

January 22, 1963

Mr. Ralph McGill,  
The Atlanta Constitution,  
Atlanta, Georgia.

Dear Ralph:

I was delighted with your handling of the Glover case in your Monday (January 21st) column entitled "The Folly of Barriers." It was splendid.

There was indeed an earlier Georgia case than the Glover case decided by the Supreme Court of Georgia in 1915, namely Carey v. City of Atlanta, 143 Ga. 192.

While the Glover case was simply a "per curiam headnote decision," with no written opinion, in the Carey case Judge Sam Atkinson for the court wrote a magnificent opinion declaring a 1913 Atlanta City Ordinance prohibiting white and colored persons from residing in the same block unconstitutional. This was also a unanimous decision and was later cited by the Supreme Court of the United States in Buchanan v. Worley, 245 U.S. 60, where the opinion of the court included a long excerpt from Judge Atkinson's opinion in the Carey case.

When a similar ordinance came before the court, Judge Atkinson also wrote a short but vigorous dissenting opinion in Harden v. City of Atlanta, 147 Ga. 240, which held the ordinance valid, which case was subsequently overruled by the Glover decision.

Isn't it strange that the Georgia high court, in the Harden case, refused to follow its own unanimous decision in the Carey case decided only two and one-half years previously, and isn't it also strange that in overruling the Harden case the Glover case based its ruling on the Federal case of Buchanan v. Worley, rather than its own unanimous opinion in the Carey case.

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This perhaps is a shining example of one of Chief Justice Blackley's terse sayings: "That court is the best which relies as little as possible on its own opinions."

Best wishes.

Sincerely,

Leonard Haas

LH:LPM

P.S. Judge Atkinson's decision in the Carey case was also cited with approval by Judge Tuttle in writing for the Fifth Circuit Court of Appeals an opinion affirming one of Skelly Wright's decisions striking down the Louisiana Statute seeking to maintain segregated public schools. Orleans School Board v. Bush, 242 Fed. 2d 158, at 164.