

1985

Book Review: Journey from Jim Crow: The
Desegregation of Southern Transit. by Catherine A.
Barnes.

J. Morgan Kousser

Follow this and additional works at: <https://scholarship.law.umn.edu/concomm>



Part of the [Law Commons](#)

Recommended Citation

Kousser, J. Morgan, "Book Review: Journey from Jim Crow: The Desegregation of Southern Transit. by Catherine A. Barnes." (1985).
Constitutional Commentary. 420.
<https://scholarship.law.umn.edu/concomm/420>

This Article is brought to you for free and open access by the University of Minnesota Law School. It has been accepted for inclusion in Constitutional Commentary collection by an authorized administrator of the Scholarship Repository. For more information, please contact lenzx009@umn.edu.

JOURNEY FROM JIM CROW: THE DESEGREGATION OF SOUTHERN TRANSIT. By Catherine A. Barnes.¹ New York: Columbia University Press. 1983. Pp. xi, 313. \$25.00.

*J. Morgan Kousser*²

In 1867, when New Orleans blacks protested the segregation practices of private streetcar companies by boarding white-only horse cars, the military Reconstruction commander in that city ordered the cars integrated. In 1887, the newly established Interstate Commerce Commission harshly condemned the unequal facilities for blacks on southern railroads. In 1942, a black soldier who sat in a white-only section of a bus in Beaumont, Texas, was arrested, then beaten and shot by policemen. In 1955, when civil rights activist Rosa Parks refused to move from a white seat in a Montgomery, Alabama bus, she started a massive boycott that brought Martin Luther King, Jr. to international prominence. In 1962, a sixty-one-year old white "freedom rider" suffered permanent brain damage after being beaten by white counter-protesters on an interstate bus in Anniston, Alabama. Yet in 1964, when Congress finally repassed the 1875 Civil Rights Act rule against segregation in public transit, the end of this most symbolic facet of the Jim Crow system received little praise from the civil rights movement and little opposition from the white South. These incidents and scores of others, legal and extralegal, are treated in this first comprehensive analysis of the history of segregated public transit in the South. Catherine Barnes's pithy, understated book is a solid combination of legal and social history. It should be read by anyone interested in the twisted path of race relations in America.

The collective memory is neither long nor deep. Social commentators, not to mention students, black as well as white, often believe that the struggle against segregation was philosophically and strategically uncomplicated and rather brief, and that complexities and real difficulties arose only when the battles for racial

1. Head, Manuscripts Dept., William H. Allen, Bookseller, Philadelphia.

2. Professor of History and Social Science, California Institute of Technology; Harmsworth Professor of American History, Oxford University, 1984-85.

equality moved north and adopted such remedies as busing and affirmative action. Barnes shows the fallacy of at least the first half of this view. Even though the fourteenth amendment clearly barred government-enforced racial inequities, even though common law rules had arguably outlawed private discrimination in places of public accommodation well before 1868, even though segregated facilities were always manifestly unequal, the struggle against them lasted nearly a century after the Civil War. If one begins (as Barnes, largely confining herself to the South, does not) with the protests against Jim Crow railroads in Massachusetts in 1842, the effort lasted for 122 years. Straightforward, comprehensive laws and seemingly binding legal decisions were repeatedly sidestepped or evaded, although eventually they were effective. The same arguments, the same strategies, the same boycotts, suits, lobbying, petitions, marches, sit-ins, and ride-ins had to be employed over and over again to accomplish what now seem to us to be patently fair outcomes. The struggle to force Americans to put their egalitarian creed into practice has been nasty and brutish, but not short.

Lending a good deal of support to C. Vann Woodward's "Jim Crow thesis" that rigid segregation did not arise immediately after the Civil War, but only after about 1890, Barnes finds that Reconstruction era practices in the South "developed a mixed and inconsistent pattern in public transportation."³ Three southern states required transit segregation by law in 1865-66. In retaliation, blacks boycotted and brought suits, several of which were successful. After their enfranchisement, they used their political power to force through public accommodations laws in seven southern states and, in 1875, a national civil rights statute. Even before the Supreme Court invalidated the national law in 1883, most of the Deep South segregated by custom, while the patterns in the Carolinas and the upper South were inconsistent. Only after 1887 were mandatory Jim Crow provisions passed in most southern states, and it was only subsequent to that date that segregation became nearly absolute in the South. Even then, as August Meier and Elliott Rudwick noted years ago, black boycotts sometimes delayed the imposition of segregation regulations. On these matters, Barnes summarizes past scholarship succinctly.

Black legal defeats in the pre-1954 fight against segregation are no doubt better known, but Barnes usefully catalogues the not uncommon partial victories as well. The first appointees to the

3. C. BARNES, *JOURNEY FROM JIM CROW: THE DESEGREGATION OF SOUTHERN TRANSIT* 4 (1983).

Interstate Commerce Commission sought to guarantee equal interstate facilities, although they failed to bar segregated ones per se. The Supreme Court, in the 1914 *McCabe*⁴ decision, strongly seconded the ICC's tough rhetoric, but its decision had no tangible effect. From 1900 to 1920, however, the ICC backed down, accepting the railroads' patently fraudulent contentions that they were providing equal although separate accommodations for black passengers in the South. As earlier legal precedents were circumvented and southern segregation practices hardened, blacks ceased to challenge them. The replacement of sporadic local efforts by a potential national campaign coordinated by the NAACP produced few results, because that organization before the 1950's devoted its limited resources to other, less symbolic discriminatory practices.

In 1937, Arthur Mitchell, the first black ever elected to Congress as a Democrat, was Jim Crowed on a Rock Island train in Arkansas. The ICC rejected his \$50,000 damage suit in a split decision that ignored commission precedents. Mitchell, joined by the Roosevelt administration, appealed to the Supreme Court and won a unanimous 1941 decision. Ruling that separate really had to be equal, Chief Justice Hughes fulfilled the promise of his 1914 *McCabe* opinion. In a parallel to the later *Brown-Bolling*⁵ linkage between the equal protection and due process clauses, Hughes read the nondiscrimination clause of the Interstate Commerce Act in the light of the constitutional guarantee in the fourteenth amendment. Although the Court did not rule that segregation in itself was illegal, Hughes's opinion did seem to require such strict equality as to force railroads to offer vastly upgraded services to any blacks able and willing to pay for them. General desegregation of first-class sleeping and parlor cars during World War II breached the wall of segregation, but did not lead immediately to nondiscrimination in the second-class facilities that were all most blacks could afford.

Immediately after the war, the Roosevelt justices continued the Supreme Court's role as a molder of opinion with the *Morgan*⁶ and *Bob-Lo*⁷ decisions. *Morgan* overturned a Virginia law that segregated interstate as well as intrastate passengers, while *Bob-Lo* upheld the application of a Michigan integration provision to a black excursionist traveling from Detroit to a Canadian

4. *McCabe v. Atchison, Topeka & Santa Fe Ry. Co.*, 235 U.S. 151 (1914).

5. *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954); *Bolling v. Sharpe*, 347 U.S. 497 (1954).

6. *Morgan v. Va.*, 328 U.S. 373 (1946).

7. *Bob-Lo Excursion Co. v. Mich.*, 333 U.S. 28 (1948).

island. Somewhat inconsistent on commerce clause grounds, these opinions (in cases brought, respectively, by a state NAACP and a private party) indicated both the willingness of a solid majority of the justices to overturn segregation and the disorganized nature of the legal campaign up to that point. The decisions' practical inconsequence, moreover, demonstrated again how frustrating the struggle against segregation could be. *Morgan* had merely banned statutory segregation of interstate travelers. To avoid the confusion of treating local and interstate customers differently, and perhaps because company officials shared racist sentiments, interstate bus corporations merely replaced the invalid laws with their own private segregation policies. A tragic event in the year between the two decisions epitomized their merely partial effectiveness. When a young black refused to move to a Jim Crow coach, an Atlantic Coast Line conductor shot and killed him. Why such incidents attracted so little attention, Barnes never explains.

By 1953, after litigation had brought many small local victories and a few narrow national ones, conditions in transit segregation had progressed back to those of the 1880's—checkered patterns in the border states, but nearly total separation in the Deep South. It was at this point that the national NAACP and even the Eisenhower administration moved forcefully to outlaw all segregation in interstate transportation in one climactic case. Filed with the ICC after the Supreme Court had decided *Brown*, the *Keys*⁸ and *NAACP*⁹ cases finally convinced the ICC's new commissioners to renege on their sweetheart arrangement with the railroads, construe relevant Supreme Court decisions broadly, and order an end to Jim Crow practices for all interstate travelers.

Barnes argues convincingly that litigation and conventional political pressure were insufficient to win the struggle. Although she never dismisses lawsuits as curtly as radicals did in the 1960's, neither does she take their importance for granted, as many legal commentators continue to do. Boycotts and ride-ins, the latter pioneered by the Congress of Racial Equality in a 1947 border state tour and famously renewed by CORE in the 1962 freedom rides, were essential because of the economic pressure they put on bus companies, the public exposure of harsh racist policies that they provided, and the consequent pressure that they put on state and national leaders. But boycotts also had limitations—they were difficult to organize and keep going and they gave local officials,

8. *Keys v. Carolina Coach Co.*, 64 M.C.C. 769 (1955).

9. *NAACP v. St. Louis-San Francisco Ry. Co.*, 297 I.C.C. 335 (1955).

who faced a mostly segregationist white electorate, no incentive to compromise. Nor was litigation a complete answer: it was expensive, hostile judges might delay or take advantage of technicalities to deny blacks relief, and companies that were not parties to such suits might simply disregard precedents until they were applied to each company explicitly. Although most intercity and local transit systems in the outer South and in some large cities of the Deep South had desegregated by 1960, much annoying segregation persisted. The lessons of the 1950's and 1960's were that it took a combination of senseless, televised violence and organized voting power to move the conscience of the nation's leaders, and that judicial and administrative decrees generally only finalized the decisions of more overtly political bodies or provided convenient covers for the capitulation of companies and local politicians who already desired to avoid further conflicts.

Barnes's trenchant analyses of the strategies and actions of local, state, and federal officials; of black individuals and civil rights organizations; and of shifts in white practices and public opinion in the South and the nation are based on a thorough immersion in relevant sources. Far from confining herself to published legal opinions and previous monographs, she combed the NAACP-LDF, CORE, ICC, Justice Department, and many other manuscript collections, perused many newspapers (not just the indexed *New York Times*), effectively used the oral history collections on the civil rights movement, and conducted some interviews herself. Her mastery of such a broad range of research materials lends authority to the judgments of her conclusions: the increasing scope of federal government activity, northern black political power, and the intellectual attack on racism after 1930 created a favorable climate for the elimination of Jim Crow in mid-century. Judicial action, especially by the Supreme Court, was painfully slow, but always in the right direction. Federal administrative agencies were much harder to move, but when finally prodded by judicial decisions and persistent appeals by black civil rights activists, their decrees, which were not confined to the cases immediately before them, affected larger numbers of people. Congress did nothing to eliminate Jim Crow transit until 1964, and state and local officials in the South were segregation's staunchest allies. The Eisenhower administration did somewhat more than it is usually given credit for, while the Kennedy record was very mixed. Transit segregation was easier to end than other types of discrimination, because contacts between blacks and whites in restaurants, buses, trains, and planes were brief and largely symbolic and because the power of the national government could more easily be

applied to this area. But the desegregation of transportation was broadly significant: it invigorated the civil rights movement and relieved blacks from having to face, again and again, demeaning reminders of their subordinate social status.

Why is the author of this model study not in an academic post?