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Perspective

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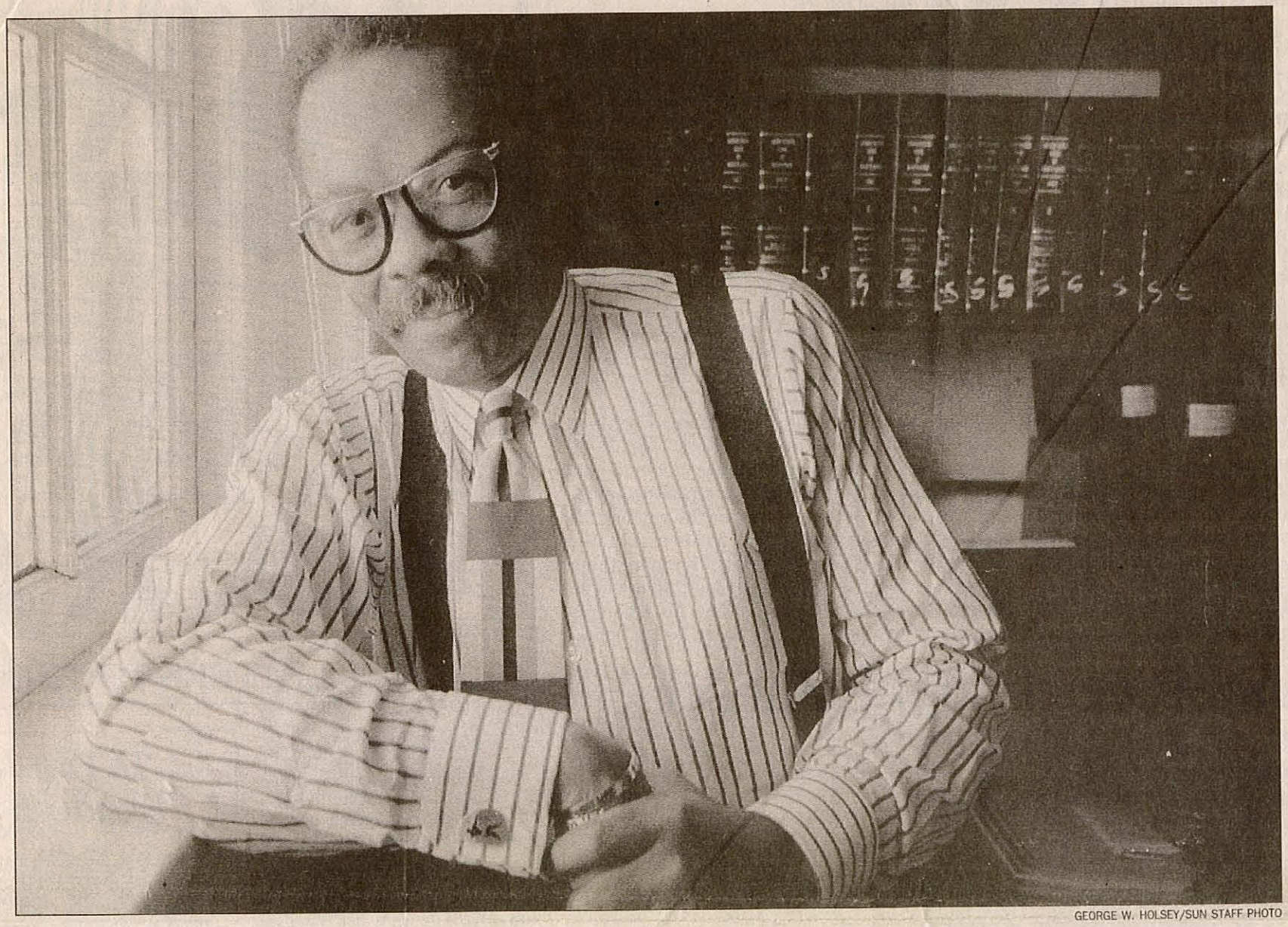

GEORGE W. HOLSEY/SUN STAFF PHOTO

Judge Robert Mack Bell of the Maryland Court of Appeals was one of the students who were arrested in 1960 while protesting segregation in a Baltimore restaurant.

The Castle of one's Skin

Blacks recall protest they staged in 1960 in city restaurant

By DENNIS O'BRIEN

In 1960, a group of black students stepped into a Baltimore restaurant and became a footnote in American legal history.

The students who showed up at Hooper's Restaurant at Charles and Fayette streets insisted on being served at the all-white restaurant and did what the demonstration's organizers hoped they would do: They got arrested.

Now, some of those arrested that day see Ku Klux Klan rallies, court rulings restricting minority scholarships and blacks suing Denny's restaurants over preferential service, and they wonder how far race relations have come in the 30 years since their case, Bell vs. Maryland, was decided by the U.S. Supreme Court.

"We did change things, but now it seems as if we're going backward. It's more subtle than not getting in a restaurant, or a seat in a [segregated] theater. But it's there and it saddens you to see it happening," said Aliceteen E. Mangum of Annapolis, one of the 12 student-defendants.

Bell vs. Maryland began when students from Dunbar High School, Morgan State College and several other schools were recruited by the Civic Interest Group, a student integrationist organization, to demonstrate and demand service at the restaurants in downtown Baltimore, which were 90 percent segregated at the time.

Robert Mack Bell, now a judge on the Maryland Court of Appeals, said he was completing his junior year at Dunbar and had just been elected student government president when he was asked to find students willing to participate in a sit-in.

The pioneer sit-in at the Woolworth's lunch counter in Greensboro, N.C., had taken place five months before, and Judge Bell, then 16, knew that like the demonstrators in Greensboro, anyone who participated could be arrested.

But he and 11 other students went anyway and on June 17, 1960 — the first day of a summer vacation that would be filled with such demonstrations — they paid 10 cents to ride a bus downtown, sit down at a restaurant and wait for the police.

Unlike demonstrators at other restaurants, they were not spat at, called names or taunted. But the tension was there all the same, he said.

"The angry faces are something I'll never forget," said Judge Bell.

The 12 were convicted of violating the state's trespass statute by a reluctant Judge Joseph R. Byrnes in Baltimore Criminal Court and fined $10 each. The fines were later suspended.

With a legal team that included Juanita Jackson Mitchell and Thurgood Marshall, who were legal counsel to the NAACP, the convictions were appealed first to the Maryland Court of Appeals, which upheld the convictions, and then to the Supreme Court.

The sit-ins at Hooper's continued throughout the summer and spread to other downtown restaurants. So many students were arrested that they slept in shifts at the City Jail and classes were held there for them. By the time the case reached the Supreme Court, both the Baltimore City Council and the Maryland General Assembly — weary of the student arrests — had enacted laws prohibiting the denial of public accommodations based on race.

Lawyers for the students argued two points when they appeared before the court on Oct. 14 and Oct. 15, 1963.

See **BELL**, *5E*

Dennis O'Brien is a reporter for The Baltimore Sun.

BELL: Blacks recall their 1960 protest in restaurant

GEORGE HOLSEY/SUN STAFF PHOTO

Aliceteen E. Mangum was arrested in 1960 over a protest in which she and others refused to leave a Baltimore restaurant.

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ALICETEEN E. MANGUM

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First, they argued that when the students entered the restaurant, they were not notified that they were violating state trespass laws and so should not be charged with criminal violations.

Second, they said the public accommodations laws enacted after the arrests meant that the students were not trespassing, so that their arrests were moot.

Robert Watts, one of the lawyers who defended the students, said the court case focused on Hooper's, rather than any of the dozens of other restaurants targeted, because the owner, G. Carroll Hooper, refused to compromise before the trial.

He wouldn't drop the charges, and he wouldn't let blacks sit at his tables.

"He was scared. He said 'I built this place up myself and I don't want it changed,' " said Mr. Watts, who retired as a Baltimore Circuit Court judge in 1985 after 17 years on the bench.

When the case reached the Supreme Court, Loring F. Hawes, then an assistant attorney general, argued that the state's trespass laws were constitutional so that the arrests should be upheld. Defending the state's position with him was Deputy Attorney General Robert C. Murphy, who is now chief judge on the Court of Appeals.

Mr. Hawes, 64, now a lawyer in private practice, said that no one working under then Attorney General Thomas B. Finan was interested in encouraging the practice of segregation.

'A test situation'

But Mr. Hawes said the state wanted a ruling from the Supreme Court so that state officials would know whether to prosecute future cases. "Everybody knew that this was a test situation; everybody knew that if the court made a decision on this case, that would be it. The states would know once and for all where they stood," he said.

But after sitting on the case for two years, the court did what it often does — it punted. In a 5-4 decision written by Justice William J. Brennan Jr. on June 22, 1964, the court sent the case back to the Maryland Court of Appeals, saying that the effect of the state and city public accommodations laws on the trespass convictions posed a legal question best left to the state courts.

The Court of Appeals, in a surprise decision, upheld the convictions on Oct. 22, 1964 — three months after the Federal Civil Rights Act made it illegal to deny a customer service on the basis of race nationwide. The Maryland court ruled that in passing the public accommodations laws, neither the city nor the

state ever intended to repeal the trespass laws, so that the convictions had to stand.

A month later, Mrs. Mitchell filed a petition asking the court to reconsider its decision. Quietly and with no written opinion, the court agreed, and then reversed the students' convictions on April 9, 1965, clearing the students almost five years after the arrests.

"We had some powerful forces on our side; to this day, I don't know why it took so long to get justice," said Richard McKoy, another defendant who was one of Judge Bell's classmates at Dunbar.

The three participants in the demonstration say the sit-ins were destined to happen whether they participated or not.

"If it hadn't been me, if it hadn't been us, it probably would've been someone else," said Judge Bell.

The three also say their lives were not dramatically altered by the protest.

Judge Bell, 51, went on to graduate from Harvard Law School and practiced law. He was appointed to the Baltimore Circuit Court, then the Court of Special Appeals and, in 1991, the Court of Appeals.

Mr. McKoy, 51, managed clothing stores, owned a tavern and three years ago went to work for Baltimore City, where he is now director of the Office of Civil Defense.

Ms. Mangum, 55, worked as an assistant to the late state Sen. Aris T. Allen in Annapolis for a few years and then worked for the Baltimore Gas and Electric Co. as a customer relations representative for 28 years.

The participants in the Bell case say that in the 30 years since the Supreme Court heard their case, race relations probably have improved — but not much.

Institutions have been integrated. But people's attitudes have been much slower to change, they say.

'It's more subtle now'

"You didn't see the hatred then that you might see now. It's more subtle now, but you didn't see the anger that's under the surface," said Mrs. Mangum.

Judge Bell said that in many respects, society is just as segregated now as it was in the 1950s.

"The courthouses, the offices, the workplaces are largely integrated, but when you go home, when you go to the schools, you don't find it much different than it was in 1954," he said.

He said the courts are not as receptive as they once were to racial discrimination claims and there seems to be an overall reluctance to enforce affirmative action programs.

Ku Klux Klan rallies in Annapolis and the Supreme Court decision striking down the Banneker scholarship program for minorities at the University of Maryland are just symptoms of an ideological shift to the right in this country, he said.

"We've come a long way, but we've got a long way to go," he said. "A lot of people think it's OK to hate an entire group of people."

Civil rights leaders say that may be because memories of the blatant discriminatory practices of the past — the kind that irked the conscience and stirred people to act — have faded.

George N. Buntin Jr., executive director of the Baltimore branch of the NAACP, said there seems to be little knowledge of and appreciation for — particularly among younger blacks — the efforts of people like those arrested in the Bell case.

"We have to do a better job of that. Otherwise, we'll be taking our freedoms for granted, and that's something we can't afford," he said.