THE INFORMER
409-11 Smith Street
Houston, Texas

May 12, 1935.

Dear Charlie:

Congratulations to you upon your argument in the Jess Hollins Case before the Supreme Court of the United States. Now that the N.A.A.C.P. has had a Negro lawyer for the first time in its history to handle one of its important cases before the Supreme Court, I trust that this will be the beginning of a new policy, under which no case in the future will be presented in that tribunal without a Negro lawyer at the counsel table. Here's hoping you win; but the mere fact that you handled the case is a victory for Negro lawyers. I know that you did it as ably and effectively as any white member of the N.A.A.C.P. legal staff could have handled it.

Had the N.A.A.C.P. had the wisdom to have built the fight in the Nixon cases around the Negro leadership which started the Texas Primary Law fight, and continued the right around that leadership and those who in successive years have joined the fight, I feel certain that, instead of being practically a non-entity in Texas, the N.A.A.C.P. would have a strong and virile organization in Texas today. It was R.D. Evans of Waco, a Negro lawyer whom you know, that first indicated the possibilities of a fight upon the statutory Democratic primary elections of Texas. But, when the N.A.A.C.P. came to file its first Nixon Case, it ignored Evans, ignored the lay leadership in Love v Griffith, paid its money to white lawyers, and went its merry way.

Unless the N.A.A.C.P. can make an alliance with that leadership in Texas which I have mentioned, it will (the N.A.A.C.P.) always be weak in this State which offers its greatest opportunity of any State in the union. I write this to you because I think you ought to know the true situation in Texas as you take over the reins of the NAACP's legal department.

As I contemplate the way the liberal lines in the Supreme Court broke in the Railway Pension Case, it occurs to me that there is a possibility that those lines might have first broken in Grovey v Townsend. That may explain why Mr. Justice Roberts wrote the opinion. Had Mr. Chief Justice Hughes and Mr. Justice Cardozo both voted for affirmance, it would seem that ordinarily the Chief Justice would have assigned Mr. Cardozo to write the opinion, in order that, having set the limits of state power in Nixon v Condon, he could, in Grovey v Townsend, point out how Texas had stayed within those limits. Perhaps, Mr. Justice Van Deventer (being the senior Justice concurring with the majority, if the decision was not unanimous) assigned Mr. Justice Roberts to write the opinion, as undoubtedly he did in the Railway Pension Case. That leaves to explain why no dissenting opinion was filed. Maybe Mr. Chief Justice Hughes' distaste for dissenting opinions caused him to persuade the minority to let the matter pass, in the hope that Mr. Justice

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Roberts could be brought back into line before the nation discovered that the liberal lines of the Court had broken. Mr. Chief Justice Hughes may have argued that, since Mr. Justice Robert's opinion based itself upon Bell v. Hill (and therefore did not conclusively close the door), there was yet time for the minority to express its views when the effect of Bell v. Hill is challenged and determined. There may be absolutely nothing to this legal hunch of mine, but, if not, I can neither understand how Mr. Chief Justice Hughes should assign the case of Grovey v. Townsend to Mr. Justice Roberts, nor how Mr. Justice Cardozo could square the reasoning of Mr. Justice Roberts with the views which he had expressed in Nixon v. Condon.

The leadership behind Grovey v. Townsend is now planning the battle to determine the effect of Bell v. Hill, and therefore the true significance of Grovey v. Townsend. Frankly, if you are going to control the NAACP's legal policy and action, I would like to see this battle rounded into a great movement to win the franchise for Texas Negroes under your leadership. My own impression is that the one fundamental fight which all American Negroes must wage is the fight to place the ballot in the hands of the ten million Negroes of the South. The lack of this weapon is at bottom the foundation of most of the other wrongs from which all American Negroes suffer. This battle must be won if the net effect of other battles won is not to be an empty victory.

I mention this matter merely that you may have it before you for such consideration as you may be prompted to give it. I do believe that it will be worth while to at least take the things mentioned in this letter into account as you plan your program for Texas.

Who is going to "wobble around" in your shoes while you are away from the Howard Law School next winter?

Jack Atkins

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