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# Osborne Tried to Overturn Brown Decision

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## A community cares

Time and time again Athens-Clarke County has shown that it is a community that cares about those among us who need help. The coming week is an excellent example of this generous spirit. Four different benefits will allow you to donate to a worthy cause and have a good time as well.

A Taste of Athens, the Hearts of Fashion show, Jam for the Homeless and the Fifth Annual Mental Health Benefit are opportunities to assist different segments of Athens-Clarke County, from those forced to live on our streets to the artists who enrich our lives with their work.

A Taste of Athens is this Sunday, Feb. 5, from 6:30 to 9 p.m. in Trumps at the Georgia. This event benefits Community Connection, a United Way-funded information and referral service which tracks all human service agencies in the 11-county area. Last year Community Connection assisted more than 18,000 individuals in finding the appropriate agency for their needs. Obviously, a donation to Community Connection helps many.

A Taste of Athens is just that: a chance to sample the most popular dishes of 30 Athens food service operators, in addition to a wine tasting. There will also be a raffle of two free round-trip tickets to New York City, compliments of USAir, through the efforts of All Aboard Travel.

The tickets for the event, at \$30 per person, are available at the door, from any Connection board member, by calling 353-1313 or by calling Heidi Davison at 546-9643.

Jam for the Homeless—Straight, No Chaser, will feature the musical efforts of Wayne Fairfax, recreational supervisor at East Athens Community Center. Fairfax's band for the evening, Fax on Sax, consists of pianist Jack Coker, drummer Jamie Dervere and bassist Dave Domizi. Other musicians will be invited. The show is at 9:30 p.m., Feb. 8, at the High Hat. Cover is \$2. Proceeds go to the homeless shelter.

The Hearts of Fashion benefit show is scheduled for Feb. 9 from 7-9 p.m. at the Athens Country Club. This event, sponsored by the Athens Fibercraft Guild and the Lyndon House, offers wearable art by local artists and fiber craftspersons. Admission is \$10, with light refreshments served and door prizes offered by local merchants. Tickets, available from Athens Fibercraft Guild members, the Lyndon House and various businesses around town, must be purchased in advance. Proceeds will go to the Lyndon House Endowment Fund.

The mental health benefit is a two-week event which began Jan. 28 and features an art show and live performances from popular bands.

The bands will perform Friday, Feb. 3, and Saturday, Feb. 4, at 10 p.m. in the 40 Watt Club. The performers include Fuzzy Sprouts, Asa Nisi Masa, Hazel Virtue, Five-Eight, Hayride and the Germans. Tickets are on sale at Big Shot Records for \$5. The art show and auction, free admission, is at 5 p.m. Saturday, Feb. 11, at the Globe. Donated artwork will be accepted through Friday, Feb. 10 by 8 p.m. and can be dropped off daily at the Globe between 4-8 p.m.

Go, enjoy and donate.

## Please don't use other F-word

If Big Brother has not taken over already, a letter from Ringling Brothers' Barnum & Bailey printed in last week's Observer makes it clear he is at least on the way.

Phil Perrier, writer of a weekly humor column in our paper, received a friendly warning from the show's legal mouthpiece in Virginia that he should never, under any circumstance, use the phrase, "The Greatest Show on Earth," unless referring to Ringling Brothers/Barnum & Bailey. Phil's mortal sin entailed using the aforementioned words to describe the recent Rolling Stones tour.

Now I'm no great fan of the now slowly Rolling Stones, but doesn't Ringling Brothers have anything better to do than pay its trademark spies to read weekly newspapers all over the country?

It seems litigating loonies from all over corporate America are bent on making sure no one utters, any phrase, public or private, without paying some sort of tribute first.

In the past, the makers of the Frisbee® have written, saying please use the phrase "flying plastic disc" instead of the "F" word.

**Richard Stenger** is assistant editor for the Athens Observer.



The Velcro® corporation has written, warning Observer scribes to use the term "hook and snap fastener" for the stuff replacing shoelaces for the knot tying-impaired.

The list goes on. Linoleum. Trampoline. Thermos. It's enough to make anyone concerned for the freedom of expression grab a Kleenex® brand tissue paper.

Granted, the corporate connivers have a legitimate point. Constant use of private trademark words like "Thermos" has turned once-proper nouns into common ones, listed in most dictionaries, that people can use freely without proper tribute. The trademark Xerox® for a brand of photocopy machine may be in danger, because at least some dictionaries list it as a verb.

But what about an entire phrase, that amounts to no more than an unprovable opinion, that has likely been used to refer

to any number of things before Barnum & Bailey began, and will be used long after it ends?

I can think of a number of spectacles today that easily surpass its claim of The Greatest Show on Earth: American Gladiators. The Patti LaBelle Super Bowl Half-Time Show. Cirque du Soleil. The O.J. Simpson trial.

What next? What if Barnum & Bailey were to start a decade-long media blitz marketing its circus as, "The only show in the world that can bring you happiness." Would we still be allowed to smile in public without thanking P.T. Barnum? Would there be a national happiness tax?

P.T. Barnum, father of the circus, was known in his day as a huckster and con artist, a man who stole acts from other shows and inflated or twisted the truth in billing his attractions, some proving to be little more than obvious frauds. Perhaps the monopolized use of the opinion in question is but its most recent one.

Barnum was right about one thing. "There's a sucker born every minute," he always said. In this case, it is the United States Patent Office, which allows the complete legal protection of phrases like this one.

## Osborne tried to overturn Brown case

In regard to Richard Stenger's article, "The Bulldog Bell Curve," which appeared in the Observer on Jan. 26th, I wish to point out a few facts concerning R. T. Osborne and his claim that his research and studies show that blacks are in some way intellectually inferior to whites.

In 1962 the NAACP filed a lawsuit in the federal district court in Savannah to desegregate the Chatham County public school system, which, nearly a decade after the U.S. Supreme Court's decision in Brown v. Board of Education, was still being operated as a dual school system for whites and blacks. Although school officials admitted operating segregated schools and appeared willing to take steps to undo the racial bias, the federal judge hearing the lawsuit permitted a group of white schoolchildren and their lawyers to intervene in the case and to argue against desegregation.

The white intervenors had two reasons for involving themselves in the case. The first reason was, in the words of the judge who allowed the intervention, to try to show that segregation in Chatham County public schools "was not determined solely by race or by color but rather upon racial traits of educational significance as to which racial identity was only a convenient index" [Stell v. Savannah-Chatham County Board of Education, 220 F. Supp. 667, 668 (S. D. Ga. 1963)].

The second reason for the white intervenors injecting themselves into the case was explained by Elbert Tuttle, then Chief Judge of the U.S. Court of Appeals for the Fifth Circuit, when the appellate court rebuked the district court for ever having permitted the intervention. According to Tuttle, the "purpose for intervening was to adduce proof as a fac-

**'He actually permitted them to introduce scientific testimony . . . purporting to show that black students were slower . . .'**

tual basis for an effort to ask the U.S. Supreme Court to reverse its decision in Brown v. Board of Education" [Stell v. Savannah-Chatham County Board of Education, 318 F.2d 425,427 (5th Cir. 1963)].

It was no accident that the white intervenors chose the Savannah school desegregation case to enter. The federal judge hearing the case, Frank Scarlett, was an oddball jurist who disapproved of the Brown holding. At a time when other federal district judges were risking their good names, even their lives, to bring racial justice to the South, Judge Scarlett was acting to impede rather than effectuate school desegregation.

Judge Scarlett did not disappoint the intervenors. He actually permitted them to introduce scientific testimony by psychological and medical experts purporting to show that black students were slower or less intelligent than white students. The very first witness called to the stand by the intervenors was R. T. Osborne, then Professor of Psychology and Director of the Student Guidance Center at UGA. Like Osborne, the other witnesses who testified for the intervenors also had a history of providing scientific aid and comfort to the enemies of public school integration: psychologist Henry E. Garrett, physician Wesley Critz George, and social-

ologist Ernest van den Haag.

Based on the so-called scientific evidence adduced by the intervenors, Judge Scarlett then dismissed the case, a dismissal which was immediately reversed by the Fifth Circuit, which labeled Scarlett's action "a clear abuse of discretion." No "trial court may," the Fifth Circuit pointed out in chastising Scarlett's dismissal, "upon finding the existence of a segregated school system, refrain from acting as required by the Supreme Court merely because such district court may conclude that the Supreme Court erred either as to its facts or to the law."

Osborne and other academics who defend the Bell Curve thesis claim their work is objective science and that they have no political agenda. However, by testifying in behalf of opponents of integration and assisting those who sought to keep Savannah's public schools segregated, Osborne's conduct in the Stell case raises serious doubts about these claims of political impartiality.

In the 1920's, as Stenger's article points out, intelligence test data was successfully used to block entry into the U.S. by European Jews fleeing persecution. In 1963 Osborne unsuccessfully used intelligence test data to assist white intervenors seeking to maintain segregated schools. And now, in 1995, intelligence test data, set forth in Charles Murray's *The Bell Curve* book, is being used to justify cutting government aid to the poor. What cruel societal injustice will next be defended by those who claim, based on "science," that blacks are genetically inferior to whites in intelligence?

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