in Washington's words. But Washington was not an advocate of a separate African-American society, complete with its own professional elite, universities, banks, life insurance companies, and the like.

In other ways, voluntarism seems more closely associated with the populist Marcus Garvey and the sociologist W.E.B. DuBois. Garvey flashed briefly but brilliantly in the 1920s with his call for racial separatism, his pan-Africanism, and his efforts to establish several African-American companies. But his influence in America, especially among better educated African-Americans, was neither strong nor enduring;¹¹¹ nor do the dates of his influence match up well with supposed rise of a voluntarist strategy. DuBois, the more significant figure, competed with Washington for supremacy over the direction of the African-American future in the early part of the twentieth century. The traditional story of the opposition between Washington and DuBois focuses on Washington's call for accommodation as opposed to DuBois's call for a more militant activism against racial injustice. DuBois was a leading force behind the creation of an integrated NAACP, the Urban League's rival which agitated more directly for integration and against discrimination. He focused more on political than economic rights, and he argued for a classic liberal college education— an education that Washington

¹¹⁰ *Id.* at 273, 467, 488, 513.

¹¹¹ For instance, Harry Herbert Pace, who became president of Supreme Liberty in 1929 and was as much of a believer as anyone in creating African-American businesses to serve the needs of the African-American communities in the South and the North, *see infra* note 142-45 and accompanying text, virulently opposed Garvey's movement in the 1920s. *See* Plotkin, *supra* note 37, at 150. So did W.E.B. DuBois. *See* Gerald C. Hynes, *A Biographical Sketch of W.E.B. DuBois*, <http://www.duboislrc.com/html/DuBoisBio.html> (visited Oct. 6, 2006).

demeaned in favor of industrial and technical arts — for the “talented tenth” of African-Americans who would serve as the leaders of African-American communities.¹¹² He and Washington cooperated on the formation of the National Negro Business League, with DuBois supplying the data and Washington the organizing impetus; but DuBois was too suspicious of commercialism’s potential to dominate intellectual achievement for him to be regarded as a founder of voluntarism.¹¹³ Nonetheless, voluntarism seems to have important links to DuBois, who refused to accept that the fate of African-Americans was to work in menial jobs, and who apprehended more clearly the direction of African-American life in the industrialized North.¹¹⁴ DuBois’s writing often glorified African-Americans’ separate racial identity and their destiny.¹¹⁵ By 1934, DuBois turned decidedly away from integration and toward the creation of a separate African-American economy and infrastructure — but that turn was far too late to label him as the root of voluntarism.¹¹⁶

The lack of a tight connection between Mack’s voluntarism and the strategies of either Washington or DuBois hurts the claim that voluntarism was part of a larger civil-rights strategy. On this point, Dickerson’s career also undercuts the claim. Dickerson was a paradox, with feet in both camps. On the one hand, he had worked for Washington for one academic year, from 1913 to 1914. On the other hand, while on the NAACP’s Board in the late 1940s, Dickerson

¹¹² See, e.g., W.E.B. DuBois, *THE SOULS OF BLACK FOLK* (1903).

¹¹³ Lewis, *supra* note 99, at 220-21, 290-91.

¹¹⁴ *Id.* at 502.

¹¹⁵ *Id.* at 275-77.

¹¹⁶ W.E.B. DuBois, *THE CRISIS* (date, 1934).

worked to bring DuBois back to the NAACP.¹¹⁷ Dickerson became a member of the Chicago branch of the Washington-inspired Urban League in the early 1920s and served as its president between 1939 and 1955.¹¹⁸ But Dickerson also joined the Chicago branch of the DuBois-inspired NAACP in the 1920s, became an officer of the branch in the 1930s, and became a member of its national Board of Directors in the 1940s.¹¹⁹ The interviews with Dickerson that form the backbone of Blakely’s biography suggest that Dickerson respected Washington.¹²⁰ In those same interviews, Dickerson expressed a lifelong admiration for DuBois.¹²¹ Dickerson’s work at Supreme Liberty to create economic opportunities for African-Americans echoes Washington, but his lifelong love of liberal education, his early efforts to have African-Americans exercise their right to vote, his blunt intolerance of discrimination, his efforts to cross color lines, and his aristocratic, “Talented Tenth” view of leadership suggest the influence of DuBois. DuBois also exercised an important if indirect influence on Dickerson. The president of Supreme Liberty after the 1929 merger — in other words, Dickerson’s boss — was Harry Herbert Pace, who had been a pupil, business partner, and academic colleague of DuBois.¹²² In the end, if we were to tote up the intellectual contributions to Dickerson’s world view, DuBois

¹¹⁷ *Dickerson*, *supra* note 15, at 161.

¹¹⁸ *Id.* at 152-57.

¹¹⁹ *Id.* at 51-53, 118, 157-58.

¹²⁰ *Id.* at 23.

¹²¹ *Id.* at 8, 161.

¹²² For a short biography of Pace, see *Harry Herbert Pace*, *supra* note 43; *see also* Tidmarsh, *supra* note 19, at 234-36, 264 (providing biographical highlights). In 1904 Pace and DuBois purchased a Memphis printing press whose purpose was to break Washington’s stranglehold on the newspapers that helped to shape African-American opinion. *See* LEWIS, *supra* note 99, at 217, 324-25.

would have the edge over Washington; and to the extent that these contributions influenced Dickerson's professional choices and career, DuBois was the greater influence.

If Mack is correct that voluntarism is a strategy most associated with Washington, there is reason to doubt that Dickerson saw himself as an implement of that strategy — and, given Dickerson's prominence, there is also some reason to doubt that voluntarism was a strategy affirmatively adopted and pursued by other civil-rights lawyers in the 1920s. Voluntarism might describe to an extent what Dickerson was doing, but it is not likely that it is what he wanted to be doing. That fact exposes the second difficulty in Mack's thesis. Because he helped build up the most successful African-American enterprise established between the World Wars, Dickerson seems to be the classic voluntarist. In his heart, however, he was anything but that. He was an integrationist — not in twenty or thirty years after a strong separate African-American community had been established, but now. Near the end of his life, he summarized his life's work as follows: "For over fifty years I have been dedicated to the ultimate attainment of an integrated society as the means to solving this country's racial dilemma."¹²³

Although it is always important to take care to distinguish retrospective rose-colored reflections from the evidence of the actual events in a person's life, the evidence bolsters his claim. He attended Northwestern University, the University of Illinois, and the University of Chicago, rather than historically black institutions. As a government lawyer, he worked in integrated legal practices in the 1920s and 1930s. He sought to break down color lines throughout his professional and personal life. He nearly refused his commission in World War I

¹²³ INGHAM & FELDMAN, *supra* note 43, at 218. Dickerson continued this interview with the more doubtful observation that "for the past few years now, I have seriously questioned whether integration, per se, is the appropriate answer." *Id.*

because of the lack of integrated fighting forces. He tried, unsuccessfully, to cross the color line among prominent Chicago law firms when he graduated. In 1945 he was in the first group of African-American lawyers to gain admission to the Chicago Bar Association, and he worked behind the scenes to secure admission of the first African-American to the Illinois Bar Association.¹²⁴ He helped to found the National Lawyers Guild, and when he became its president in 1951, he became the first African-American to lead an integrated national bar organization. In 1947, a year before *Shelley v. Kraemer*, Dickerson became the first African-American to live in Hyde Park, which was also bound by racially restrictive covenants. He was willing to become another Carl Hansberry; but his neighbors, rather than fighting, chose to accept him.¹²⁵ He also sued Chicago's prestigious Palmer House for its failure to serve him; and he became the first African-American to eat in its restaurant (paying his bill with the proceeds of the judgment).¹²⁶ Likewise, he became the first African-American to stay at the Waldorf Astoria in New York¹²⁷ and the Mayflower in Washington, D.C.¹²⁸ In the 1950s he became the first African-American to sit on the board of a white-owned bank in Chicago.¹²⁹

Even his career as general counsel for Supreme Liberty is less clearly voluntarist than it

¹²⁴ *Dickerson*, *supra* note 15, at 51. Dickerson himself gained admission soon after. *Id.* at 209.

¹²⁵ *Dickerson*, *supra* note 15, at 108, 195-98.

¹²⁶ *Dickerson*, *supra* note 15, at 163-64.

¹²⁷ *Id.* at 164-65.

¹²⁸ *Id.* at 165. This claim is not substantiated in the book, and appears to rely on Dickerson's own statements.

¹²⁹ *Id.* at 184.

might initially appear. Critical to Supreme Liberty's health was its mortgage business.¹³⁰ But mortgage lending wasn't just a business. In many northern cities in the 1920s and 1930s, the principal African-American concern was not school segregation; far more significant were employment discrimination and impossibly overcrowded housing conditions, which had resulted in large measure from restrictive covenants.¹³¹ Home ownership had a particular significance for African-Americans; Congress had recognized the right to own property as a civil right almost seventy-five years before *Brown*.¹³² So Supreme Liberty's mortgage business mixed profit and civil rights in equal and indistinguishable measures.¹³³ In particular, "invading" white neighborhoods to break down racial covenants made good business sense, but it also had a radical edge. Dickerson had been trying to undermine restrictive covenants almost from their inception in the 1920s.¹³⁴ In a newspaper article in 1938, Dickerson linked racially restrictive covenants with "jim crowism, segregation, police terror, and persecution against the Negro people."¹³⁵ Work to end the covenants was work to end deplorable living conditions, as well as work to end racism. Obliquely referring to Dickerson, one observer remarked:

The specific invasion techniques . . . , like sponsorship of white purchasers and formation

¹³⁰ Plotkin, *supra* note 37, at 148.

¹³¹ *Id.* at 95-100; see DRAKE & CAYTON, *supra* note 20, at 111-15 (mentioning jobs and housing, but not school segregation, as critical areas in which the color line "is tightly drawn").

¹³² Act of Apr. 9, 1866, ch. 31, § 1, 14 Stat. 27 (1868) (codified as amended at 42 U.S.C. § 1982 (2001)).

¹³³ See Dickerson, *supra* note 15, at 96, 208 (noting Dickerson's view that Supreme Liberty had both a financial and a social mission).

¹³⁴ *Id.* at 96.

¹³⁵ *Id.* at 65.

of various trusteeships, are associated with a Negro life insurance company in all except one instance. The invasion “know-how” may thus be said to have been developed to its greatest level of efficiency by legal counsel for the Negro life insurance company.¹³⁶

Dickerson was not naive. He knew that the likely short-term consequence of busting racial covenants was white flight rather than integration.¹³⁷ But the long-term ideal of an integrated society was not possible as long as the covenants remained in force. So was his work at Supreme Liberty an attempt, in a voluntarist way, to build up an African-American business, or was it an attempt to achieve an integrated society? Dickerson’s linkage of restrictive covenants with other forms of segregation suggests that voluntarism was never Dickerson’s preferred strategy. But neither was making legalist claims for equality that were enforceable through litigation. So if neither the “legal liberal,” the revisionist, nor Mack’s thesis can explain Dickerson’s philosophy of civil-rights lawyering, what might?

III

The first key in unlocking Dickerson’s motivation is his professionalism. He was, first and foremost, a lawyer. The legal liberal and revisionist accounts, as well as Mack’s theory, accept the account of civil-rights lawyers as “social engineers” trying to craft strategies to

¹³⁶ Egbert Frederick Schietinger, “Real Estate Transfers During Negro Invasion: A Case Study,” 49-50 (M.A. Thesis, University of Chicago, June 1946), quoted in Plotkin, *supra* note 37, at 107.

¹³⁷ For instance, the plaintiffs in *Hansberry v. Lee* left no doubt about the likelihood that the Hansberrys’ presence in their neighborhood would lead to white flight. in Brief and Argument for Appellees, at 110-12, *Lee v. Hansberry*, 24 N.E.2d 37 (Ill. 1939) (No. 25116). This in fact occurred after *Hansberry* was decided. DRAKE & CAYTON, *supra* note 20, at 187.

overcome racism in America. The difference between Mack's account and the others is only about what interwar civil-rights lawyers were trying to engineer — the overthrow of *Plessy* and other forms of segregation in public institutions (the legal liberal and revisionist account) or the building of separate African-American institutions whose success would eventually undermine segregation (Mack's voluntarist account). In both accounts, the lawyers sat at the pinnacle of the African-American social order; they controlled the direction of civil-rights reform. Dickerson's career suggests that African-American lawyers didn't necessarily set the agenda. They were professionals trying to earn the respect of the bar.¹³⁸ In their day, that meant that their principal loyalty was to their clients' interests, not to larger causes.

Seeing Dickerson first as a professional and second as a civil-rights strategist explains Dickerson's eclectic legal practice, which included far fewer civil-rights cases than routine tax and financial cases, and less litigation than transactional work. Dickerson's sense of professional responsibility also explains his tactical decisions in *Hansberry*. Dickerson wanted to hit a home run — to have the court declare racially restrictive covenants either unconstitutional or void as against public policy. But the particular covenant involved in the Hansberrys' neighborhood had a *sui generis* flaw — it had arguably not been signed by enough residents to be enforceable — that would render the covenant in *Hansberry* invalid but leave covenants elsewhere still standing. As a good lawyer should (but not necessarily as a good cause lawyer would), Dickerson made both arguments. The latter argument led him to the then-

¹³⁸ Indeed, Charles Hamilton Houston's famous 1928 paper on the African-American bar urged black lawyers to adhere scrupulously to professional standards. Mack, *supra* note 2, at 284-85. See also *id.* at 296-97 (recounting William Henry Hastie's warm reception in a Southern courtroom when he demonstrated exceptional professional competence); Dickerson, *supra* note 15, at 218 (noting Dickerson's legendary professional courtesy and civility).

uncharted intersection of the law of class actions and the due process clause, which was the ground on which the Supreme Court rendered its decision. Dickerson's lawyerly approach also explains his ethically dodgy willingness to trumpet the trial court's erroneous factual finding about the covenant's unenforceability in his Supreme Court brief, when he knew that finding to be untrue but when he also knew that the finding might help him to win the case on the due-process ground that made his goal of invalidating all racial covenants unattainable.¹³⁹ As a lawyer, Dickerson became the father of the modern class action; but as a civil-rights litigator, he struck out.

If Dickerson's career is representative of others at the bar, civil rights seeped into the interstices of ordinary legal work; they were not a mainstay. The principal focus of the African-American bar was to lift itself up — to create a bar that was the equal of the white bar. One of the striking features of the *Hansberry* dream team is that they were a new generation of African-American lawyers, all of whom had graduated from predominantly white law schools — Dickerson, Mollison, Moore, and Gibson from the University of Chicago, and Stradford from Columbia.¹⁴⁰ Dickerson's status as the “dean of Chicago's black lawyers” seemed to derive more from his peers' recognition of the quality of his work in the courtroom and the law office than from the civil-rights positions he staked out. By the middle to late 1920s, as their practices became established and they created organizations like the National Bar Association, African-American lawyers could start to turn their attention to larger questions of civil rights. But, to the extent that Dickerson's early career provides the evidence, it is a mistake to see the African-American bar during these years as the engineers of a general strategy of race uplift. Dickerson

¹³⁹ See Tidmarsh, *supra* note 19, at 243-56.

¹⁴⁰ See Plotkin, *supra* note 37, at 154-58.

was as fortunate as anyone to be in a position both to do well and to do good. Nonetheless, he was less a social engineer than a dutiful draftsman.

This fact is especially true after 1929, when Harry Herbert Pace became president of Supreme Liberty. A consummate entrepreneur, Pace was a gigantic figure in the African-American community, much larger than Dickerson was at the time. (It is an unfortunate weakness of the biography that *Dickerson* fails to explore the relationship between these two iconic figures; Pace rates only passing mentions.¹⁴¹) Pace was a “race man”; he had made a career of establishing African-American businesses to serve the African-American community.¹⁴² If anyone embodied the voluntarist spirit, it was Pace, not Dickerson. To the extent that Dickerson’s work at Supreme Liberty supplies evidence for the existence of a voluntarist strategy, it is important to distinguish between Dickerson’s personal views and those of the client he represented.

That distinction holds the key to the second half of understanding Dickerson’s motivation. If my view of Dickerson is correct, one of the puzzles in his professional life is how a man of Dickerson’s notorious impatience could have worked so long for Pace,¹⁴³ whose racial agenda seemed to diverge from Dickerson’s. The answer is that, in an important sense, Dickerson was not precisely an integrationist. Dickerson believed that every person should be

¹⁴¹ See Dickerson, *supra* note 15, at 96, 101, 171-73, 177, 187.

¹⁴² Among other businesses, Pace had established a printing business with W.E.B. DuBois; the Pace and Handy Company with W.C. Handy, the father of the blues; Black Swan Records, the first African-American record label; and the largest of the three life-insurance companies that merged into Supreme Liberty. See *supra* note 121 and accompanying text; *Harry Herbert Pace*, *supra* note 43; Tidmarsh, *supra* note 19.

¹⁴³ Dickerson worked for Pace for fourteen years, from 1929 until Pace’s sudden death in 1943. See *Harry Herbert Pace*, *supra* note 43.

able to choose where to work and live — hence his passion to demolish discriminatory barriers in both public and private life. In a world without barriers, some people would choose an integrated environment. But Dickerson understood that other people would choose a segregated environment.¹⁴⁴ Dickerson’s personal preference, which was often stymied for the first fifty years of his life, was to live and work in an integrated environment. At the same time, he cherished a separate and vibrant black culture, which he worried that integration might destroy.¹⁴⁵ What he ultimately saw himself vindicating by his actions was not a right of equality, but a right of autonomy — a right to live the life a person chose, free of social constructs that irrationally constrained opportunity. As one of Dickerson’s contemporaries summed him up:

There was a certain autonomy of spirit about Mr. Dickerson. He could not have been both a successful businessman and an effective radical without a great self-confidence, without this freedom of spirit, without that awareness that in a certain sense complete freedom comes from within. He had that quality to an unusual degree.¹⁴⁶

As Dickerson said near the end of his life: “Nobody can encroach on my dignity. I will not tolerate it.”¹⁴⁷

In this philosophy lies the reconciliation of Earl Dickerson’s paradoxical tendencies — respecting Washington while admiring DuBois, a leader of the Urban League and the NAACP, a litigator and a legislator, a lawyer and a businessman. For those, like Pace, who chose the way

¹⁴⁴ *Dickerson*, *supra* note 15, at xix, 208, 210.

¹⁴⁵ *Id.* at 210.

¹⁴⁶ Interview with Sterling Stuckey (Sep. 14, 1984), quoted in *Dickerson*, *supra* note 15, at 218.

¹⁴⁷ *A Supreme Life: Earl Dickerson at 92*, READER, at A2 (Jan. 13, 1984).

of separatism, who wished to build up a culturally and institutionally plural society, Dickerson was willing to lend his talents and energy. For those who wished to break down color lines in housing, employment, professional associations, and schools, Dickerson was willing to be their voice. He wished to be free to live his life as he wanted, and he wished the same freedom for others.

IV

Dickerson tells the story of one of the forgotten lions of the pre-*Brown* civil-rights era. It has a particular focus on the man, rather than on the movement. The final judgment on Dickerson the man is bittersweet. He was great in his time, but he wanted to be, and could have been, greater. His victory in *Hansberry* made him the father of the modern class action, the device on which so much civil-rights lawyering has depended;¹⁴⁸ yet he enjoyed no triumphal achievement that keeps his name on the tongues of the present generation of civil-rights lawyers. His impatient intolerance of injustice gave him a prophetic quality, but also led him down the path of political suicide.

Viewed through the different lens of the civil-rights movement, *Dickerson* lends support to Mack's central claim — that in the years before World War II, African-American civil-rights lawyers had not yet adopted a litigation strategy aimed at ending segregation in public institutions. As Dickerson's career shows, the goals of the African-American bar were diffuse, and the means African-American civil-rights lawyers used to accomplish those goals had not yet

¹⁴⁸ See FED. R. CIV. P. 23(b)(2) (commonly known as the “civil rights class action”); CHARLES ALAN WRIGHT ET AL., FEDERAL PRACTICE & PROCEDURE § 1775-76 (2005).

concentrated on the courtroom. At the same time, *Dickerson* calls for refinements of Mack's treatment. Mack suggests that the African-American civil-rights bar initially adopted a two-prong strategy of voluntarist separation and legalist claims for integration, and that the key to reconciling these seemingly contrary impulses lies in the idea of cultural-institutional pluralism. Dickerson's career during these years suggests that voluntarism was less an affirmative strategy adopted by the civil-rights bar than an acknowledgment of the reality that African-American lawyers wishing to ply their trade were hemmed in by the same majority institutions as their clients. It also suggests the sources of the voluntarist strategy might lie more in the African-American business community than in its legal community. Finally, *Dickerson* suggests that Dickerson's motivation did not arise from the complex idea of a cultural-institutional pluralist group identity, but from the basic human intuition of autonomy — of the worth, the dignity, and the right of every person to choose how and with whom to live.

Mack might still be correct in the main, and Dickerson might be an atypical representative of the interwar African-American civil-rights bar. But Mack's account does not precisely capture the driving passion of one of the bar's leading figures. The subtitle of Dickerson's biography — *A Voice for Freedom and Equality* — puts Dickerson's beliefs in their proper order.