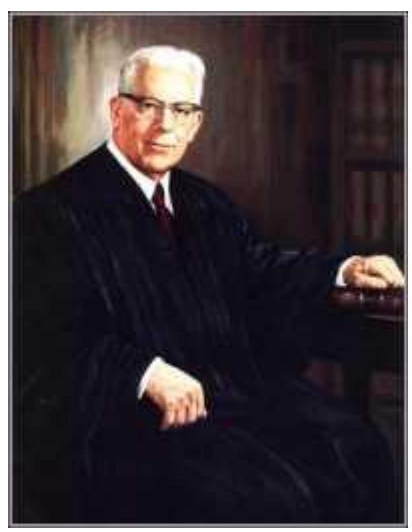
Brown v. Board of Education 1954

Background

The National Association for the Advancement of Colored People (NAACP), the leading civil rights organization in the country, had never accepted the legitimacy of the "separate but equal" rule, and in the 1940s and 1950s had brought a series of cases designed to show that separate facilities did not meet the equality criterion. In *McLaurin v. Oklahoma State Regents* (1950), a unanimous Supreme Court had struck down University of Oklahoma rules that had permitted a black man to attend classes, but fenced him off from other students. That same day, the Court ruled in *Sweatt v. Painter* that a makeshift law school the state of Texas had created to avoid admitting blacks into the prestigious University of Texas Law School did not come anywhere close to being equal. Whatever else the justices knew about segregated facilities, they did know what made a good law school, and for the first time the Court ordered a black student admitted into a previously all-white school.

The opinion gave the NAACP and its chief legal counsel, Thurgood Marshall, the hope that the justices were finally ready to tackle the basic question of whether segregated facilities could ever in fact be equal. In 1952 the NAACP brought five cases before the Court specifically challenging the doctrine of*Plessy v. Ferguson*. The issue that had hung fire ever since the Civil War now had to be faced directly: what place would African Americans enjoy in the American polity?



A number of reports indicate that the justices, while agreed that segregation was wrong, were divided over whether the Court had the power to overrule *Plessy*. They therefore set the cases down for reargument in 1953, specifically asking both sides to address particular issues. Then Chief Justice Vinson, who reportedly opposed reversing*Plessy*, unexpectedly died a few weeks before the reargument, and the new chief justice, Earl Warren, skillfully steered the Court to its unanimous and historic ruling on May 17, 1954.

There is no question that the ruling in *Brown v. Board of Education*, which struck down racially enforced school segregation, is one of the most important in American history. No nation committed to democracy could hope to achieve those ideals while keeping people of color in a legally imposed position of inferiority. But the decision also raised a number of questions about the authority of the Court and whether this opinion represents a judicial activism that, despite its inherently moral and democratic ruling, is nonetheless an abuse of judicial authority. Other critics have pointed to what they claim is a lack of judicial neutrality or an overreliance on allegedly flawed social science findings.

But J. Harvie Wilkinson, who is now a federal circuit court judge, dismisses much of this criticism when he reminds us that *Brown*

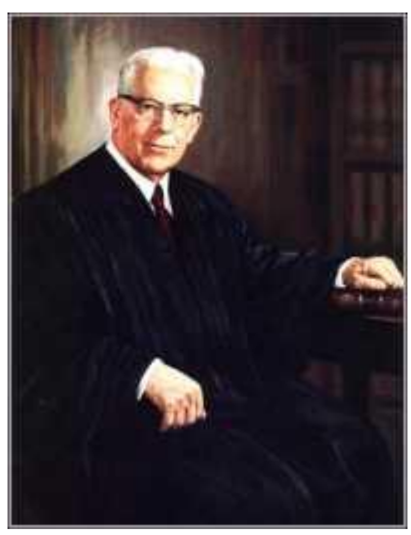
"was humane, among the most humane moments in all our history. It was...a great political achievement, both in its uniting of the Court and in the steady way it addressed the nation."

With this decision, the nation picked up where it had left the cause of equal protection more than eighty years earlier, and began its efforts to integrate fully the black minority into full partnership in the American polity.

For further reading:

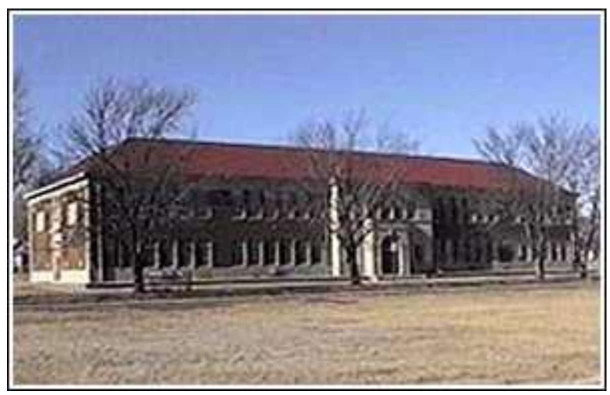
- Richard Kluger, Simple Justice: *The History of Brown v. Board of Education and Black America's Struggle for Equality* (1976)
- Mark Tushnet, *The NAACP's Strategy against Segregated Education, 1925-1950* (1987)
- Daniel M. Berman, *It Is So Ordered: The Supreme Court Rules on School Segregation* (1966).

Chief Justice Warren delivered the opinion of the Court.



These cases come to us from the States of Kansas, South Carolina, Virginia, and Delaware. In each of the cases, minors of the Negro race seek the aid of the courts in obtaining admission to the public schools of their community on a nonsegregated basis. In each instance, they had been denied admission to schools attended by white children under laws requiring or permitting segregation according to race. This segregation was alleged to deprive the plaintiffs of the equal protection of the laws under the 14th Amendment...The plaintiffs contend that segregated public schools are not "equal" and cannot be made "equal," and that hence they are deprived of the equal protection of the laws. Argument was heard in the 1952 Term, and reargument was heard this Term on certain questions propounded by the Court.

Reargument was largely devoted to the circumstances surrounding the adoption of the 14th Amendment in 1868. It covered exhaustively consideration of the Amendment in Congress, ratification by the states, then existing practices in racial segregation, and the views of proponents and opponents of the Amendment. This discussion and our investigation convince us that, although these sources cast some light, it is not enough to resolve the problem with which we are faced. At best, they are inconclusive. The most avid proponents of the post-War Amendments undoubtedly intended them to remove all legal distinctions among "all persons born or naturalized in the United States." Their opponents, just as certainly, were antagonistic to both the letter and the spirit of the Amendments and wished them to have the most limited effect. What others in Congress and the state legislature had in mind cannot be determined with any degree of certainty.



An additional reason for the inconclusive nature of the Amendment's history, with respect to segregated schools, is the status of public education at that time. In the South, the movement toward free common schools, supported by general taxation, had not yet taken hold. Education of white children was largely in the hands of private groups. Education of Negroes was almost nonexistent, and practically all of the race were illiterate. In fact, any education of the Negroes was forbidden by law in some states. Today, in contrast, many Negroes have achieved outstanding success in the arts and sciences as well as in the business and professional world. It is true that public school education has advanced further in the North, but the effect of the Amendment on Northern States was generally ignored in the congressional debates. Even in the North, the conditions of public education did not approximate those existing today. The curriculum was usually rudimentary; ungraded schools were common in rural areas; the school term was but three months a year in many states; and compulsory school attendance was virtually unknown. As a consequence, it is not surprising that there should be so little in the history of the 14th Amendment relating to its intended effect on public education.

In the first cases in this Court construing the 14th Amendment, decided shortly after its adoption, the Court interpreted it as proscribing all state-imposed discriminations against the Negro race. The doctrine of "separate but equal" did not make its appearance in this Court until 1896,...involving not education but transportation. In this Court, there have been six cases involving the *"separate but equal"* doctrine in the field of public education. In *Cumming v. County Board of Education*...and *Gong Lum v. Rice*,...the validity of the doctrine itself was not challenged. In more recent cases, all on the graduate school level, inequality was found in that specific benefits enjoyed by white students were denied to Negro students of the same educational qualifications... In none of these cases was it necessary to reexamine the doctrine to grant relief to the Negro plaintiff. And in*Sweatt v. Painter* the Court expressly reserved decision on the question whether *Plessy v. Ferguson* should be held inapplicable to public education.

In the instant cases, that question is directly presented. Here, unlike*Sweatt v. Painter*, there are findings below that the Negro and white schools involved have been equalized or are being equalized, with respect to buildings, curricula, qualifications and salaries of teachers, and other "tangible" factors. Our decision, therefore, cannot turn on merely a comparison of these tangible factors in the Negro and white schools involved in each of the cases. We must look instead to the effect of segregation itself on public education.

In approaching this problem, we cannot turn the clock back to 1868 when the Amendment was adopted, or even to 1896 when *Plessy*was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principle instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

We come then to the question presented:

Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities?

We believe that it does. In *Sweatt* in finding that a segregated law school for Negroes could not provide them equal educational opportunities, this Court relied in large part on "those qualities which are incapable of objective measurement but which make for greatness in a law school." In *McLaurin*, the Court, in requiring that a Negro admitted to a white graduate school be treated like all other students, again resorted to intangible considerations: "[his] ability to study, to engage in discussions and exchange views with other students, and, in general, to learn his profession." Such considerations apply with added force to children in grade and high schools. To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their heart and minds in a way unlikely ever to be undone. The effect of this separation on their educational opportunities was well stated by a finding in the Kansas case by a court which nevertheless felt compelled to rule against the Negro plaintiffs:

"Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to retard the educational and mental development of negro children and to deprive them of some of the benefits they would receive in a [racially] integrated school system."

Whatever may have been the extent of psychological knowledge at the time of *Plessy v. Ferguson*, this finding is amply supported by modern authority. Any language in *Plessy v. Ferguson* contrary to this finding is rejected.

We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the 14th Amendment. This disposition makes unnecessary any discussion whether such segregation also violates the Due Process Clause of the 14th Amendment.

Because these are class actions, because of the wide applicability of this decision, and because of the great variety of local conditions, the formulation of decrees in these cases presents problems of considerable complexity. On reargument, the consideration of appropriate relief was necessarily subordinated to the primary question -- the constitutionality of segregation in public education. We have now announced that such segregation is a denial of the equal protection of the laws. In order that we may have the full assistance of the parties in formulating decrees, the cases will be restored to the docket, and the parties are requested to present further argument...

It is so ordered.